

## **Sexual Harassment Prevention Policy**

Berlin Free Town Library is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees of the Berlin Free Town Library are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of Berlin Free Town Library's commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>1</sup> and all employees have a legal right to a workplace free from sexual harassment. Employees are urged to report sexual harassment by filing a complaint internally with Berlin Free Town Library. Employees can also file a complaint with a government agency or in court under federal, state or local anti discrimination laws.

1. Berlin Free Town Library's policy applies to all employees, applicants for employment, and volunteers. Berlin Free Town Library's policy applies to all employees, applicants for employment,volunteers, contractors and persons conducting business, regardless of immigration status, with Berlin Free Town Library. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. Berlin Free Town Library will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of Berlin Free Town Library who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, volunteers or non-employees <sup>2</sup> working in the workplace who believe they have been subject to such retaliation should inform the Library Director, or BFTL Board President. All employees, volunteers or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is disrespectful, is a violation of our policies, is unlawful, and may subject Berlin Free Town Library to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability. Employees at every level who

---

<sup>1</sup> While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history

<sup>2</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

engage in harassment or discrimination, including managers and supervisors who engage in harassment or discrimination or who allow such behavior to continue, will be penalized for such misconduct.

5. Berlin Free Town Library will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about discrimination or sexual harassment, or when it otherwise knows of possible discrimination or sexual harassment occurring. Berlin Free Town Library will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this Policy. Berlin Free Town Library will provide all employees a complaint form for employees to report harassment and file complaints.
7. The Library Director is required to report any complaint that they receive, or any harassment that they observe or become aware of, to BFTL's, Board President.
8. This policy applies to all employees, volunteers, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable and be provided to employees upon hiring.

### **What Is Sexual Harassment?**

Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of sexual nature or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment

decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

### **Examples of Sexual Harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited.

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or
  - Rape, sexual battery, molestation, or attempts to commit these assaults
- Unwanted sexual comments, advances, or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits or detriments
  - Subtle or obvious pressure for unwelcome sexual activities; or
- Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, which create a hostile work environment.
- Sex stereotyping, which occurs when someone's conduct or personality traits are judged

based on other people's ideas or perceptions about how individuals of a particular sex should act or look:

- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
  
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, and the status of being transgender, such as:
  - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, or name-calling.

### **Who Can be a Target of Sexual Harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees including independent contractors and those employed by companies contracted to provide services in the workplace. Harassers can be a supervisor, subordinate, a coworker or anyone else in the workplace including an independent contractor, contract worker, vendor, client, patron, or visitor.

### **Where Can Sexual Harassment Occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

## **Retaliation**

Unlawful retaliation can be any action that could discourage an individual from coming forward to make or support a sexual harassment claim. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- Testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law;
- Opposed sexual harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of suspect harassment;
- Reported that another employee has been sexually harassed or discriminated against; or
- Encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

## **Reporting Sexual Harassment**

**Preventing sexual harassment is the responsibility of everyone.** Berlin Free Town Library cannot prevent or help with sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to the Library Director or BFTL Board President. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior the Library Director or BFTL Board President.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee’s behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section below on Legal Protections.

### **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, **are required** to report such suspected sexual harassment to Berlin Free Town Library's Board President.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

### **Complaints and Investigations of Sexual Harassment**

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be kept confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Berlin Free Town Library will take disciplinary action against anyone engaging in retaliation against an employee who files a complaint, supports another's complaint, or participates in harassment investigations.

While the process may vary from case to case, investigations will be done in

accordance with the following steps.

- Upon receipt of a complaint, Berlin Free Town Library's Board President will conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate. If a complaint is verbal, request that the individual completes the complaint form in writing. If the person reporting prefers not to fill out the form, Berlin Free Town Library's Board President will prepare a complaint form or equivalent documentation based on the verbal reporting;
  - Obtain, review, and preserve documents sufficient to assess the allegations. This includes emails or phone records that may be relevant to the investigation. Berlin Free Town Library's Board President will implement appropriate document request, review, and preservation measures, including all electronic communications.
  - All parties involved will be interviewed, including any relevant witnesses.
  - Create a written documentation of the investigation (such as a letter, memo or email) which contains the following:
    - A list of all documents reviewed, along with a detailed summary of relevant documents;
    - A list of names of those interviewed, along with a detailed summary of their statements;
    - A timeline of events;
    - A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and
    - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
5. Keep the written documentation and associated documents in a secure and confidential location;
  6. Promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and
  7. Inform the individual(s) who reported, of the right to file a complaint or charge externally as outlined in the next section.

## **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by Berlin Free Town Library but it is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at Berlin Free Town Library, employees and c may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

### **Human Rights Law:**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State and protects employees, volunteers and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints may be filed **within 1 year** of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to Berlin Free Town Library does not extend your time to file with DHR or in court. The one year or three years are counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found at the hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or remedy the damage caused, including paying of monetary damages, attorney's fees, and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Go to [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint with DHR. The

website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State. Civil Rights Act of 1964

### **Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies in the event that discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC. An employee alleging discrimination at work can file a "Charge of Discrimination."

The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY:1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov)

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212)

306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

**Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

Policy approved by Berlin Free Town Library Board of Trustees on 12/9/24