



DISCRIMINATION AND HARASSMENT MODEL TRAINING PROGRAM

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Revised Presentation

This training program is compliant with the requirements specified in the NYS Sexual Harassment Legislation. It covers all forms of Discrimination as well as Sexual Harassment. This presentation has been revised to include the August 2019 Legislative changes which became effective in August 2020 and the 2023 updates to the NYS model policy.

Objectives

- Discuss Prohibited Conduct (including Sexual Harassment)
- Discuss Internal Complaint Procedures/Reporting Options/External Reporting Options
- Discuss Internal Investigations and Possible Outcomes
- Review Employee Responsibilities
- Review Supervisor Responsibilities
- Answer General Questions and Questions Regarding Policy Against Discrimination and Harassment

Everyone has the right to come
to work and be treated with
dignity and respect.

It's on all of us.

Significant Laws

Title VII of the Civil Rights Act of 1964

- Prohibits discrimination based on race, color, religion, sex, and national origin
- Prohibits retaliation

Pregnancy Discrimination Act

- Prohibits discrimination based on pregnancy, childbirth, or a medical condition related to pregnancy or childbirth
- Prohibits retaliation

Age Discrimination in Employment Act

- Prohibits discrimination based on age (over 40 years)
- Prohibits retaliation

Americans with Disabilities Act

- Prohibits discrimination based on disability
- Prohibits retaliation

Significant Laws

Equal Pay Act

- Prohibits payment of different wages to men and women if they perform equal work in the same workplace
- Prohibits retaliation

Genetic Information Nondiscrimination Act

- Prohibits discrimination based on genetic information, including genetic tests, family members' genetic tests, and family medical history
- Prohibits retaliation

New York State Human Rights Law

- Prohibits discrimination based on race, color, gender, religion, religious creed, sex, familial or marital status, age, national origin or ancestry, physical or mental disability, genetic information/predisposition or carrier status, military or veteran status, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender, pregnancy (including childbirth and related medical conditions, and including medical conditions related to lactation) citizenship, and domestic violence victim status
- Prohibits retaliation


Protected Statuses

(New York State Human Rights Law)

Race	Color	Sex
Religion	Creed	Criminal History
Pregnancy	Sexual Orientation	Transgender Status
Gender Identity or Expression	Marital Status	Age
National Origin	Familial Status	Disability
Military Status	Domestic Violence Victim Status	Genetic Predisposition or Carrier Status




What is Harassment?

Quid Pro Quo

- “This for that”
- A form of Sexual Harassment
- Supervisor  Subordinate (sex or gender of parties irrelevant)

What is Harassment?

Hostile Environment

- Unwelcome conduct of a [fill in the protected status, e.g., sex, race, age...] nature
- Hostile actions taken against an individual because of the individual's protected status
- Does not need to be severe or pervasive to violate state law
- In general examples include displays or publications in the workplace, jokes, noises, gestures, nicknames, comments on personal appearance, touching and other physical acts or assaults, interfering with an individual's workstation or equipment, or sabotaging an individual's work.
- Supervisor  Subordinate
- Employee  Employee
- Third Party  Employee

Sexual Harassment

- Harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.
- Sex stereotyping – harassing a person because (s)he does not conform to gender.
- Understanding gender diversity is essential to recognizing sexual harassment.

Sexual Harassment

- Unwanted sexual advances, propositions, sexual comments, noises, gestures or jokes
- Sexual or discriminatory displays or publications such as pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic
 - Includes displaying in “hard copy” or on computers/cell phones in the workplace
- Physical acts of a sexual nature

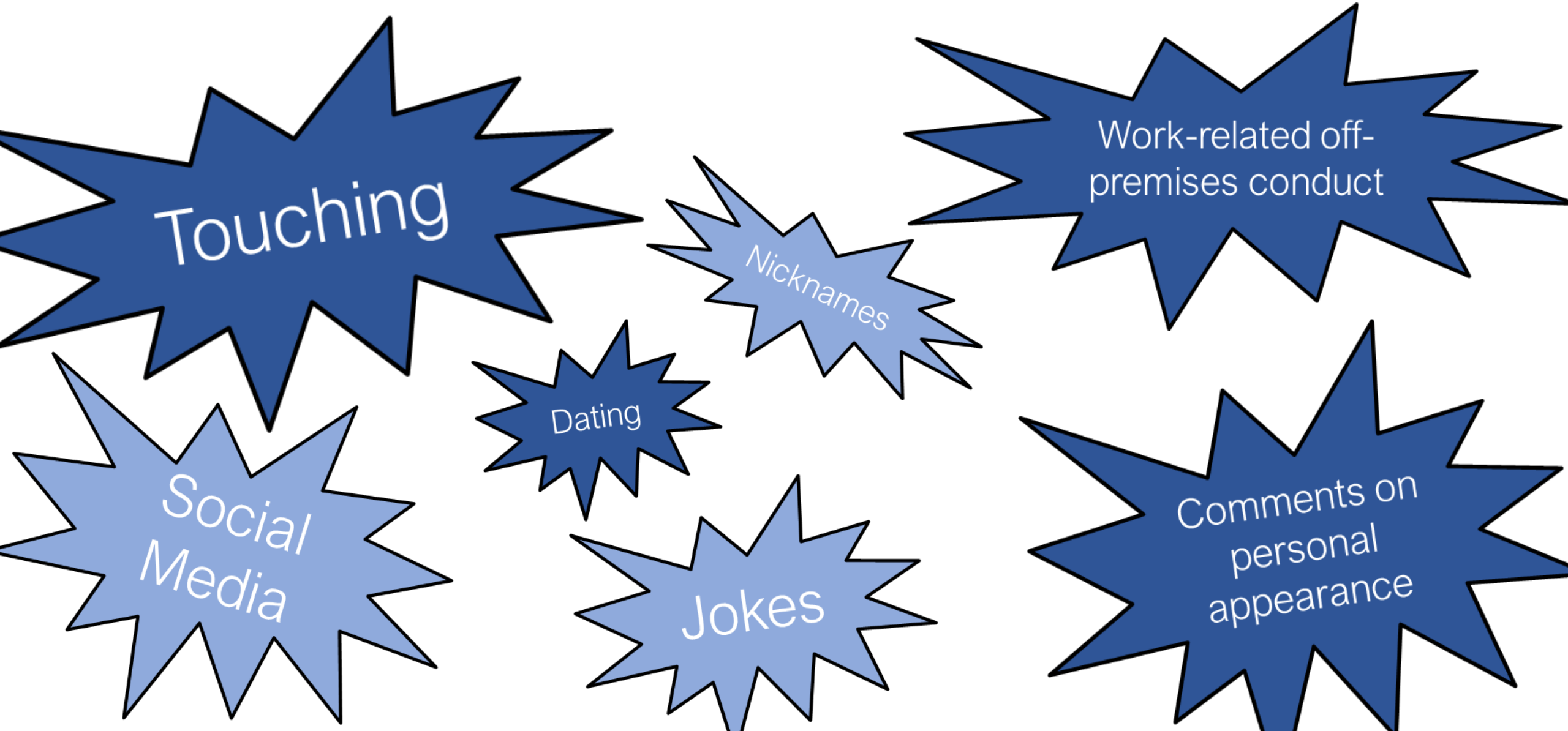
What is Retaliation?

- The anti-discrimination statutes prohibit retaliation against an employee or job applicant, or against a closely associated third party because (s)he has:
 - Opposed a practice the anti-discrimination statutes forbid; or
 - Has made a charge, testified, assisted, or participated in a discrimination investigation, proceeding, or hearing
- Standard: adverse action that well might have dissuaded a reasonable worker from making or supporting a charge of discrimination

What is Retaliation?

- Retaliation is any action taken to alter an employee's terms and conditions of employment (such as a demotion or harmful work schedule or location change).
- Retaliation can be adverse action taken by the employer that could have the effect of discouraging an employee from making a complaint about harassment or discrimination.
- The negative action need not be job-related or occur in the workplace, and may occur after the end of employment, such as an unwarranted negative reference.

Landmines Waiting to Explode



Touching

Social
Media

Dating

Nicknames

Jokes

Work-related off-
premises conduct

Comments on
personal
appearance

Litmus Tests



True or False?

Sexual harassment is only between the boss and subordinates

Sexual harassment has to be between opposite sexes

Men can't be victims

Unless the person tells me it's offensive, I don't have to stop and it's not harassment

What I do off duty can't be considered harassment



_____ has done that for years. Everyone knows it's a joke and doesn't mean anything

Complaint Procedure

1

Promptly report conduct

- Directly inform person engaging in offensive conduct to stop (if comfortable doing so – NOT REQUIRED)
- Contact Supervisor or Compliance Officer
- Reporting conduct to a Union representative/officer, only, does not constitute a report to the District

Complaint Procedure

2

Complete reporting form

- Preferred, but not required

3

Cooperate in investigation

- Provide information and/or evidence

Investigation Process

- The employer will investigate all claims of discrimination and harassment whether reported in writing or verbally.
- The investigation will be commenced and completed promptly; interim measures may be taken as necessary.
- The investigation will be kept as confidential as possible under the circumstances.
- The Employer will consider implementing appropriate mitigating measures during an investigation.
- All employees are required to cooperate as needed in an investigation.
- The complainant(s) and the accused individual(s) are notified of the final determination and, as applicable, that appropriate corrective action has been taken.

Possible Outcomes

1. No Prohibited Conduct Found

2. Prohibited Conduct Found

- Reassignment
- Counseling
- Discipline, up to and including immediate termination
- Training
- EAP

Bystander Intervention

Any witness to harassment is encouraged to report it. Standard methods a bystander may intervene in discrimination or harassment:

- Interrupt the harassment
- Ask a third party to intervene in the harassment
- Make a record of the harassment
- Follow up with the person to confirm the behavior was harassing
- If safe, confront the harasser(s)

Employee Responsibilities

- Treat all coworkers and third parties professionally, and with dignity and respect.
- Read, ask questions and understand the Employer's Policy Against Discrimination and Harassment.
- Commit to policies by word and example.
- Stop and/or report potentially offensive behavior.
- Cooperate in investigations and prevention initiatives.

Supervisor Responsibilities

- Treat all employees with dignity and respect.
- Provide a good example by your own conduct.
- Intercede to stop potentially offensive behavior.
- Take necessary, immediate corrective action in response to inappropriate behavior.
- Assist employees regarding anti-discrimination/harassment policies, including complaint procedures.

Supervisor Responsibilities

- Report to Compliance Officers any discrimination/harassment/retaliation reported or observed.
- Encourage employee cooperation in discrimination/harassment investigations and prevention initiatives.
- Ensure against retaliation.
- Note: Supervisors will be evaluated and/or disciplined for discriminatory/harassing/retaliatory conduct and/or on the basis of their action or failure to act.

Stop and Think. . .

✓ Don't do it!

✓ Don't say it!

✓ Don't tolerate it!

Additional Protections and Remedies

NYS Division of Human Rights (DHR)

- A complaint alleging violation of the Human Rights Law may be filed either with DHR or in NYS Supreme Court.
- Complaints of sexual harassment may be filed with DHR any time within one year of the alleged sexual harassment.
- All other complaints of discrimination or harassment may be filed with DHR any time within three years of the alleged harassment or discrimination.
- You do not need to have an attorney to file.
- More information: www.DHR.ny.gov

Additional Protections and Remedies

United States Equal Employment Opportunity Commission (EEOC)

- An individual can file a complaint with the EEOC anytime within 300 days from the alleged sexual harassment.
- You do not need to have an attorney to file.
- A complaint must be filed with the EEOC before you can file in federal court.
- More information: www.EEOC.gov.

Additional Protections and Remedies

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination.

- Contact your county, city or town to find out if laws exist.
- Harassment may constitute a crime if it involves things like physical touching, coerced physical confinement or coerced sex acts.
- Contact the local police department.

Questions?