

# **The Academy for Jewish Religion** **Sexual Harassment Policy**

Updated September, 2022

## **Introduction**

The Academy for Jewish Religion (the “Academy”) is committed to maintaining a workplace and school environment free from sexual misconduct in any form. Sexual harassment is a form of workplace and academic discrimination. All members of the Academy community are required to work and study in an atmosphere free from sexual harassment. This Policy is one component of the Academy’s commitment to a safe, secure and discrimination-free work environment. Sexual harassment and the creation of a sexually hostile work environment is against the law<sup>1</sup> and all employees and students have a legal right to a workplace and academic environment free from sexual harassment and employees and students are urged to report sexual harassment by filing a complaint internally with the Academy. Employees and students can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws. The locations of the State and Federal agencies are listed at the conclusion of this policy.

## **Policy:**

1. The Academy’s policy applies to all employees, applicants for employment, applicants for admission, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, and students of the Academy. In the remainder of this policy, the term “employees” or “students” refers to this collective group.
2. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Academy to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees or students of every level who engage in sexual harassment, including managers and supervisors and professors and teachers and staff who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
3. Sexual harassment and discrimination is strictly prohibited and will not be tolerated. Any employee or individual covered by this policy, including students, who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination, or expulsion).

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<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.

4. **Retaliation Prohibition:** No person covered by this policy shall be subject to adverse action because the employee or student reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Academy will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee or student who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination or expulsion. All employees, paid or unpaid interns or non-employees<sup>2</sup> or students 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.
5. The Academy will conduct a prompt and thorough investigation that ensures due process for all parties, whenever an administrator receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. The Academy 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, and students are required to cooperate with any internal investigation of sexual harassment.
6. All employees and students are encouraged to report any harassment or behaviors that violate this policy. The Academy will provide all such employees or students a complaint form for reporting harassment and filing complaints.
7. Administrators or others who are aware of harassment in the Academy are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the CEO/Academic Dean or the Director of Student Life.

### **What Is “Sexual Harassment”?**

Sexual harassment is 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, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

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 unreasonably interfering with an individual’s work performance or academic standing or creating an

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<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.

intimidating, hostile or offensive work or school 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 enrollment as a student, including when submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment or status as a student in good standing; or
- Such conduct that is so severe, pervasive, or objectively offensive that it functions to effectively deny an individual equal access to an educational program or activity.

A sexually harassing hostile work or academic 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, or which interfere with the recipient's job performance or ability to study.

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

Any employee or student who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, may be reported 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 person's body or poking another person's body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted, unwelcome, nonconsensual sexual 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 or status as a student;

- Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work or study environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to 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 Academy, 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 Academy.
- 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 or engage in study;
  - Sabotaging an individual's work or school projects;
  - Bullying, yelling, 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 or institutions of higher learning contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor and including students at the Academy. This policy applies equally to students.

## **Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the confines of the physical workplace itself or the classrooms. It can occur while employees are traveling for business or at employer sponsored events or parties or Academy events students are attending, including Fall Retreat and Spring Intensive. Calls, texts, emails, and social media usage by employees or students can constitute unlawful harassment, even if they occur away from the Academy premises, on personal devices or during non-working hours or outside classrooms. It can also occur when a student is attending classes remotely, such as through Zoom on an electronic device. Sexual harassment can also occur in the context of dating and domestic violence.

## **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by the Academy but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process, the Academy employees 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 seek the legal advice of an attorney.

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

### **State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all 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 the Division of Human Rights (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 sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Academy 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.

An attorney is not required 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 after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress 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).

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**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal antidiscrimination 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 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 if 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 1-800-6694000 (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. In conjunction with submitting a complaint to the Academy, an individual may contact the county, city or town to report sexual misconduct.

Reports may be filed with the New York State Police Campus Sexual Assault Victims Unit by calling the hotline: (844) 845-7269 or the Westchester County Police Department by calling: (914) 864-7700.

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.

### **Reporting Sexual Harassment**

**Preventing sexual misconduct is everyone's responsibility.** The Academy cannot prevent or remedy sexual misconduct unless it knows about it. Any employee, student, paid or unpaid intern or applicant for employment or admission who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a Title IX Coordinator. If it is the Title IX Coordinator or one of those listed herein who is alleged to be engaged in harassing behavior, any member of the Administration may be contacted and a complaint may be filed with them.

Complaints of sexual misconduct may be made verbally or in writing. All employees and students are encouraged to use the complaint form supplied by the Academy's Academic Dean or other Administrator. Employees who are reporting sexual harassment on behalf of another should use the complaint form and note that it is on another employee's or student's behalf.

Employees, paid or unpaid interns or applicants for employment or admission who believe they have been a target of sexual harassment may also seek assistance in other available forums.

All supervisors and managers or Academy Administrators who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Academy's Title IX Coordinators.

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

## **Title IX Coordinators**

The individuals identified below have been designated as the Academy's Title IX coordinators. Title IX Coordinators are specially trained to work with individuals who report or are accused of sexual misconduct and have knowledge of resources, services, and options available in such circumstances. Complaints of sexual misconduct may be reported to the Academy's Title IX coordinators at any time in-person, by mail, email or telephone.

Contact: Dr. Matthew Goldstone  
Location: 28 Wells Ave, Yonkers NY 10701  
Phone: (914) 709-4035  
Email: [mgoldstone@ajr.edu](mailto:mgoldstone@ajr.edu)

Contact: Rabbi Beth Kramer-Mazer  
Location: 28 Wells Ave, Yonkers NY 10701  
Phone: (914) 709-4029  
Email: [bkramermazer@ajr.edu](mailto:bkramermazer@ajr.edu)

Contact: Cantor Michael Kasper  
Location: 28 Wells Ave, Yonkers NY 10701  
Phone: (914) 709-4027  
Email: [Mkasper@ajr.edu](mailto:Mkasper@ajr.edu)

The Title IX Coordinator will offer supportive measures, as appropriate, to the person who allegedly suffered misconduct and the person alleged to have committed the misconduct. Supportive measures are non-disciplinary, non-punitive services offered by the Academy, without fee or charge. These measures are available before or after the filing of a formal complaint and even where no formal complaint is filed. Supportive measures serve to protect the safety of all parties, protect the safety of the Academy's educational environment, or deter sexual misconduct all the while ensuring equal access to education programs and activities, without unreasonably burdening any of the parties.

## **Complaint and Investigation of Sexual Harassment**

The individual who is the alleged victim of sexual misconduct is referred to as the "complainant." The individual alleged to have committed the act complained of in violation of policy is referred to as the "respondent."

*All* complaints or information about sexual harassment will be investigated, however, a complainant's wishes against the initiation of an investigation will be respected unless it is determined that the need for an investigation outweighs the complainant's wishes and is reasonable under the known circumstances. Further, depending on the circumstances of the matter, an informal resolution process may be an option.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough and will commence immediately and be completed as soon as possible. All persons involved, including complainants, witnesses and alleged harassers will be treated equitably and accorded due process, as outlined below, to protect their rights to a fair and impartial investigation. Any employee or student

may be required to cooperate as needed in an investigation of suspected sexual harassment.

Until the grievance process is completed and a determination is made, responsibility for the alleged misconduct will not be presumed, and the Academy will not impose disciplinary actions. The Academy will not tolerate retaliation against individual who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the grievance process may vary from case to case, when a formal complaint is filed, the process will generally consist of the following actions:<sup>3</sup>

- Upon receipt of a formal complaint, the Academy will conduct a preliminary review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant) within thirty (30) calendar days, as appropriate. If the complaint is verbal, the individual will be encouraged to complete the "Complaint Form" in writing. If he or she refuses, the Academy will prepare a Complaint Form based on the verbal reporting. The Academy will designate neutral decision-maker(s), who are not the Title IX Coordinator or the investigator, to facilitate the grievance process.
- Prior to the commencement of an investigation, the parties involved will be notified in writing of the following, to the extent such information is known: the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident. Further, the parties may elect to have an advisor of their choice. Liability will not be assigned until the conclusion of the investigation and a determination is formed.
- If documents, emails or phone records are relevant to the investigation, steps will be taken to obtain and preserve them. Requests for and review of all relevant documents, including all electronic communications will be conducted.
- Each party will have the right to present their case. This includes equal opportunity for the parties to present witnesses and to inspect and review any evidence obtained as part of the investigation.
- At the conclusion of the investigation, a report summarizing the investigation (such as a letter, memo or email), which contains the following will be created and distributed to the parties:
  - A list of relevant documents and evidence reviewed, along with a detailed summary thereof;

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<sup>3</sup> The timeline of the process set forth herein is subject to change. The designated time periods assume that none of the events take place during one of the two major Jewish holiday seasons and that there are no extenuating circumstances affecting the parties, their witnesses, or the responsible Title IX Coordinator(s).

- A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events; and
  - A summary of prior relevant incidents, reported or unreported.
- A live hearing will be held within six (6) weeks of the distribution of the report during which each party may examine the other party and any witnesses and follow-up with a cross-examination before the decision-maker(s). Either party may request that the other party be separated in a different room during the hearing.
  - The decision-maker(s) will conduct an objective evaluation of all relevant evidence. At the conclusion of the hearing, a determination as to responsibility will be issued within thirty (30) calendar days of the conclusion of the hearing. The determination will include a summary of the allegations and the procedures undertaken, findings of fact supporting the determination, a statement of, and rationale for, the result as to each allegation. The complainant and respondent will be notified of the final determination.
  - Remedial measures, disciplinary actions, and/or sanctions will be assessed on a case-by-case basis. The assessment will be based on several factors, including, but not limited to, the severity of the conduct and any prior violations of the policy.
  - The complainant may, at any time during the investigation or hearing, dismiss the complaint or withdraw any allegations therein by notifying the Academy in writing. Moreover, the Academy may, upon a complete review of the facts and evidence presented, dismiss the complaint, or certain allegations, if it determines that the alleged conduct does not constitute sexual harassment. Written notice of the dismissal and reason(s) therefor will be promptly sent to both parties.

## **Appeals**

Both the complainant and the respondent are entitled to appeal the determination. The appeal must be made within thirty (30) calendar days from the date of the written notification of the determination. An appeal must be in writing and specify the basis for the appeal. The grounds for appeal are as follows:

1. Procedural errors within the investigation or hearing may have substantially affected the fairness of the process;
2. New evidence that was not reasonably available at the time of the investigation or hearing is discovered and could materially affect the outcome; or
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the complainant or respondent that affected the outcome of the matter.

Both parties will be provided with a reasonable, equal opportunity to submit a written statement in support of, or challenging, the determination. Upon conclusion of the appeals process, the Academy will issue a decision describing the result of the appeal and both parties will be notified of the decision.

## **Retaliation**

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual misconduct, for the purpose of interfering with any right or privilege constitutes retaliation.

Retaliation is unlawful under federal, state, and (where applicable) local law. Unlawful retaliation can be any action that could discourage an individual from coming forward to make or support a sexual harassment claim. An adverse action need not be job-related or study related or occur outside the Academy to constitute unlawful retaliation (e.g., threats of physical violence outside of work or study hours).

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 under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment or an Academy Administrator;
- reported that another employee or student has been sexually harassed; or
- encouraged a fellow employee or student 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, this provision is not intended to protect persons making intentionally false charges of harassment.

Retaliatory conduct is strictly prohibited and should be reported to the Academy. All employees, paid or unpaid interns, or students or non-employees working or studying in the Academy who believe they have been subject to such retaliation should inform their supervisor, manager, or the CEO/Academic Dean or the Director of Student Life.

Individuals who are found to have engaged in retaliation are subject to disciplinary action.

### **Privacy**

The Academy understands that privacy maintains the integrity of the investigation, protects the interests of the parties involved, and precludes retaliatory or defamatory acts. For those reasons, the Academy will protect the identity of persons involved and maintain privacy of all complaints and investigations to the extent reasonably possible, except as required by the Family Educational Rights and Privacy Act (FERPA), Title IX, or other applicable laws. Any written documentation and associated records in connection with the complaint and grievance process will be kept in a secure and confidential location. Where necessary, information pertaining to the complaint will be disclosed on a need-to-know basis.