

SEXUAL HARASSMENT

STANDARD NO(S)

NYSLEAP 14.7

DATE:

January 28, 2010
REVIEWED: 05/18/2017

REFER TO:

John Cleere

I. OBJECTIVE:

To describe various forms of sexual harassment, identify the procedure for the investigation of sexual harassment complaints and the penalties for such conduct. The purpose of this policy is to abolish sexual harassment, in whatever form, within the Seneca County Sheriff's Office.

II. POLICY:

It is the policy of the SCSO to provide and maintain an environment characterized by respect for the individual and encouragement for the development of one's full potential. Any behavior, verbal or physical, which constitutes sexual harassment will not be tolerated and may, upon due process, lead to disciplinary action including termination of employment. Certain conduct, prohibited by both state and federal laws, could result in criminal prosecution. For example, §40-d of the Civil Rights Law describes sexual harassment as a class A misdemeanor and provides for a penalty of from one to five hundred dollars to be paid to the aggrieved person.

III. DETAILS:

A. Sexual harassment may be described generally as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, by either male or female. It may include, but is not limited to:

1. Sexually objectionable words or gestures used to describe another;
2. Comments about a person's lifestyle, body or clothing when such comments have sexual implications;
3. Offensive sexual advances including flirtations, leering or suggestions designed to further an unwelcome sexual encounter;
4. Verbal abuse of a sexual nature;
5. Unnecessarily touching, patting, pinching or brushing the body or clothing of another;

6. Conduct, which by its common and plainly understood sexual nature, interferes with a person's work performance or creates an intimidating, hostile or offensive environment;
7. Display within the SCSO of sexually demeaning objects, pictures, cartoons or other written material;
8. Solicitation of sexual activity or behavior using the promise of rewards or other favorable action affecting a person's evaluation, wages, advancement, assignments, duties or career opportunities;
9. Direct or implied threats or insinuations that a person's rebuff of a sexual advance will adversely affect one's status, evaluation, wages, advancement, assignments, duties or career opportunities; and,
10. Forced sexual contact, including rape.

- B.** The SCSO will determine whether such conduct constitutes sexual harassment, based on a review of the facts and circumstances of each situation. As much as possible, confidentiality will be maintained with respect to a sexual harassment complaint and only those who need to know about such a complaint will be advised of its existence. No employee will be subject to any form of retaliation or discipline for pursuing a sexual harassment complaint.

The SCSO will not condone any sexual harassment of its employees. All workers, including supervisors, will be subject to severe discipline, up to and including termination.

- C. Investigation of complaints** - If necessary, consistent with the procedures described below, complaints regarding sexual harassment will be investigated by the Professional Conduct Unit. (See “**Professional Conduct Unit**”) this manual.

The designated sworn member will conduct interviews, assemble the facts and report the findings to the Chief Deputy and Undersheriff, who will present a completed investigative packet to the Sheriff, with recommendation as to appropriate action.

As with any other accusation, innocence of the accused is presumed until facts indicate otherwise. The complainant should expect the matter to be thoroughly investigated. Any false accusation, made out of malice or for any other reason, may lead to disciplinary action against the accuser.

The designated sworn member will also be responsible to monitor the situation carefully to insure that neither the SCSO nor any member within it acts in reprisal against the complainant or any other individual reporting or witnessing objectionable conduct.

D. Procedures -

1. If you think you have been subjected to harassment by any employee of the SCSO, including those who may be in your own chain of command, you should:
 - a. Attempt to resolve the matter directly with the person who has offended you, or;
 - b. Discuss the matter with a trusted friend or family member who may be able to furnish advice from an objective point of view, or;
 - c. Promptly notify your immediate supervisor within your division; or, if the offender is a supervisor within your chain of command, promptly notify the Chief Deputy.
 - d. Contact a professional counselor through the Employee Assistance Program at:

Seneca County Personnel Office
1 DiPronio Drive
Waterloo, NY 13165
315-539-5655
ask for Personnel Employee Assistance Officer

Or in Rochester at

One Mount Hope Avenue
Rochester, NY 14620-1088
(585) 325-2980
(585) 423-9490

Counseling services for employees are free and confidential and can be scheduled by calling any of the above number between 9:00 AM and 5:00 PM, Monday through Friday.

**ANY MATTER BROUGHT TO THE ATTENTION OF THE SCSO
WILL BE KEPT IN THE STRICTEST CONFIDENCE.**

2. If acceptable to the complainant, the PCU will attempt to resolve the matter informally.
3. If an informal resolution is not acceptable or if it cannot be satisfactorily obtained, the PCU will follow the procedures outlined in “**Professional Conduct Unit**”, this manual.

- E. The Seneca County Employee Policy Manual in effect on January 1, 2009 and available to all employees on the Seneca County intranet has a similar Sexual Harassment Policy at policy section - 101.601, in effect as follows:

Policy:

The Sexual Harassment Policy has been established to further emphasize Seneca County's commitment to proper treatment of employees in the workplace and to set clear guidelines.

Purpose:

To stress the organization's strong opposition to sexual harassment and identify the complaint procedures available to victims, as well as the disciplinary penalties that could be imposed for sexually harassing conduct or behavior by managers, co-workers, or visitors.

Guidelines:

Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where tolerance of such actions is made a condition of employment that interferes with an individual's work performance or simply creates an intimidating, hostile or offensive work environment.

It is illegal and against the employer's policy for any worker, male or female, to harass another worker or to create a hostile working environment by either committing or encouraging:

- physical assaults on another employee, including but not limited to, rape, sexual battery, molestation, or attempts to commit these assaults; or
- intentional physical conduct that is sexual in nature, including but not limited to, touching, pinching, patting, or brushing up against another employee's body; and
- unwanted sexual advances, propositions, or sexual comments. Including making sexual gestures, jokes, or comments made in the presence of any employee who has indicated that such conduct in his/her presence is unwelcome; and
- posting or displaying pictures, posters, calendars, graffiti, objects, or other materials that are sexual in nature or pornographic; and
- electronic sexual harassment will not be tolerated in the work place, which includes lewd messages and suggestive graphics being flashed across computer screens.

The creation of an intimidating, hostile, or offensive working environment may include such actions as persistent sexual comments or the display of obscene or sexually oriented photographs or drawings. However, conduct or actions that arise out of a personal or social relationship and that are not intended to have a discriminatory employment effect may not be viewed as harassment. The employer will determine whether such conduct constitutes sexual harassment, based on a review of the facts and circumstances of each situation. As much as possible, confidentiality will be maintained with respect to a sexual harassment complaint and only those who need to know about such a complaint will be advised of its existence. No employee will be subject to any form of retaliation or discipline for pursuing a sexual harassment complaint.

The employer will not condone any sexual harassment of its employees. All workers, including supervisors and managers, will be subject to severe discipline, up to and including discharge, for any act of sexual harassment they commit.

Employees who feel victimized by sexual harassment are encouraged to report the harassment to the Personnel Officer immediately. The following procedure should be used when sexual harassment has occurred:

Complaint Procedure

Any employee who feels that he/she has been the victim of sexual harassment should contact the Personnel Officer within 15 days of the incident. This report can be oral or written, but a written and signed statement of the complaint must be submitted by the complaining employee within 3 days of the initial report before an investigation can proceed.

Upon receipt of the written complaint, the Personnel Officer will contact the person who allegedly initiated the sexual harassment, and inform that person of the basis of the complaint and the opportunity to respond within 7 days to the complaint, in writing.

Upon receipt of the written response, the Personnel Office, after conducting a thorough investigation, will submit in writing a confidential summary of the complaint, the response, and the facts of the investigation to the County Manager.

The County Manager, after conducting a thorough review of the facts of the investigation, including possible interviews with all parties involved, will determine whether sexual harassment has occurred. Both parties will be notified of the County Manager's decision.

If it is determined that sexual harassment has occurred, appropriate disciplinary action up to and including discharge will be taken. The severity of the discipline will be determined by the severity and frequency of the offense, or other conditions surrounding the incident.

An employee's failure to report the occurrence of sexual harassment within 15 days may be deemed a waiver of any County action. Failure to file a written complaint within 3 days of the verbal report will be considered a withdrawal of that report. If the person against whom the complaint of sexual harassment is filed fails to respond to the complaint within 7 days of notification, the complaint will be taken as true, and the appropriate disciplinary measure will be taken if circumstance warrant.

- F.** The Office of Sheriff endorses the Sexual Harassment policy of Seneca County in its' entirety, which includes its definitions and process for an employee making a complaint. We recognize because of the sensitive nature of this type of situation an employee may feel more comfortable making the complaint to the County. The Sheriff would most likely still be involved in the follow-up investigation and disposition. SCSO employees may take advantage of using either the SCSO Sexual Harassment Policy and Procedures or the Seneca County Sexual Harassment Policy and Procedures in the event they feel they have been the subject of a Sexual Harassment incident as identified.