

**ERIE COUNTY WATER AUTHORITY**  
**HR Policies/Procedures**

<b>Re:</b>	<b>ANTI- HARASSMENT</b>	<b>Policy No.:</b>	<b>75.0</b>
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<b>Application:</b>	<b>All Employees</b>	<b>Amended:</b>	<b>05/03/05</b> <b>01/26/12</b> <b>10/??/18</b>

**PURPOSE**

To provide a work and business environment free from all forms of harassment and discrimination on the basis of race, color, creed, age, sex, gender, sexual orientation, gender identity, transgender status, national origin, ancestry, marital status, disability, familial status, pregnancy related condition, domestic violence victim status, prior arrest or conviction record, disability, military status, predisposing genetic characteristics or any other characteristic protected under state, federal or local law. The purpose of this policy is not to regulate personal morality, but to ensure that in the workplace, no individual is subjected to unlawful harassment or discrimination.

**POLICY**

It is the policy of the Authority to provide a work environment free of sexual and other unlawful harassment and a process to address applicable harassment complaints. The Authority will also enforce this policy to prevent inappropriate harassing conduct even if it is not unlawful.

**DEFINITIONS**

1. The “Authority” means the Erie County Water Authority.
2. The “Board” means the Authority’s Board of Commissioners.
3. “Secretary” means the Secretary of the Authority.
4. “Human Resources” means the Director of Human Resources or any person designated by him/her to assist in complying with this policy.
5. “Sexual harassment” is defined as a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, and gender identity and transgender status. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment, even if the complaining 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 by an individual is used as a factor in decisions affecting that individual's employment.

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 assaults of a physical nature, such as:
  - Touching, pinching, patting, grabbing, brushing against another employee's body or poking another employees' body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the victim' job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, 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, name-calling.

6. "Other unlawful harassment or discrimination" is generally defined as any unwelcome verbal or physical conduct which denigrates or shows hostility or aversion to a person because of his or her race, color, creed, age, sex, sexual orientation, national origin, marital status, familial status, pregnancy related

condition, domestic violence victim status, prior arrest or conviction record, disability, military status, predisposing genetic characteristics, or any other characteristic protected by law and which:

- a. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment; or
- b. Has the purpose or effect of unreasonably interfering with a person's work performance; or
- c. Otherwise adversely affects a person's employment opportunities.

*Examples of other unlawful harassment or discrimination* include, but are not limited to verbal comments, obscene gestures, jokes or practical jokes, electronic communication, or displaying cartoons related to an individual's race, color, creed, age, sex, sexual orientation, national origin, marital status, familial status, pregnancy related condition, domestic violence victim status, prior arrest or conviction record, disability, military status, predisposing genetic characteristics, or any other characteristic protected under state, federal, or local law.

## **PROCEDURE**

1. A copy of this policy shall be distributed by Human Resources to each new employee at his/her orientation meeting, each current employee during their annual training and each applicant for employment, interns, contractors, and persons conducting business with the Authority. Additionally, a copy shall be conspicuously posted on bulletin boards at each Authority facility.
2. An employee, intern, or non-employee working in the workplace who believes they have been subjected to conduct which violates this policy, should immediately tell the harasser that his or her actions are not welcome, and they must stop. In addition, the individual should report the alleged act immediately to Human Resources, the Secretary, or an individual designated by the Board for this purpose.
3. In the event that an individual believes he/she has been subjected to conduct which violates this policy by a Board Member, the individual may report the alleged act immediately to a member of the Authority's Board of Ethics. A complaint may be made to the Authority's Board of Ethics by inter office or electronic mail and investigated following the rules to be duly adopted by the Authority's Board of Ethics.
4. All supervisors and managers, who receive a complaint or information about suspected harassment, observe what may be harassing behavior or for any reason suspect that harassment is occurring, are required to report such suspected harassment to Human Resources or the Secretary. In addition to being subject to discipline if they engage in harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected harassment or otherwise knowingly allowing harassment to continue.

5. A formal record of every report of sexual or other unlawful harassment, whether written or verbal, shall be maintained by the Secretary.
6. All complaints or information about suspected harassment, whether sexual or otherwise, will be investigated by Human Resources regardless of whether that information was reported in verbal or written form. The investigation will be confidential to the extent possible and should be completed within thirty (30) days. Such investigations may include separate interviews with the complainant, the accused, and/or witnesses when appropriate, and collecting and reviewing any related documents.
7. Upon completion of the investigation by Human Resources and subsequent review by the Secretary, the complainant and the accused will be promptly notified of the findings, and action taken. If it is determined that a violation of this policy has occurred, appropriate disciplinary action up to and including termination will be taken.
8. If a complainant is not satisfied with the Authority's investigation or disciplinary decision, he/she may submit a request to the Board for their review. Upon completion of the review, the Board may affirm the findings, reverse the findings, or amend the findings and/or disciplinary action. Complainant may also pursue any legal remedies available as explained more fully under the Legal Protection and External Remedies section of this policy.

### **TRAINING**

1. Employee training will be planned and provided for by Human Resources.
2. New employees will receive anti-harassment training at their orientation meeting, but no later than thirty (30) calendar days of their start date.
3. All current employees shall complete an additional anti-harassment training at least once annually.

### **RETALIATION PROHIBITED**

1. Retaliation of any kind or discrimination against any individual who reports unwelcome conduct or who cooperates in an investigation of such reports in accordance with this policy is prohibited. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.
2. Any individual that believes that he or she is the subject of retaliation for the good faith filing of a complaint or the individual's participation in an investigation is encouraged to report this to Human Resources, the Secretary, or any individual designated by the Board for this purpose. Any investigation of the alleged retaliation will follow the procedure outlined in this policy. An individual who

retaliates against a complainant or witness in any way will be subject to disciplinary action up to and including immediate termination.

## **LEGAL PROTECTION AND EXTERNAL REMEDIES**

Harassment is not only prohibited by the Authority but may also be prohibited by state, federal, and, where applicable, local law. Aside from the internal process at the Authority, employees may choose to pursue legal remedies with the following governmental entities at any time:

- **New York State Division of Human Rights (DHR)**

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

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Authority does not extend your time to file with DHR or in court. The one year or three years is counted from 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. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.

By email [www.dhr.ny.gov/complaint](http://www.dhr.ny.gov/complaint)

By phone (888) 392-3644

- **United States Equal Employment Opportunity Commission (EEOC)**

An individual can file a complaint with the EEOC anytime within 300 days from the harassment. 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 if discrimination is found to have occurred. 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.

By email [www.eeoc.gov](http://www.eeoc.gov)

By phone (800) 669-4000

- Local Police Departments-If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.
- Any additional 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.