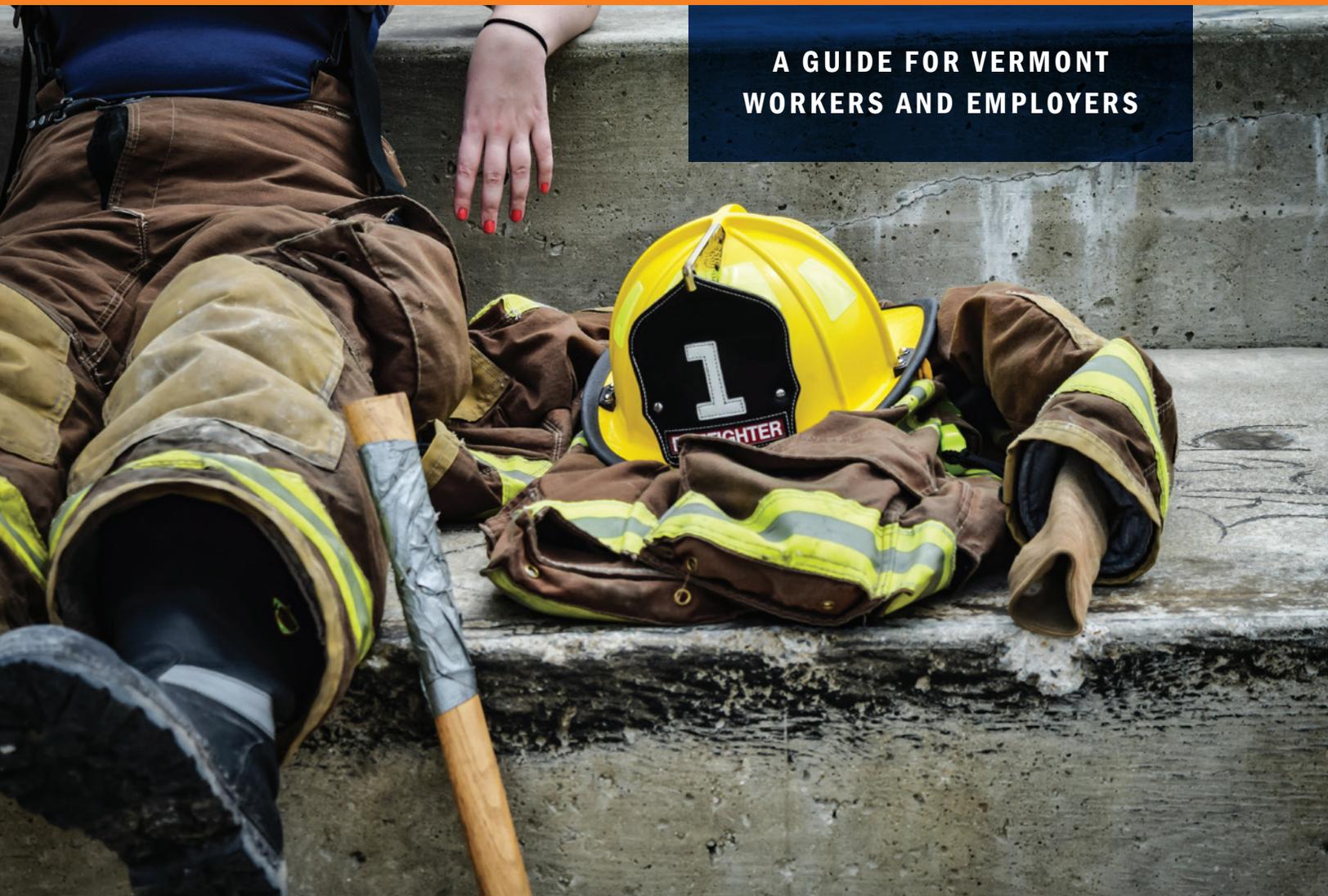


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Addressing Sexual Harassment in the Workplace

A GUIDE FOR VERMONT
WORKERS AND EMPLOYERS



A Vermont Commission on Women publication.
Edited by Hannah Lane with assistance from intern Brynn Connell.

Special thanks to the Civil Rights Unit of the Vermont Attorney General's Office and the Vermont Human Rights Commission for collaborating on this project.

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The Vermont Commission on Women produces a variety of publications on various subjects of importance to women in Vermont including health, civil rights, safety, economic security, education, human development, leadership, and public life. Our Legal Rights of Women in Vermont handbook and online resource directory can be found at women.vermont.gov.

The information presented in this publication is provided in good faith as a public service. We believe the information to be accurate. However, laws and information change from time to time and are subject to interpretation.

This guide gives general information only and does not contain legal advice. If you need legal advice, consult with a licensed attorney who can consider all factors relevant to your situation.

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What is Sexual Harassment?

Sexual harassment is a form of sex discrimination. Sexual harassment in the workplace involves behavior that may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct. Sexual harassment can be perpetrated by coworkers, subordinates or supervisors. Third parties such as customers, vendors, or independent contractors can also perpetrate sexual harassment.

Sexual Harassment is Illegal If:

- A worker keeping their job depends on their consent to sexual behavior; or
- Raises or promotions depend on a worker's consent to sexual behavior; or
- The harassment creates a hostile, offensive, or intimidating work environment that prevents a worker from doing their job.

There are two forms of sexual harassment. The first is called quid pro quo (Latin for "this for that"). This is when an employer or a supervisor makes unwanted sexual advances or requires a person to exchange sexual favors for some job benefit (for example, being promoted, hired, or given more favorable working conditions) or to prevent a negative job-related action (for example, being fired or getting a bad evaluation).

The second kind of sexual harassment is called a "hostile work environment." Hostile work environment harassment is when unwanted sexual conduct is so severe or pervasive that it creates an offensive, uncomfortable, intimidating, or discriminatory work environment.

Sexual
harassment
is not
about sex.
It's about
power.

A single, severe incident of harassment may be enough to constitute a hostile work environment, but often, hostile work environment harassment takes the form of repeated conduct and unwelcome behavior. Consider how many times these incidents occurred, how long the behavior has been going on, and whether other members of your sex or gender identity have been treated similarly. The more severe the behavior, the less pervasive it needs to be before it creates a hostile work environment.

What is Sexual Harassment

The Following Behaviors are Examples of Possible Sexual Harassment:

- Gestures and non-verbal communications such as leering, hooting, lip-smacking, whistling, animal noises, and sexually explicit gestures.
- Discussion of sexual matters such as one's partner's sexual inadequacies or prowess, stories of sexual exploitation; graphic descriptions of sexual activities; dirty jokes; and spreading rumors about another person's sexual activity.
- Overt sexual advances or sexual activities such as unwelcome touching; hugging or grabbing; inappropriate invitations ("join me in a hot tub for a good time"); obscene phone calls, letters, e-mails, texts, photos, or social media messages; soliciting sexual services; exposure of intimate body parts.
- Sexual assault in the workplace, which may also result in criminal and civil liability, can be reported to law enforcement in addition to your employer.
- More subtle sexual activities or communications such as insisting or requesting that workers wear revealing clothes; unwelcome pressure for dates; inappropriate gifts such as lingerie; the use of sexual innuendo; comments about people's bodies or physical appearance (either complimentary or critical); "accidentally" brushing sexual parts of the body; leaning over and invading a person's space; sexist and insulting graffiti; sexist jokes and cartoons; and displaying pornography or nude or semi-nude pictures in the workplace.
- Negative activities designed to make a group unwelcome in the workplace such as sabotaging a person's work; demanding comments such as "Hey, baby, give me a smile"; hostile put-downs; exaggerated and mocking "courtesy"; and public humiliation.

What is Sexual Harassment

Other Forms of Sex Discrimination

While this publication focuses on sexual harassment, it is only one of the types of sex discrimination that can occur in the workplace. Sex discrimination is treating workers differently based on their sex, and not for another valid business reason. Examples of this can include:

- Requiring a worker to be of a certain sex to fill a position;
- Paying workers differently based on their sex;
- Assigning preferable job duties and positions to men at the company and not to women;
- Promoting men to management positions before women with more seniority and experience;
- Laying off women when men in the same position with similar experience or not as much seniority keep their jobs; or
- Making comments suggesting that a person cannot do their job because of their sex.

Generally, the process for filing a complaint about sex discrimination is the same as for reporting sexual harassment.

Discrimination based on sexual orientation and gender identity is also illegal in Vermont. If you experience discrimination based on your LGBTQ+ identity, follow the steps outlined in our “*For Workers*” section.

What is Sexual Harassment

IT'S A FACT

People of any sex can be victims
and/or harassers, and a victim and
their harasser may be of the

same or opposite sex.

Potential liability also exists for
sexual harassment of persons based on their

GENDER IDENTITY & **SEXUAL ORIENTATION**



Understanding Sexual Harassment Laws

Both federal and Vermont laws protect employees from sexual harassment. Both laws define sexual harassment in similar ways. However, there may be differences in the way that the state courts and the federal courts interpret those laws.

FEDERAL LAW

Title VII of the Civil Rights Act of 1964 prohibits sexual discrimination in employment. In 1980, the Equal Employment Opportunity Commission (EEOC), the federal agency in charge of enforcing the act, issued regulations which said that sexual harassment constitutes a violation of Title VII. These regulations are used by the EEOC in investigating complaints. They are given weight in deciding sexual harassment cases. The EEOC's enforcement position is that sex discrimination includes discrimination based on sexual orientation and gender identity.

Title VII applies to employers who have 15 employees or more. Employees whose employers have fewer than 15 employees are not protected by federal law. Independent contractors and unpaid interns are not protected under Title VII.

The federal regulations and Vermont state law define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature if they occur in one or more of the following three circumstances:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the employee; or
- Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or of creating an intimidating, hostile, or offensive working environment.

Federal law holds that these forms of harassment are illegal regardless of the gender identity of both the harasser and the employee. You may take legal action even if you are sexually harassed by an individual with the same gender identity.

Understanding Sexual Harassment Laws

VERMONT LAW

Vermont law has additional requirements for employers when it comes to sexual harassment.

All Vermont employers with one or more employees are required to ensure a workplace free of sexual harassment and to develop, display, and distribute sexual harassment policies.

Furthermore, all persons who engage another person to perform work, even in non-traditional working relationships, are required to ensure a working relationship free of sexual harassment. Vermont Law has additional workplace discrimination protections that make it illegal to discriminate based on sexual orientation or gender identity.

Vermont law requires every employer to:

- A.** Adopt a policy against sexual harassment which must include:
- a statement that sexual harassment is unlawful;
 - a statement that retaliation against a worker for filing a complaint or cooperating in an investigation is against the law;
 - a description of sexual harassment with examples of inappropriate

behavior that can be considered sexual harassment;

- a statement of the range of consequences for harassers;
- the procedure for filing a complaint with the appropriate agencies and directions for contacting those agencies; and
- for employers with more than five employees, a description of the procedure for filing an internal sexual harassment complaint. This should include the names, addresses, and telephone numbers of people to whom complaints should be made.

- B.** Post information about sexual harassment, including, at a minimum, the employer's sexual harassment policy. This information must be posted in a prominent and accessible location within the workplace.
- C.** Provide a written copy of the sexual harassment policy to every employee. All current employees should have their own written copy, and copies must be given to new employees. If these policies are changed, written copies of the updated policies must be distributed to all employees.

Understanding Sexual Harassment Laws

Vermont Law

Independent contractors and interns, including unpaid interns, are protected from sexual harassment in working relationships under Vermont law.

Settlements

When parties in a legal dispute can reach a mutually satisfactory arrangement without resorting to litigation, such as through private lawyers, mediation, or other forms of dispute resolution, they may decide to sign a legally binding written agreement called a “settlement.” In a settlement, the parties agree not to pursue further legal action regarding the dispute in exchange for remedies, such as financial damages, confidentiality, and/or reinstatement.

Vermont law has several requirements for sexual harassment settlement agreements:

- Employers cannot include provisions which would prevent the employee from working for the employer or any affiliates of the employer (including parent companies, subsidiaries, and divisions) in the future.
- The settlement agreement must also contain specific language explaining:
 - that the employee may still report sexual harassment to the Attorney General, Human Rights Commission, the Equal Employment Opportunity Commission, or any other state or federal agency;
 - that the employee may still testify or assist in an investigation of sexual harassment;
 - that the employee may comply with or testify in civil litigation related to sexual harassment without violating the terms of their settlement agreement;
 - that the employee may exercise any legal rights with other employees concerning collective bargaining for mutual aid and protection; and
 - after execution, the settlement agreement cannot prevent future claims or waive any of the employee’s rights.

Understanding Sexual Harassment Laws *Vermont Law*

Employment agreements

Vermont law prohibits employers from creating employment agreements preventing the employee from reporting sexual harassment or restricting their rights to remedy sexual harassment.

Sexual harassment can occur at the office and out of it. Liability still exists for harassment that occurs at conferences, company picnics, holiday parties, and the like, if those events are work-related.

Inspections

The Attorney General (for private organizations) and the Human Rights Commission (for state agencies) are authorized to inspect workplaces for compliance with state sexual harassment laws. If employers' practices are found to be inadequate or insufficient, the Attorney General or Human Rights Commission may require the employer to conduct annual sexual harassment trainings for up to three years.

IT'S A FACT:

The American Psychological Association estimates that

71%

of working women will experience sexual harassment during their careers.

The Cost of Sexual Harassment

Companies lose millions of dollars because of lawsuits and lost productivity every year due to sexual harassment. Victims of sexual harassment report physical and mental health problems and long-term financial and career damage.

The Cost to Employers:

- Sexual harassment affects an employer's bottom line through legal expenses, impact on insurance rates, and in the case of municipal employers, potential tax increases. Nearly \$70 million in monetary benefits were recovered for employees in relation to sexual harassment claims in Fiscal Year 2018, the Equal Employment Opportunity Commission reported.
- Sexual harassment reduces productivity through increased absenteeism and turnover; targets of harassment are 6.5 times as likely as non-targets to change jobs. Replacing an employee can cost 16 to 20 percent of an employee's annual salary. This cost can rise to up to 213 percent of salary for replacement of professional staff.
- The 2010 National Health Interview Survey found that employees who had been harassed or bullied at work in the previous year were 1.7 times more likely to have taken at least two weeks off work than those who had not.

The Cost of Sexual Harassment

The Cost to Workers:

- Sexual harassment affects the physical and mental health of victims. According to the Rape, Abuse and Incest National Network (RAINN), sexual harassment victims might suffer from varying emotional, mental and physical health effects. These can include feelings of powerlessness, shame, and fear. Sexual harassment can also cause anxiety, panic attacks, Post-Traumatic Stress Disorder (PTSD), depression, loss of motivation, difficulty concentrating, substance abuse, and suicidal ideation. Victims of sexual harassment might also suffer from sleep and eating disturbances, headaches, fatigue, and increased stress levels.
- Victims of sexual harassment can suffer financially, since many workers need to take time off work, reduce hours, or feel they must change to a lower-wage job to avoid the harassment, or end up losing their jobs.
- Harassment can also restrict access to learning opportunities including on-the-job instruction and mentorship, reducing opportunities for advancement.

The Institute for Women's Policy Research reports that

8 in 10

women who experienced sexual harassment took new jobs within two years. Harassment contributed to financial strain even when women were able to find work soon after leaving their previous employment.

For Vermont Employers

STEPS EMPLOYERS CAN TAKE TO PREVENT SEXUAL HARASSMENT:

Do not ignore or engage in harassment or inappropriate conduct

- If you witness or become aware of such conduct in your workplace, address it immediately and make sure that it stops.

Enhance your written policy prohibiting sexual harassment

- Emphasize the company's commitment to providing a workplace free from sexual harassment.
- Express a commitment to keep all sexual harassment complaints confidential as much as possible.

Communicate your policy

- Review your policy with all workers on a regular basis and discuss the policy with all new workers.
- Communicate your policy to suppliers and customers.
- Include the policy in employee handbooks or policy manuals.
- If you have workers whose first language is not English, translate your policy into the first language of your workers.
- Inform workers to whom they should talk if they have questions about the policy.

Establish procedures to prevent and respond to sexual harassment

- Designate a properly trained staff person to receive sexual harassment complaints and to ensure that the policy is carried out. It's often best that this is not the head of your company, depending on the size and business type.
- Designate an alternate person to receive complaints in case the designated person is accused of being involved in harassment.
- If you have more than one worksite, designate a person at each site to address complaints of harassment.
- Make sure all your workers know to whom they should talk about a sexual harassment complaint. This should include any manager the employee feels comfortable talking to, in addition to a designated staff person.
- Keep all sexual harassment complaints confidential as much as possible.
- Hold open discussions about sexual harassment with coworkers and explore the differences between inappropriate and appropriate behavior.

For Vermont Employers

- Create a culture that encourages workers to report harassing conduct and responds positively to reports, even those that don't describe conduct that rises to the level of unlawful harassment. Use the opportunity to improve your workplace culture so that all employees feel safe and comfortable.

Provide training for your workers

- Provide training for all workers within the first year of employment.
- Provide specific training to those who will receive and respond to complaints in a timely and sensitive manner, which should include all managers.
- Require participation in training by workers at all levels of the organization, including senior management.
- Educate managers about their responsibilities to report and respond to sexual harassment in a timely and sensitive manner. If a worker notifies their manager that they are being sexually harassed, the manager has a legal obligation to respond, and can be personally liable if they do not.

Increase gender parity at your company

- Review your recruitment and hiring practices to encourage diversity in your workforce.
- Aim for equal representation of the genders at all levels of your company; especially in leadership positions.
- Establish mentor programs and encourage mentorship between people of different genders.
- Evaluate your approach to compensation to ensure it is equitable.

Vermont law strongly encourages every employer to provide sexual harassment training to all employees. Training should be offered within the first year of employment.

For Vermont Employers

Employer's Defenses to Harassment Claims

Under federal law, these three things must happen for an employer to avoid liability for sexual harassment:

- 1.** the employer takes reasonable steps to prevent harassment; and
- 2.** the employer addresses sexual harassment claims quickly; and
- 3.** the victim unreasonably fails to use the employer's grievance or complaint procedures. (Unless the victim had a good reason for failing to use the procedure, such as when the only person to whom complaints are to be made under the policy is the harasser.)

However, if a harassing supervisor retaliates against an employee by taking adverse action against the employee, the employer is strictly liable responsible for the supervisor's actions.

For Vermont Employers

Employer's Legal Responsibilities***Harassment committed by supervisors and managers***

Under federal law, employers are responsible for harassment committed by supervisors and managers, whether or not the employer knew about the harassment at the time it was happening, if:

- a supervisor takes adverse action such as fires, demotes, or in some other way changes the worker's work conditions as part of the harassment, or as a punishment for not submitting to or for filing a complaint about the harassment, (known as retaliation); or
- a supervisor uses his or her authority to facilitate or enforce harassment.

Under federal law, a supervisor refers to individuals with the power to hire, fire, demote, promote, or discipline another worker.

Harassment committed by employees

Employers are responsible for harassment by any employee if the employer knew or should have known of the harassment and did not take steps to stop it.

Employers are also responsible for harassment by an employee if:

- a supervisor takes an adverse action such as fires, demotes, or in some other way changes the employee's work conditions as part of the harassment or as a punishment for not submitting to or for filing a complaint about the harassment (known as retaliation); or
- a supervisor uses his or her authority to facilitate or enforce harassment.

For Workers

Steps Workers Can Take to Prevent Sexual Harassment:

- Treat others in a respectful and professional manner.
- Let coworkers know when you think their conduct is offensive or inappropriate, even if it's not directed at you.
- State your expectations clearly and demand that harassing behavior stop.
- Read the company's policy and procedures on sexual harassment. If you have questions about the policy, find someone who can answer your questions.
- Don't assume that what one person sees as funny is necessarily funny to another.
- Don't be pressured into joining in unacceptable behavior.
- Give support to harassed workers. Remind them that they are not to blame.
- Request additional procedures for dealing with sexual harassment such as climate surveys and staff training if you feel the current policies are inadequate.
- Document the details of harassing behavior that you witness and offer to provide them to the victim or to your employer.

Responding to Harassment

First, remember that the harassment is not your fault and that you are not alone. In the back of this booklet, you will find a list of resources - places where you can get advice and support.

Although you may choose to take legal action, you may first want to try other options such as filing a complaint within your company. Following your company's grievance procedure might help strengthen your case should you decide to file a complaint with an outside agency or a private lawyer.

OPTIONAL: Consider confronting the harasser, if you feel safe doing so

ONLY when possible and safe for you to do so, consider confronting workplace behavior that you feel is problematic, offensive, discriminatory, and/or predatory, whether it was directed at you or not. When determining the appropriateness of this strategy, consider the severity of the behavior, your relationship with the harasser, whether this is repeated behavior or an isolated incident, and whether you were the only person who saw the behavior or if there were other witnesses.

If you decide to confront a harasser, let them know that the behavior is unwelcome and that you want it to stop. Although you are not required by law to confront your harasser, in some cases, it may help to end the harassment. If you decide to confront your harasser, follow these tips:

- Ask someone else to be present, such as a trusted coworker or supervisor.
- Remain calm.
- Practice out loud what you are going to say.
- Describe the behavior you don't like and ask that it stop. Focus on the conduct, statement, or image that was problematic and how it made you feel.
- Hold the harasser accountable for their actions.
- Make it clear that all people have the right to be free from sexual harassment.
- Stick to your own agenda and don't respond to the harasser's excuses.
- Be serious, straightforward, and to the point.

If you choose not to confront your harasser in person, you could write a letter or email. In the note, describe the behavior that you don't like and ask the person to stop. Include a detailed description of what happened and when it happened. Be sure to date and keep a copy of your letter and make a note of how it was delivered.

For Workers

Get Emotional Support

If you feel that you are being sexually harassed, get support. It may help to talk to someone such as a medical or mental health professional, an attorney, a spiritual advisor, a family member, or a friend.

IT'S A FACT

A harasser can be a supervisor, an agent of the employer, a coworker, or a non-employee such as a customer or a vendor.

Document the Harassment

It is important for you to document as much as you can about the harassment. The evidence you collect might help to support your claims.

- Write down the details of the harassment as soon as you can, recording your memory of exactly what took place. Include times, dates, locations, and any witnesses.
- Start a file where you can write notes and store other evidence of the harassment. Keep the file in a safe place, away from work. Record this documentation either in hand-written form or digitally in a file that is not housed on a company computer. If you email yourself the documentation, use a personal, non-work, email address to both send it and receive it.
- Write down the details about any conversations you may have with coworkers or supervisors about the harassment.
- Include information about any formal complaints you have made and the response that you received from your supervisor.
- Get a copy of your personnel record, including your performance evaluations, before you make a complaint. Keep a copy in your file.

For Workers

Keep Track of Witnesses and Find Other Victims

It's very helpful to have at least one witness to the harassment who can testify on your behalf.

Know the Policies

Employers with five or more employees are required to have policies that contain information about how to file an internal complaint about harassment. Your employer's process might or might not include an in-person meeting to discuss your complaint. You may find information on your company's grievance policy in your employee manual, in written personnel policies, or by speaking with someone in your company's human resources department. If you have questions about the employer's process, you can ask about it prior to making your report.

IT'S A FACT

The complainant does not have to be the person directly harassed but could be anyone affected by the offensive behavior.

Filing a Complaint

File a Complaint with Your Union

If you are a member, it may be possible to file a formal grievance through your union. A union official would then help you through the grievance process. Review a copy of your collective bargaining agreement to determine if it covers the problems you are facing.

File a Complaint with Your Company

If you feel you are being harassed, you should file a complaint within your company. Include the details; try not to leave anything out. If you want a meeting immediately to discuss your complaint, you should make that request clear. Provide your detailed written account of the harassment and any witness accounts even if you have an in-person meeting to ensure the details are recorded accurately.

Remember, Vermont law requires every employer to have a policy against sexual harassment which should include a procedure for filing complaints of harassment.

If you make a complaint to a supervisor, a person the company has authorized to address complaints of sexual harassment, or to the head of the company, the company is legally responsible to act in a timely manner and to stop the harassment. If your complaint is not taken seriously, you should file another complaint.

If the company takes action to end the harassment but you still don't feel safe or if the harassment continues, complain again. If the company fails to respond adequately, you have the option of contacting a private lawyer or filing a complaint with a state or federal agency that can investigate.

Filing a Complaint

File a Complaint Outside Your Employer

You have the right to file a civil complaint with a federal or state law enforcement agency or to hire a lawyer to help you at any time, whether or not you have reported internally to your employer (although reporting to your employer may be helpful to prevent their defense that they did not know about the harassment).

You can also file a criminal complaint with the police if criminal acts such as stalking or assault have been committed. Unwanted touching, especially of a sexual nature, might be criminal assault.

It's illegal for anyone to punish you or retaliate against you in any way for filing a complaint within your company or with an agency outside of your company.

IT'S A FACT

It is illegal for anyone to fire you or punish you in any way for filing a complaint within your company or with an agency outside of your company. This is called *retaliation*.

Filing a Complaint

FILING A COMPLAINT WITH AN ENFORCEMENT AGENCY

ONLINE COMPLAINT PORTAL

The Vermont Attorney General's Office, Civil Rights Unit and the Vermont Human Rights Commission have created one place to submit complaints of workplace discrimination and harassment.

➔ ago.vermont.gov/employment-discrimination-form

Filing a Complaint with the Vermont Attorney General's Office, Civil Rights Unit

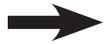
Procedure

If you work for any employer other than a state agency, under state law, you can file a complaint directly with the Civil Rights Unit of the Attorney General's Office. The unit investigates claims of sexual harassment against private employers. They can also provide you with information regarding the laws around sexual harassment and discrimination. You are strongly encouraged to file a complaint within 300 days of the last incident you are complaining about. Federal law claims require that you do so within 300 days and Vermont law claims require you do so within one year.

After you file a complaint with the Attorney General's Office, an investigator will review your claim and gather more information from you, if necessary. If the staff determines there is sufficient information for a violation of the law, they will write a charge, or a summary of the events that occurred. You will be asked to review the charge, make changes if necessary, sign it under oath, and return it to the Attorney General's Office.

Your employer will not be notified of the claim until after you have signed and returned the charge to the Attorney General's Office and signed an authorization form. You will be assigned an investigator, who will look into the circumstances of your charge and interview witnesses, request and review documents, and will keep you apprised of developments in your case.

Filing a Complaint



The telephone hotlines for the Vermont Attorney General's Office are **888-745-9195 (toll-free in VT) / 802-828-3657**.

You can also contact the Attorney General's Office Civil Rights Unit by email, **ago.civilrights@vermont.gov**.

As you await the completion of this process, continue to document and report any ongoing harassment or retaliation to the entity handling your complaint. Full investigation of claims can take anywhere from a couple of months to two years, depending on the circumstances.

Resolution

Once the Attorney General's Office initiates an investigation, there are several opportunities for resolution, including mediation. If the Attorney General's Office finds sufficient evidence that your employer violated the law, it will attempt to offer various opportunities for settlement and resolution. If settlement efforts are unsuccessful, the Attorney General's office can bring suit in state court. If you and the Attorney General

win your case, the court can award you back and future pay, damages, attorney's fees, reinstatement to your job, and require employment policy changes.

Confidentiality

Each party has the right to the information they've provided to the Attorney General's Office, but not to the information provided by the other party unless both parties agree in writing, or there is a court order requiring the information to be disclosed. Information submitted in the course of an investigation is not considered public information. However, if a court case is filed, the case becomes public record, and anyone can request a copy of what's been filed with the court.

FILING DEADLINES

The filing deadline for **FEDERAL LAW** claims is **300 days** from the date of the last incident.

The filing deadline for **STATE LAW** claims is **one year** from the date of the last incident.

Filing a Complaint

Filing a Complaint with the Vermont Human Rights Commission

Procedure

If you are a state employee, you can file your complaint with the Human Rights Commission (HRC). The HRC conducts impartial investigations of discrimination complaints and provides information and training on civil rights laws. You are strongly encouraged to file a complaint within 300 days of the last incident you are complaining about. Federal law claims require that you do so within 300 days and Vermont law claims require you do so within one year.

After you file a complaint, they will review it and ask you questions. The executive director of the HRC decides whether they will investigate the complaint. If you file a complaint, you can withdraw it at any time. Typically, it takes between six and nine months to investigate a claim.

If a settlement cannot be reached, at the end of an investigation, a report is written which includes a preliminary

recommendation to the Human Rights Commissioners about whether there are reasonable grounds to believe that discrimination occurred. The investigative report is sent to the commissioners of the HRC who make a final determination as to whether or not discrimination took place.

Resolution

If the commission finds reasonable grounds that discrimination occurred, the executive director has a six-month window to try and help the parties reach a settlement. If settlement fails, the HRC may bring a lawsuit in the public interest.

Confidentiality

During a HRC investigation, each party has the right to the information in the case file provided by the opposing party. However, this information is not open to the public. If commissioners make a finding of discrimination, the investigative report and final determination (vote of each commissioner) is made public. The investigative file remains confidential unless a court order allows access.



The telephone hotlines for the Human Rights Commission are **800-416-2010 (toll-free in VT) / 802-828-2480.**

You can also contact the Vermont Human Rights Commission by email, **human.rights@vermont.gov.**



To submit complaints of discrimination and harassment:
ago.vermont.gov/employment-discrimination-form

Filing a Complaint

Filing a Complaint with the Equal Employment Opportunity Commission (EEOC)

Procedure

If you work for an employer with 15 or more employees, you can choose to file a federal complaint, called a charge, with the EEOC office in Boston, rather than with the Attorney General's Office. Under federal law, you must file a complaint within 300 days from the date of the last incident you wish to complain about.

After you file a complaint about an employer, the EEOC will notify the organization and the EEOC will investigate. Investigations can take a long time, more than a year in most cases. If the EEOC finds there is no evidence that you have been harassed, it will notify both you and your employer, and it will no longer pursue your complaint.

Resolution

If the EEOC finds evidence that you were harassed, it will attempt to work out an agreement with you and your employer or will sue your employer on your behalf. Regardless of whether the EEOC finds evidence that federal law was violated, it can also send you a "right to sue" letter so you and your lawyer can file a private lawsuit, either at the end of its investigation, or earlier at your request. If you or the EEOC win your case, the court order can award you back pay and future pay damages, order reinstatement to your job, and require employment policy changes.

Confidentiality

Information you provide to the EEOC before a charge is filed will be kept confidential. Once a charge is filed, information about your complaint will be shared with your employer. Charge information is kept confidential from and is not disclosed to the public. If a lawsuit is filed, court documents will become public record and anyone can request a copy.



You can file a charge with the EEOC through their online portal.
eeoc.gov/employees/charge.cfm

Filing a Complaint

Seeking Assistance from a Private Lawyer

You can always consult with a private lawyer instead of or in addition to filing a complaint with a state or federal law enforcement agency. You should seek a lawyer with experience in employment discrimination and harassment cases. A lawyer can assist you in filing a complaint and can also advise you of your legal rights. A lawyer can also advise you about the length of time it will take a federal or state agency to investigate your case, the allowable damages in federal and state court, and other factors you should consider in deciding what to do. You should seek assistance promptly so that your lawyer has time to file a lawsuit within three years of the date of the last incident you are complaining about.

Victims of sexual harassment are entitled to damages for pain and suffering as well as any lost pay. If you win, you may also recover legal fees.

See page 28 for legal resources in Vermont.

File a Criminal Complaint

If criminal behavior such as stalking, telephone or online harassment, assault, or sexual assault has occurred, you can file a criminal complaint with the police department. Contact the victim advocate at your local state's attorney's office for advice about filing a criminal complaint.

Following your company's grievance procedure might help strengthen your case should you decide to file a complaint with an outside agency or a private lawyer.

Additional Financial Compensation for Victims

Unemployment Compensation

If an employee quits their job because of sexual harassment, they might be entitled to collect unemployment compensation. The employee's chances of being awarded unemployment insurance increase if the employee has followed the company's grievance procedure and if there is evidence that the employer took no action to stop the harassment.

If unemployment compensation benefits are denied, the employee has the right to make an appeal. The employer also has the right to appeal a decision.

To file a claim or to obtain more information about unemployment compensation, contact the unemployment claims center at the **Vermont Department of Labor toll-free at 877-214-3330**

Workers' Compensation

It may be possible for a victim of sexual harassment to collect workers' compensation benefits for mental or physical injury resulting from sexual harassment.

If benefits are denied, the employee has the right to make an appeal. The employer also has the right to appeal a decision.

To file a claim or to obtain more information about workers' compensation, contact the **Vermont Department of Labor at 802-828-2286**

Crime Victim Compensation

If you've experienced sexual harassment that would also be considered criminal assault, such as non-consensual touching of a sexual nature or stalking, and you reported the conduct to the police, you may be entitled to crime victim compensation funds through the **Vermont Center for Crime Victim Services toll-free at 800-750-1213**

Resources

Where to File a Complaint

Vermont Online Complaint Portal

ago.vermont.gov/employment-discrimination-form

Vermont Attorney General's Office (Civil Rights Unit)

109 State Street
Montpelier VT 05609-1001
888-745-9195 | 802-828-3657
802-828-3665 (TTY)
ago.vermont.gov
ago.civilrights@vermont.gov

Vermont Human Rights Commission

14-16 Baldwin Street
Montpelier VT 05633-6301
800-416-2010 (voice/TTY) | 802-828-2480
hrc.vermont.gov
human.rights@vermont.gov

Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Government
Center, Room 475
Boston MA 02203
800-669-4000 | 617-565-3200
617-565-3204 (TDD)
eeoc.gov
info@eeoc.gov

Private Attorneys

Vermont Legal Aid, Inc.

800-639-2047
vtlegalaid.org

Vermont Bar Association's Lawyer Referral Service

800-639-7036
vtbar.org/LRS

Vermont's Legal Help Website

vtlawhelp.org

Other Resources

Workplaces For All

workplacesforall.vermont.gov

Vermont Center for Crime Victim Services

58 S. Main Street
Waterbury VT 05671-2001
800-750-1213 | 802-241-1250
ccvs.vermont.gov

Vermont Workers' Center

294 North Winooski Avenue
Burlington VT 05401
802-861-4892
Workers' Rights Hotline (toll-free):
866-229-0009
workerscenter.org

Vermont Commission on Women

126 State Street
Montpelier VT 05633-6801
800-881-1561 | 802-828-2851
women.vermont.gov

Resources

U.S. Committee for Refugees and Immigrants (for translating services)

462 Hegeman Avenue
Colchester VT 05446
802-655-1963
refugees.org/field-office/Vermont

U.S. Department of Labor Women's Bureau

Regional Office
J.F.K. Federal Building Government Center
Room E-270
Boston MA 02203
800-518-3585
dol.gov/wb

Vermont Department of Labor

5 Green Mountain Drive
Montpelier VT 05601-0488
802-828-4000
labor.vt.gov

Relevant Laws

VERMONT LAW

Sexual Harassment in the Workplace, 21 V.S.A. §495(d)1, §495(d)13 and §495(h). This law applies to all Vermont employers, no matter how few employees they have.

FEDERAL LAW

Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000-2000e-17 prohibits sex-based employment discrimination in the workplace. This law applies to public and private employers, including employment agencies, with 15 or more employees and labor unions with 15 or more members.

Workplaces **FOR** All

workplacesforall.vermont.gov



VERMONT COMMISSION ON WOMEN

126 State Street

Montpelier VT 05633-6801

800-881-1561 or 802-828-2851

vcw.info@vermont.gov

women.vermont.gov