

# Anti-Harassment and EEO Policy

It is the policy of Wicked LLC to ensure Equal Employment Opportunity. Equal Employment Opportunity has been, and will continue to be, a fundamental principle at Wicked LLC where employment is based upon personal capabilities and qualifications without discrimination because of race (including traits historically associated with race, including but not limited to, hair texture and protective hairstyles such as twists, braids, cornrows, Afros, Bantu knots, fades, and/or dreadlocks), color, religion (including wearing any attire or clothing, or having facial hair in accordance with the requirements of their religion), sex, age, national origin, disability, pregnancy, genetic information, military or veteran status, sexual orientation, gender, gender identity or expression, marital and civil partnership/union status, alienage or citizenship status, creed, genetic predisposition or carrier status, sexual and reproductive health decisions, unemployment status, familial status, domestic violence, sexual violence or stalking victim status, caregiver status, arrest or conviction record to the extent required by applicable law, credit history or any other protected characteristic as established by applicable law.

This policy of Equal Employment Opportunity applies to all policies and procedures relating to recruitment and hiring, compensation, benefits, termination and all other terms and conditions of employment.

Wicked LLC prohibits and will not tolerate any such discrimination or harassment of any kind.

Wicked LLC is committed to maintaining a workplace free from discrimination. Harassment can be a form of workplace discrimination. Wicked LLC has a zero-tolerance policy for any form of harassment and all employees are required to work in a manner that prevents harassment in the workplace. This Policy is one component of Wicked LLC's commitment to a discrimination-free work environment.

Sexual harassment is a violation of NYC, NYS and Federal Law. All employees have a legal right to a workplace free from sexual harassment and employees can enforce this right by filing a complaint internally with Wicked LLC, with a government agency or in court under federal, state or local anti-discrimination laws.

Harassment, for purposes of this policy refers to sexual and other forms of harassment, discrimination and conduct which targets an individual, or group on the basis of a protected characteristic, and which a reasonable person would consider denigrating, humiliating, threatening, intimidating, or alarming, would make a person fear for their safety, or otherwise has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile or offensive work environment. Petty annoyances do not generally constitute harassment.

## **Policy**

1. *Wicked LLC* policy applies to all employees, applicants for employment, interns, whether paid or unpaid, and non-employees (including contractors, subcontractors, vendors, consultants, and other persons conducting business), regardless of immigration status. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment and harassment of any kind will not be tolerated. Any employee or individual covered by this policy who engages in harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).

3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of harassment, provides information, or otherwise assists in any investigation of a harassment complaint. *Wicked LLC* will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected harassment. Any employee of *Wicked LLC* who retaliates against anyone involved in a harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees working in the workplace who believe they have been subject to such retaliation should inform Nina Essman or Susan Sampliner. All employees, paid or unpaid interns, or non-employees 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.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject *Wicked LLC* to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. *Wicked LLC* will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about harassment, or otherwise knows of possible harassment occurring. *Wicked LLC* will keep the investigation confidential to the extent possible. Effective corrective action will be taken (with notice to your designated collective bargaining representative, if applicable) whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. *Wicked LLC* will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to Nina Essman or Jason Haft. All other employees and colleagues are encouraged to do the same.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

## **Definitions of Harassment**

This policy addresses and prohibits sexual harassment and all other forms of 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:

1. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
2. Such conduct is made either explicitly or implicitly a term or condition of employment; or
3. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work 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, which interfere with the recipient's job performance.

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

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed 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.

1. Physical acts of a sexual nature, such as:
  - a. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body
  - b. Rape, sexual battery, molestation or attempts to commit these assaults
2. Unwanted sexual advances or propositions, such as:
  - a. 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
  - b. Subtle or obvious pressure for unwelcome sexual activities
3. Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
4. 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.
5. Sexual or discriminatory displays or publications anywhere in the workplace, 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 workplace.

6. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
  - a. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - b. Sabotaging an individual's work;
  - c. 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 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.

## **Where Can Harassment Occur?**

Unlawful harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

## **Other Forms of Prohibited Harassment**

Harassment on the basis of any other protected characteristic is strictly prohibited. Non-sexual offensive conduct is also unacceptable in our workplace and prohibited.

Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of race, color, religion, age, national origin, disability, pregnancy, genetic information, military or veteran status, sexual orientation, gender, gender identity or expression, marital and civil partnership/union status, alienage or citizenship status, creed, genetic predisposition or carrier status, sexual and reproductive health decisions, unemployment status, familial status, domestic violence, sexual violence or stalking victim status, caregiver status, arrest or conviction record to the extent required by applicable law, credit history or any other characteristic protected by law and has the purpose or effect of creating an intimidating, hostile, offensive work environment, unreasonably interferes with an individual's work performance, or otherwise adversely affects an individual's employment opportunities. Harassment may include acts, omissions, or both, that a reasonable person would find offensive, denigrating, hostile, or abusive, based on the severity, nature and frequency of the conduct.

It shall be considered an aggregating factor if the conduct exploited an employee's known psychological or physical illness or disability.

A single act normally shall not constitute abusive conduct, but an especially severe and egregious act may meet this standard.

Harassing conduct includes, but is not limited to: repeated infliction of verbal abuse such as the use of epithets, slurs, derogatory remarks, insults or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through posting on walls, voicemail, e-mail, text message, social media, or other electronic communication), verbal, non-verbal, or physical conduct that a reasonable person would find threatening, intimidating, or humiliating in nature, the gratuitous sabotage or undermining of an employee's work performance or acting with intent to cause pain or distress to an employee, subjecting an employee to abusive conduct that causes physical harm, psychological harm, or both, or other conduct that may reasonably interfere with an individual's work performance.

Discrimination can also come in the form of grooming and dress code policies related to characteristics that may not necessarily be associated with a protected class but that are discriminatorily applied. For instance, an employer may violate the New York State and/or City Human Rights Law when it enforces a grooming policy banning the use of color/dye, extensions, and/or patterned or shaved hairstyles against Black employees only.

The law in New York also prohibits covered employers from harassing, imposing unfair conditions, or otherwise discriminating against employees for wearing attire or facial hair in accordance with tenets of their religion or based on aspects of their appearance associated with their race. Examples of discrimination include:

1. Telling a Black employee with dreadlocks that they cannot be in a customer-facing role unless they change their hairstyle.
2. Forcing someone to change their attire or shave or trim facial hair when it is part of the tenets of their religion.

Finally, Wicked LLC will not ban, limit, or otherwise restrict natural hair or hairstyles associated with Black communities to promote a certain corporate image, because of customer preference, or under the guise of speculative health or safety concerns. An employee's hair texture or hairstyle generally has no bearing on their ability to perform the essential functions of a job.

Where Wicked LLC does have a legitimate health or safety concern, we will consider alternative ways to meet that concern prior to imposing a ban or restriction on employees' hairstyles. There exist several options that may address such concerns related to hair, including the use of hair ties, hair nets, head coverings, as well as alternative safety equipment that can accommodate various hair textures and hairstyles. Alternative options will not be offered or imposed to address concerns unrelated to actual and legitimate health or safety concerns.

## **Retaliation**

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

1. Made a complaint of harassment, either internally or with any anti-discrimination agency.
2. Testified or assisted in a proceeding involving harassment under the Human Rights Law or other anti-discrimination law.
3. Opposed harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment.
4. Reported that another employee has been harassed.
5. Encouraged a fellow employee 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, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

## **Reporting Harassment**

**Preventing harassment is everyone's responsibility.** Wicked LLC cannot prevent or remedy harassment unless it knows about it. Any employee, paid or unpaid intern, or non-employee who has been subjected to behavior that may constitute harassment is encouraged to report such behavior to Nina Essman or Jason Haft. Anyone who witnesses or becomes aware of potential instances of harassment should report such behavior to Nina Essman or Jason Haft.

Reports of harassment may be made verbally or in writing. A form for submission of a written complaint of sexual harassment is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

## **Supervisory Responsibilities**

All supervisors, managers or designated employer agents who receive a complaint or information about suspected harassment, observe what may be harassing behavior or for any reason suspect that harassment is occurring, **are required** to report it to Nina Essman or Jason Haft.

In addition to being subject to discipline if they engaged in sexually harassing or other harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected harassment or otherwise knowingly allowing harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

## **Employee Responsibility**

We urge all our staff members to assist in preventing or eliminating workplace harassment by:

1. Supporting the Company's policy against workplace harassment, including but not limited to, sexual harassment.
2. Examining their own behavior in the workplace.
3. Identifying and taking individual action to stop inappropriate behavior by communicating directly and immediately with the person(s) whose behavior is offensive, if you are comfortable doing so.
4. Following the Complaint Procedure below.

## **What can I do as a Bystander?**

You can help if you witness or become aware of a situation where it appears someone is being harassed or that otherwise makes you uncomfortable. Consider your position in the situation, your own personal safety, weigh the benefits and consequences of intervening, and choose the best method to help. Here are some options:

1. Draw away or divert attention and provide a distraction. For example, ask the person being harassed if they can see you in your office to discuss a project you are working on.
2. If you are not comfortable interjecting, circle back and check in on the person that was harassed. A simple "Are you OK?" can go a long way.
3. Talk to a manager or supervisor about what you saw or heard that made you uncomfortable. They are legally obligated, as well as required under this policy, to address the potential harassment.

## **Complaint and Investigation of Harassment or Discrimination**

**All** complaints or information about harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation. Any employee may be required to cooperate as needed in an investigation of suspected harassment. Wicked LLC will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

1. Upon receipt of complaint, Nina Essman or Jason Haft will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the “Complaint Form” in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
2. If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
3. Request and review all relevant documents, including all electronic communications.
4. Interview all parties involved, including any relevant witnesses.
5. Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - a. A list of all documents reviewed, along with a detailed summary of relevant documents;
  - b. A list of names of those interviewed, along with a detailed summary of their statements;
  - c. A timeline of events;
  - d. A summary of prior relevant incidents reported or unreported;
  - e. The basis for the decision and final resolution of the complaint, together with any corrective action(s).
6. Keep the written documentation and associated documents in a secure and confidential location.
7. Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
8. Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

## **Legal Protections and External Remedies**

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

Aside from the internal process at Wicked LLC, 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 Wicked LLC 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.

You do not need an attorney 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 anti-discrimination 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 1-800-669- 4000 (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. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, 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, 22 Reade Street, 1st 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.

If at any time you have any questions or concerns, or need clarification on any areas of this policy, please speak to Nina Essman or Jason Haft. The Entertainment Community Fund is also a great resource for support and guidance, though please keep in mind that talking to the Entertainment Community Fund does not qualify as a legal remedy. They can be reached at 917.281.5919 or via email at [eastern@entertainmentcommunity.org](mailto:eastern@entertainmentcommunity.org). Thank you for your ongoing commitment to a safe and happy workplace!