



ServSafe Workplace

Sexual Harassment Prevention Online Course

State of Maine Supplement

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[servsafe.com/ServSafe-Workplace](https://www.servsafe.com/ServSafe-Workplace)

The information found in this supplement has been taken from the State of Delaware website.

https://www.maine.gov/mhrc/guidance/sexual_harrassment.htm

Contents

Introduction	3
Training Requirements.....	3
Definition of Sexual Harassment.....	3
Who Can Be Victims.....	3
Employer Requirements.....	4
Manager Responsibility	4
Workplace Posting.....	4
Written Notifications.....	5
Retaliation.....	5
Internal Reporting.....	5
External Reporting.....	6

Introduction

Title 26 M.R.S.A. §807 requires Maine companies with 15 or more employees to conduct sexual harassment prevention training and education programs for all new employees. Under Title 5, section 4572, all employers shall act to ensure a workplace free of sexual harassment by implementing the following minimum requirements.

Training Requirements

All new employees must be trained **within one year of their hire date**; supervisors and managers are also required to go through additional training **within one year of assuming a supervisory/managerial role**. In § 806, it outlines specific information that should be taught in the course, but the way that the trainings are delivered and presented is left to the discretion of the company.

Within their first year, managers and supervisors should receive additional training on their specific responsibilities. This must include how to handle sexual harassment claims and corrective action that should be taken to address these claims and ensure the harassment ceases.

Managers should also make sure to document all training that the company has provided, including dates and names.

Definition of Sexual Harassment

According to section 4572 of the Maine Human Rights Act harassment on the basis of sex is illegal. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

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

Who Can Be Victims

The gender of the victim should not be factored into consideration. The victim and the accused may be either male or female. The victim also does not have to be the opposite sex of the accused. The accused could be the victim's direct report, a supervisor in another division, a co-worker, or non-employee. A victim of sexual harassment also does not have to be the person being specifically targeted but could be anyone affected by the offensive conduct.

Employer Requirements

An employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment. When the supervisor's harassment culminates in a tangible employment action, such as, but not limited to, discharge, demotion, or undesirable reassignment, liability attaches to the employer regardless of whether the employer knew or should have known of the harassment, and regardless of whether the specific acts complained of were authorized or even forbidden by the employer. When the supervisor's harassment does not culminate in a tangible employment action, the employer may raise an affirmative defense to liability or damages by proving by a preponderance of the evidence:

- a. That the employer exercised reasonable care to prevent and correct promptly any sexually harassing behavior, and
- b. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

Maine employers must keep a record of the training, including a record of employees who have received the required training. Training records must be maintained for **at least 3 years** and must be made available to the Maine Department of Labor's inspection upon request.

Manager Responsibility

As a supervisor, it is your job to work to actively prevent any conduct in the workplace that is unprofessional regardless of whether it is illegal harassment. If you observe or become aware of any incidents occurring, you must consult with the Office's EEO Coordinator and work to take immediate, corrective action in order to end the conduct. Corrective action must occur even if a complaint is not made about the action. The supervisor must contact the EEO Coordinator even if the person reporting requests that no action be taken. Any manager who fails to take these steps may be subject to disciplinary action, up to being terminated from their position.

Workplace Posting

The following information should be posted in a location that is easily accessible and will be seen by the entire workplace:

- Sexual harassment is illegal
- A description of sexual harassment
- Examples of sexual harassment
- The compliance process that is available through the commission
- How to contact the commission

The text of this poster should be written at, or below 6th grade standards and be available on the department's publicly accessible website for viewing and reproduction.

An employer who violates the workplace posting requirement may be assessed:

1. A fine of up to \$25 per day, not to exceed \$1,000 for the first violation;
2. For a 2nd violation occurring within 3 years of a prior violation, a fine of not less than \$25 per day up to \$50 per day, not to exceed \$2,500; and
3. For a 3rd or subsequent violation occurring within 3 years of 2 or more prior violations, a fine of not less than \$25 per day up to \$100 per day, not to exceed \$5,000.

Written Notifications

Employees must also annually provide employees with written notification that includes the following information:

- Sexual harassment is illegal
- A description of sexual harassment
- Examples of sexual harassment
- The internal complaint process
- The compliance process that is available through the commission
- How to contact the commission
- The protection against retaliation

An employer who violates the notification, education or training requirements may be assessed:

1. For the first violation, a fine of \$1,000;
2. For a 2nd violation, a fine of \$2,500; and
3. For a 3rd or subsequent violation, a fine of \$5,000.

Retaliation

Under Title 5, section 4553, subsection 10, paragraph D, it is unlawful for your employer to take any negative action against you for opposing employment practices that discriminate based on sex or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation that involves sexual harassment in the workplace.

Internal Reporting

First, let your harasser know that their advances are unwelcome. Tell them to stop their behavior immediately. If the harassment does not stop, write down each offensive suggestion, action, or remark that is made. Try to include as many details as you can, including the place, date, and time. If there are any coworkers who may be able to act as a witness, be sure to note their names. Talk to your coworkers so they are aware of what is happening to you.

Inform your supervisor (or your harasser's supervisor) of the harassment. If you belong to a Union, you may want to seek representation on this matter through your union steward.

External Reporting

You may file a complaint with the Maine Human Rights Commission within 300 days of the date of alleged discrimination. Call or visit the Commission's office and a staff person will assist you. The Commission's office is open 8:00 a.m.–5:00 p.m., Monday through Friday.

Employees covered by collective bargaining agreements may file a grievance through the applicable grievance procedure. A discrimination complaint alleging harassment on the basis of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act or genetic information may also be submitted to the Maine Human Rights Commission at any time within 300 days of the alleged discriminatory incident.

For more information, contact:

- Maine Human Rights Commission: 207-624-6050, 207-624-6064 (TTY)
- State EEO Coordinator: 207-287-4651, 207-287-4537 (TTY)
- Office EEO Coordinator: 207-626-8838, 1-800-577-6690 (TTY)

Additional resources:

Office of Attorney General's Guidance: http://www.maine.gov/ag/about/harrassment_policy.html

Maine Human Rights Commission Guidance: http://www.maine.gov/mhrc/guidance/sexual_harrassment.htm