

FINGER LAKES HEALTH  
PERSONNEL POLICY MANUAL

**SUBJECT:   SEXUAL HARASSMENT**

**APPLIES:**   This policy applies to all employees, applicants for employment, paid or unpaid interns, contractors, and persons conducting business with Finger Lakes Health, regardless of immigration status.

**POLICY:**   It has been the long-standing policy of Finger Lakes Health to provide equal employment opportunity to all persons without regard to race, color, religion, creed, age, sex, pregnancy or pregnancy-related condition, sexual orientation, national origin or ancestry, marital status, military or veteran status, gender identity or gender expression, transgender status, genetic predisposition or carrier status, familial status, disability, status as a domestic violence victim, or any other status protected by law. Sexual harassment is a form of sex discrimination, which is a clear violation of Finger Lakes Health's equal employment policy.

Sexual harassment of any employee will not be tolerated. Finger Lakes Health is committed to providing and maintaining a working environment free from sexual harassment and intimidation. Any employee who feels they are being sexually harassed is strongly encouraged to report his or her concerns immediately so that the allegations may be investigated and resolved promptly. Any employee (including any administrator, director, manager, or supervisor) who engages in sexual harassment, or any administrator, director, manager, or supervisor who allows such behavior to continue, will be disciplined.

Finger Lakes Health is committed to protecting FLH employees from unwanted sexually-oriented conduct or conduct directed to them because of their sex, whether from Finger Lakes Health employees or from others with a relationship to this organization, such as members of the medical staff, volunteers, patients, business associates, vendors, or visitors. It is a violation of this policy for any individual to make unwelcome sexual advances or requests for sexual favors, or to engage in other unwanted verbal or physical conduct of a sexual nature toward any Finger Lakes Health employee, intern, or non-employee providing services on our premises. Likewise, it is a violation of this policy for any individual to treat an individual differently based on an individual's sex, sexual orientation, self-identified or perceived sex, gender identity or gender expression, or transgender status.

Any employee who engages in sexual harassment will be subject to corrective action (such as counseling, suspension, or termination of employment). Individuals who violate this policy who are not employees of Finger Lakes Health will be subject to limitations or termination of their affiliation, or limitation or denial of access to FLH premises.

Retaliation is strictly prohibited. No individual will be retaliated against for reporting sexual harassment, opposing sexual harassment, supporting another person's report of sexual harassment, or assisting or participating in an investigation. Any employee who retaliates against anyone involved in a sexual harassment investigation will be subject to disciplinary action, up to and including termination. Any individual who

believes they have been subject to retaliation should inform a supervisor, manager, or the Vice President of Human Resources. Employees also may seek relief in other forums, as explained below in the section on Legal Protections.

#### DEFINITION OF SEXUAL HARASSMENT:

“Sexual harassment” is a form of sex discrimination and is unlawful under federal and state law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender identity, gender expression, or transgender status.

Sexual harassment is defined as unwelcome conduct that either is of a sexual nature or is directed at an individual because of that individual’s sex and that either:

(a) seeks to require an employee to accept sexual advances or other conduct of a sexual nature as a term or condition of their employment or uses sexual conduct as the basis of an employment decision (such as getting or keeping a job; getting a promotion, a raise or some other job benefit; or avoiding a negative job action, such as being fired or demoted); or

(b) has the purpose or effect of unreasonably interfering with an employee’s work performance or creating a work environment that a reasonable person would find intimidating, hostile, offensive, or coercive, including if the reporting individual is not the intended target of the sexual harassment.

Any person can be a perpetrator or a target of “sexual harassment” regardless of sex or gender. “Sexual harassment” also includes any type of sexually-oriented conduct that meets the above definition, even if the conduct was intended to be friendly or humorous.

“Sexual harassment” can be either a single incident of serious misconduct (such as a sexual assault) or a number of incidents, each of which alone might not be enough to constitute “sexual harassment” but which together form a pattern of inappropriate conduct. Employees are encouraged to report any conduct that makes them uncomfortable, so that the issue may be addressed promptly.

#### Harassing behavior may include but is not limited to:

1. Verbal – making sexual innuendoes, suggestive or graphic comments (including about an individual’s body, appearance, or sexual activities or preferences), using sexually-oriented insults or degrading language, engaging in sexual humor, sexually-oriented “teasing” or “joking,” using sexually vulgar words to address or refer to an individual, making unwelcome sexual propositions (including requests for sexual favors or pressure for sexual activity accompanied by direct or implied threats concerning an individual’s employment, status, compensation, or benefits).
2. Non-verbal – making suggestive or insulting sounds, using suggestive or obscene gestures, leering or ogling, whistling, staring, displaying sexually-oriented

pictures or other materials (including on computers or cell phones) or printed sexual humor, graffiti, or objects.

3. Physical – unwelcome touching, pinching, patting, kissing, hugging, grabbing, brushing against the body, poking another’s body, impeding or blocking movements, stalking, forced sexual activity, exposure of sexual body parts, rape or other sexual assault or molestation, or attempts to commit these assaults.
4. Sex stereotyping – making comments or taking actions based on the view that a person’s conduct, dress, or personality traits are not appropriate because they do not conform to other people’s ideas or perceptions about how individuals of a particular sex should look or act.
5. Hostile actions – actions taken against an individual because of that individual’s sex, sexual orientation, gender identity or gender expression, or transgender status, 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 or engaging in “pranks” against the individual; bullying, yelling, or name-calling; or other similar conduct.
6. Social – unwelcome or repeated pressure to date, fraternize or socialize.

## RESPONSIBILITY OF LEADERS

Every leader (administrator, director, manager, and supervisor) is responsible for ensuring a harassment-free workplace, and every leader should act as a role model of appropriate, respectful behavior.

Any leader (administrator, director, manager, and supervisor) who directly observes conduct that could be considered sexual harassment **must act** to ensure that the conduct stops immediately. The leader (administrator, director, manager, and supervisor) **must** immediately report the conduct to the Vice President of Human Resources for follow-up. This obligation to stop and report offending conduct covers behavior engaged in by other leaders, by non-supervisory employees, and by individuals outside FLH toward Finger Lakes Health employees or volunteers.

Any leader (administrator, director, manager, and supervisor) who learns of or suspects a violation of this policy **must** report the matter immediately to the Vice President of Human Resources. The manager or supervisor should not attempt to investigate the complaint himself/herself.

Any leader (administrator, director, manager, and supervisor) will be subject to discipline if they engage in sexually harassing conduct themselves or if they fail to report known or suspected sexual harassment or otherwise allow sexual harassment to continue. Leaders also will be subject to discipline if they engage in any retaliation.

## PROCEDURE:

1. Preventing sexual harassment is everyone's responsibility. Finger Lakes Health cannot prevent or remedy sexual harassment unless it knows about it. Any employee who believes that he or she has been subjected to sexual harassment should immediately report the behavior to their Manager/Department Director or directly to the Vice President of Human Resources. Anyone who is aware of or who witnesses instances of sexual harassment also should make an immediate report. Any Manager or Department Director who receives a complaint or who suspects that sexual harassment may be occurring must immediately refer the complaint to the Vice President of Human Resources. It will then be the responsibility of the Vice President of Human Resources or his/her designee to thoroughly investigate all allegations of sexual harassment.
2. Volunteers, unpaid interns, and other non-employees alleging sexual harassment are to report their complaints directly to the Vice President of Human Resources.
3. If for any reason an individual is not comfortable reporting the issue to the Vice President of Human Resources, the employee may report the concern to any other Vice President or officer of the organization.
4. Any sexual harassment complaints involving members of the Medical Staff, who are not employed by Finger Lakes Health, will be referred to the Vice President of Medical Affairs. Complaints will be investigated in accordance with the provisions of the Medical Staff Sexual Harassment Policy. The Vice President of Medical Affairs and the Vice President of Human Resources will work together to provide for a timely response to all allegations made.
5. All reports or complaints under this policy will be promptly investigated in a thorough manner appropriate to the allegations. Investigations will be handled with as much confidentiality as is practical under the circumstances, consistent with the obligation to conduct a thorough investigation and with due consideration for the rights of all parties (including complainants, witnesses, and alleged harassers). Individuals reporting sexual harassment are strongly encouraged to put their complaint in writing. Individuals may use the Complaint Form attached to this policy. All allegations, whether verbal or in writing, will receive a fair and unbiased investigation. All employees, including managers and supervisors, are required to cooperate with any investigation.
6. Under no circumstances will an employee be retaliated against for making a complaint of sexual harassment, acting as a witness for another's complaint, opposing sexual harassment, participating or assisting in an investigation, or encouraging another employee to report sexual harassment. All persons are encouraged to come forward with information as soon as the event occurs, while the facts are still fresh, so that appropriate action can be taken.
7. Finger Lakes Health strives to complete all investigations as promptly as possible, consistent with the responsibility to conduct a thorough and fair investigation. Please note that variations in the time it takes to handle or decide matters may occur for different reasons, depending on availability of witnesses, information, documentation, or other valid factors. Individuals responsible for acting on complaints under this policy shall make a good faith effort to accomplish their work as quickly as time and

circumstances allow. Depending on the nature of the allegation, the investigation may include some or all of the following steps:

- a. Immediately reviewing the complaint upon receipt and taking any interim steps that may be appropriate to the situation (such as instructing the respondent not to communicate with the complainant);
  - b. Taking steps to preserve documents, email messages, and/or phone records, if relevant to the investigation;
  - c. Requesting and reviewing all relevant documents, including electronic communications;
  - d. Interviewing all parties involved, including any witnesses;
  - e. Creating written documentation of the investigation (letter, memo, or email), which may contain some or all of the following information:
    - i. A list of the documents reviewed and a summary of the relevant documents;
    - ii. A list of the names of those interviewed and a summary of their statements;
    - iii. A timeline of events
    - iv. A summary of any previous relevant incidents (reported or unreported);
    - v. The basis for the decision and the following resolution of the complaint, with any corrective action.
8. Upon completion of the investigation, both the individual making the complaint and the individual alleged to have violated this policy will be informed promptly of the outcome. Any corrective action deemed appropriate will be implemented promptly. The individual who made the report also will be notified of the right to file a complaint or charge externally, as outlined in the section below on Legal Protections. The written documentation of the investigation will be kept in a secure and confidential file.
9. If the complainant is not satisfied with the result of the investigation, the complaint and the determination will be referred to the President & Chief Executive Officer for review. The President & Chief Executive Officer will review the original determination and may discuss the allegations further with those persons involved. After carefully reviewing all pertinent information relative to the allegations, the President & Chief Executive Officer will meet with the complainant and present his or her final determination.

#### SANCTIONS:

If an employee is found to have violated this policy, prompt and appropriate corrective action will be taken. The scope of sanctions available will range from a verbal counseling or verbal warning to immediate termination. If a non-employee is found to have violated this policy, appropriate administrative action will be taken.

## MALICIOUSLY FALSE COMPLAINTS:

Finger Lakes Health considers allegations of sexual harassment to be a very serious matter, and Finger Lakes Health expects all employees to take such allegations seriously as well. Any individual who knowingly and intentionally makes a maliciously false accusation of sexual harassment against another individual for the purpose of harming, embarrassing, or retaliating against that individual will be subject to disciplinary action in accordance with the organization's Corrective Action policy.

All complaints made in good faith will be protected (even if the investigation ultimately does not find that this policy has been violated) and no retaliation will be permitted.

## LEGAL PROTECTIONS AND EXTERNAL REMEDIES:

Sexual harassment is not only prohibited by Finger Lakes Health policy, it is prohibited by federal and state law and, where applicable, local law.

In addition to Finger Lakes Health's internal complaint and investigation process, employees also may choose to pursue legal remedies with government entities under the following laws:

1. New York Human Rights Law (HRL) – The HRL, codified at 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 HRL may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court. Complaints with DHR may be filed within one year of the alleged sexual harassment. An individual who did not file with the DHR may sue directly in state court under the HRL within three years of the alleged sexual harassment. There is no cost to file with DHR and you do not need an attorney. DHR will investigate your complaint and determine whether there is “probable cause” to believe that sexual harassment has occurred. Probable cause cases are sent to public hearing before an administrative law judge. If the judge determines after hearing that sexual harassment has occurred, DHR has the power to award relief. Relief varies, but may include requiring the employer to stop the harassment or other relief, such as paying damages, attorneys' fees, and/or civil fines. DHR has regional offices across the state, which are listed on DHR's website. DHR may be contacted at: (888) 392-3644 or at [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint).
2. Civil Rights Act of 1964 – The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the Civil Rights Act of 1964 (codified as 42 U.S.C. §2000e et seq). An individual can file a charge with the EEOC within 300 days of the alleged harassment. There is no cost to file a charge with the EEOC. The EEOC will investigate the charge and determine if there is reasonable cause to believe that sexual harassment 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 complainant parties. Federal courts may award remedies if sexual harassment is found to have occurred. An employee can file a charge of discrimination with the EEOC district, area, or field office.

The EEOC can be contacted by calling 1-800-669-4000 (TTY: 1-800-669-6820) or by visiting [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov). If an individual files an administrative complaint with the DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

3. Local Protections – Many localities enforce laws protecting individuals from discrimination and harassment. An individual should contact the county, city, or town in which they live to find out if such a law exists.
4. N.Y. Penal Law – If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Contact your local police department.

This policy and procedure will serve to notify all employees of their responsibility to comply with the laws that prohibit harassment/intimidation of any person in the workplace. It also re-enforces our commitment to continue to promote an environment that respects the rights of all individuals.

Approved	Date
Approved	Date

Effective:	January 1986
Updated:	June 1995
Effective GRHS:	July 1997
Changed to Harassment & Effective FLH:	October 1998
Updated:	June 2001
Revised:	July 2003
Updated:	January 2007
Revised:	July 2013
Updated:	July 2016
Revised:	November 2017
Revised:	October 2018
Updated:	November 2020

## Sexual Harassment Complaint Form

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees and others to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it in confidence to Chad Hoffman-Fragale, Vice President of Human Resources. Forms may be submitted by email to Chad.Hoffman@flhealth.org or by mail to: Chad Hoffman-Fragale, Vice President of Human Resources, 196 North Street, Geneva NY 14456. You will not be retaliated against for filing a complaint in good faith.

If you are more comfortable reporting verbally or in another manner, Finger Lakes Health will still follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

*For additional resources, visit: [ny.gov/programs/combating-sexual-harassment-workplace](http://ny.gov/programs/combating-sexual-harassment-workplace)*

### COMPLAINANT INFORMATION

Name: \_\_\_\_\_  
Work \_\_\_\_\_  
Address: \_\_\_\_\_  
Work Phone: \_\_\_\_\_  
Email: \_\_\_\_\_ Job Title: \_\_\_\_\_

Select Preferred Communication Method:  Telephone  Email  In person

### SUPERVISOR INFORMATION

Immediate Supervisor's Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Work Phone: \_\_\_\_\_ Work Address: \_\_\_\_\_

### COMPLAINT INFORMATION

1. Your complaint of Sexual Harassment is made against:

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Work \_\_\_\_\_  
Address: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Relationship to you: (select one)

Supervisor  Subordinate  Co-Worker  Other: \_\_\_\_\_

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any documents or other evidence.

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3. Date(s) sexual harassment occurred: (mm/dd/yyyy)

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4. Is the sexual harassment continuing?  Yes  No

5. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

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6. Have you previously complained or provided information (verbal or written) about related incidents?  Yes  No

7. If yes, when and to whom did you complain or provide information?

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8. If you have hired an attorney and would like us to work with them, please provide their name and contact information:

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_