

Sexual Harassment Prevention Required for All NY Employers

The 2018 New York State budget included new regulations addressing sexual harassment in the workplace that became effective on October 9, 2018 for all New York employers, including agricultural employers. All employers are required to have a sexual harassment prevention policy and to provide annual, interactive sexual harassment prevention training for all employees.

Sexual harassment is a horrible thing, no one should have to work in a threatening and unsafe atmosphere. Prevention is the best medicine, so farms and other agricultural employers should get a strong sexual harassment prevention policy and training in place. That policy should define sexual harassment, provide a means for reporting it, and let victims know that they will be protected when they report harassment. Business owners should act quickly and decisively to investigate and solve any sexual harassment situations. Owners should be further advised that if any managers know about sexual harassment and do nothing about it, that can expose the business to even more legal risk.

Resources

- **New York State Department of Labor (NYDSOL)** provides important resources in a special website for employers: <https://www.ny.gov/combating-sexual-harassment-workplace/employers>. There you will find: Model Sexual Harassment Policy, Model Complaint Form, Training Requirements, Training Videos, Overview Webinar, Frequently Asked Questions (FAQ) Page. The state's materials can be found translated into 8 other languages when you scroll to the bottom of this page: <https://www.ny.gov/programs/combating-sexual-harassment-workplace>.
- **Preventing Sexual Harassment on Farms: Tools for Employers Webinar now available.** In August 2019 Cornell Cooperative Extension Regional Ag Teams and Ag Workforce Development staff presented a statewide training on preventing sexual harassment training requirements on farms. This [Preventing Sexual Harassment on Farms: Tools for Employers](#) webinar was recorded and is available to view for free.
- **NEW! Farm-Focused Sexual Harassment Prevention Materials and Videos.** Cornell Cooperative Extension educators adapted the state's materials to be more relevant for the farm workplace. Find links to English and Spanish presentation materials and downloadable videos under Step 5 below.

Seven Steps to Preventing Sexual Harassment

1. Put your policy in place now.

All New York employers are required to have a written sexual harassment prevention policy in place beginning October 9, 2018. Your policy must meet or exceed all of New York's requirements in the model policy. Most farms don't currently have a policy so it's

OK to just use the state's model policy. There are a couple of things you should do to customize it for your farm:

- Download the policy from the [state's website](#) in either PDF or Microsoft Word format.
- Change the yellow highlighted "Employer Name" text to your farm or business name.
- Designate a contact person. On pages 1, 2, 5, and 6 of the model policy there is yellow highlighted text that refers to the "person or office designated." You are supposed to insert the name or office of the person to whom any harassment complaints should be reported. In most farms this will be the owner, ideally you should list two people here so that the employee has an option of at least two people they could go to. (This is to avoid the situation where the person doing the harassing is the same person designated to receive harassment complaints.)

2. Provide the policy in writing to employees.

A policy isn't worth much unless employees know about it. The new law requires employers to provide employees with a written copy of the sexual harassment policy. Print copies and provide to your employees or inform employees and give them electronic access to your new policy. Management must also be familiar with the policy and plan to carry out the action steps it describes in a consistent and unbiased way.

3. Provide the "Combat Harassment Complaint Form."

Scroll down the [state's website](#) to find the model complaint form, also in PDF and Word format. Incorporate this form into your handbook right after the sexual harassment policy or print copies and provide it to your employees.

4. Use the Sexual Harassment Prevention Poster

Customize and post the "[Sexual Harassment Prevention Poster](#)" in your break room or office. Provide this same poster/notice to each employee when you use the "farm focused" sexual harassment training resources from Cornell Agricultural Workforce Development.

5. Train everyone at hiring and annually.

Just giving employees a policy isn't good enough. Training is needed to be sure that employees understand sexual harassment and how they can prevent and report it. Training is also important to send the message that the employer takes sexual harassment seriously and will not tolerate it. You should plan to conduct sexual harassment prevention training each year for all employees. New employees should have a brief review of your sexual harassment policy within a week of their start date, you don't want someone working for you for six months until they learn about sexual harassment at the annual training.

The new law put some specific requirements about sexual harassment prevention training. It must:

- be interactive (for live training, interactive means participants have opportunities to ask questions, and the trainer may ask questions to engage with participants)
- include an explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights
- include examples of conduct that would constitute unlawful sexual harassment
- include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment
- include information concerning employees' rights of redress and all available forums for adjudicating complaints
- include information addressing conduct by supervisors and any additional responsibilities for such supervisors

NEW! Farm-Focused Sexual Harassment Prevention Materials and Videos

Cornell Cooperative Extension educators adapted the state's model training and case studies to be more "farm focused." We simplified some of the language in the training and adapted the examples to typical farm workplaces rather than office settings. The NY State Department of Labor reviewed our adapted training to be sure we met all of the requirements listed above. You can use the PowerPoints as visual aids if you or another farm manager choose to do the presentation and review the case studies yourself. Or, you can show the video recordings of the presentation and case studies to train your farm employees. Be sure that you include an interactive portion such as a question and answer session, or brief feedback survey with your employees. You can pause the videos to create opportunities for interactive questions and discussion. We recommend that you use both the presentation and case studies with your employees, and that you document your training activities.

Training Presentations:

- [English Presentation in PowerPoint.](#)
- [Spanish Presentation in PowerPoint](#)
- [English Presentation Video](#)
- [Spanish Presentation Video](#)

Case Studies:

- [English Case Studies in PowerPoint](#)
- [Spanish Case Studies in PowerPoint](#)
- [English Case Studies Video](#)
- [Spanish Case Studies Video](#)

6. Act immediately when there is a complaint of sexual harassment or management becomes aware of a harassing situation.

No employee should have to work in a stressful and threatening environment caused by sexual harassment. Management needs to take action immediately in response to a complaint of harassment. Depending on the situation, these actions will include:

1. Listen carefully to the complaint and be sure to take any complaints of harassment seriously. Make sure that the person making the complaint is safe. For serious situations such as sexual assault, farm management should consider contacting the local police to investigate.
2. Contact an employment law attorney for advice when serious allegations are involved.
3. Assign a responsible person to confidentially investigate the situation including talking with the accused person and any witnesses. In small businesses, without a designated HR person, the investigator will often be an owner. Small businesses should consider hiring an outside person to investigate, such as an attorney or human resources professional, especially when the harassment allegations are serious or the relationships involved are very close and likely to appear to bias an investigation.
4. Decide whether the behavior is sexual harassment.
5. Plan and carry out discipline and/or assignment changes as needed. Communicate your decision and action plan clearly with the accused and the accuser.
6. Document everything.

Read more in this post: [How to Handle Sexual Harassment Complaints: A Primer for Small Businesses](#).

7. Document every action you take.

As an employer, it is wise to begin documenting all of your employee-related actions. You should keep a paper or electronic file (or both) for each employee and diligently record all significant actions or events that take place. In the context of sexual harassment prevention, consider recording the following items:

- The date on which you provided the policy to your employee. You might also have your employee sign an acknowledgement that the policy was received and understood.
- The date at new hire and in each subsequent year on which your employee was trained in sexual harassment prevention.
- Carefully document any sexual harassment incidents involving an employee, even minor ones. For example, an employee might tell an offensive joke that another employee considers sexual harassment. Management follows up, addresses the problem, and everything is resolved. Keep track of every action that was taken in the

resolution procedure, record who, what, where, when, why, and how. You might need this information when another incident occurs later with the same employee, or if you need to defend your actions in court against a claim of not dealing with sexual harassment appropriately. Detailed, written records that demonstrate management's good faith efforts are much better than faulty memories in a court of law.

Other References

- Widmar, N. and E. Bird (2014). [Understanding Sexual Harassment for the On-Farm Workplace](#). Pork Information Gateway. Includes relevant discussion of sexual harassment in the farm setting but the example policy may not be strong enough to meet current requirements.