

EAST AURORA COOPERATIVE MARKET

Policy Against Discrimination and Harassment

Updated with corrected pronouns June 2023

Policy Against Discrimination and Harassment

The East Aurora Cooperative Market (“EACM”) believes in the dignity of the individual and recognizes the rights of all people to equal employment opportunities in the workplace. In this regard, the EACM is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment without subjugation to harassment or discrimination in the workplace. It is the EACM’s policy to provide an employment environment free from harassment and discrimination based on race, color, gender, religion, religious creed, sex, familial or marital status, age, national origin or ancestry, physical or mental disability, genetic information/predisposition or carrier status, military or veteran status, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender, pregnancy (including childbirth and related medical conditions, and including medical conditions related to lactation) citizenship, domestic violence victim’s status or any other characteristics protected by applicable federal, state or local law.

A. Scope of Policy This Policy applies to all EACM employees and all personnel in a contractual or other business relationship with the EACM including, for example, applicants, temporary or leased employees, interns (whether paid or unpaid), volunteers, visitors, independent contractors, contractors, subcontractors, vendors, consultants or other persons providing services pursuant to a contract in the workplace, including employees of independent contractors, contractors, subcontractors, vendors, consultants or others providing services pursuant to a contract in the workplace. In the remainder of this Policy, the term “employees” refers to this collective group. This Policy applies with equal force on EACM property as it does at EACM -sponsored events, programs, and activities that take place off EACM premises.

B. Policy Objectives By adopting and publishing this Policy, it is the intention of the EACM to:

- (1) Notify employees about the types of conduct that constitute harassment and discrimination prohibited by this Policy;
- (2) Inform employees about the complaint and investigation procedures established by the EACM that enable any employee who believes (s)he is the victim of harassment or discrimination to submit a complaint which will

be investigated by the EACM;

- (3) Clearly advise all managers and staff that harassment, discrimination and retaliation is strictly prohibited and no such person possesses the authority to harass or discriminate; and
- (4) Notify all employees that the EACM has appointed Compliance Officers who are specifically designated to receive complaints and ensure compliance with this Policy.

NOTE: The names and office location of each Compliance Officer designated to receive and investigate complaints are listed at the end of this Policy. Any change in the designated Compliance Officers shall be distributed in writing to all current employees and shall be posted.

DEFINITIONS

“Prohibited Discrimination of Employees”

Prohibited discrimination of employees can take the form of any adverse employment action against an employee, by either an EACM employee or official or a third party engaged in activities sponsored by the EACM which is based upon the employee’s protected characteristic. Prohibited discrimination of employees also includes harassment based on a protected characteristic even where there is no tangible impact upon the employee’s employment opportunities and/or employment benefits. The phrase “prohibited discrimination” as used in this Policy includes all forms of prohibited discrimination and harassment based on a protected characteristic, including “Sexual Harassment” as defined below.

“Harassment”

Harassment is strictly prohibited and includes, but is not limited to, conduct that is unwelcome and has the purpose or effect of unreasonably interfering with a person’s work performance, or creating an intimidating, hostile or offensive working environment. Harassment does not have to be severe or pervasive to be illegal or violate this policy. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Such harassment of employees is prohibited by this Policy if it is based on a protected characteristic or directed at an individual because of a protected characteristic. In this regard, individuals subject to this Policy should be mindful that conduct or behavior that is acceptable, amusing or inoffensive to some individuals may be viewed as unwelcome, abusive or offensive to others.

“Sexual Harassment”

Sexual harassment is strictly prohibited. It 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.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do.

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) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
- (2) Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual (e.g., promotion, transfer, demotion, termination); or
- (3) Such gender-based conduct has the purpose or effect of unreasonably interfering with an individual’s work performance, or of creating an intimidating, hostile or offensive working environment, even if the reporting individual is not the intended target of the sexual harassment.

The foregoing includes offensive comments, jokes, innuendoes or other statements of a sexual or gender-based nature as well as favoritism between a supervisor and subordinate based on an intimate/sexual relationship or desire for the same.

Who can be the target of harassment?

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 working remotely, traveling for business or at employer sponsored events or parties. Harassment can occur on virtual meeting platforms, in messaging apps, and between personal cell phones. 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.

“Prohibited Behavior and Examples of Harassment, including Sexual Harassment”

Specific forms of behavior the EACM considers harassment or sexual harassment are set forth below. Every conceivable example cannot be delineated herein, and thus the descriptions below are examples and should not be interpreted in any way as being all-inclusive.

- **Verbal:** Abusive verbal language including jokes, comments, teasing or threats related to an employee’s protected characteristic, sexual activity and/or body parts whether or not said in that person’s presence including, but not limited to: sexual innuendos; slurs; suggestive, derogatory, or insulting comments or sounds; whistling; jokes; propositions; threats; comments on a person’s appearance that make the person feel uncomfortable because of their protected characteristic; sex stereotyping, continuing to ask someone for dates or to meet after work after the person has made it clear that they do not want to go; comments about an employee’s anatomy or protected characteristic that are unwelcome, unreasonably interfere with an employee’s work performance, or create an intimidating, hostile or offensive work environment; and unwelcome advances or demands based on someone’s protected characteristic. This includes verbal remarks made over virtual platforms and in messaging apps

when employees are working remotely.

- **Nonverbal:** Abusive written language showing or displaying pornographic or sexually explicit objects or pictures; graphic commentaries based on a protected characteristic; derogatory cartoons or caricatures; luring or obscene gestures in the workplace; staring at a person's body in a sexually suggestive manner; gestures or motions based on a protected characteristic; sending material through the EACM e-mail system or other electronic communication devices (e.g. voice mail) or using the EACM's mail, computers or cell phones to view material that is demeaning or derogatory based on one's protected characteristic. This includes the virtual or remote workspace and can include materials visible in the background of one's home during a virtual meeting.
- **Physical:** Unwelcome physical conduct, including but not limited to: hitting, pushing, shoving, slapping, petting, pinching, grabbing, holding, hugging, kissing, tickling, massaging, displaying private body parts, coerced sexual intercourse, rape or assault or attempts to commit these assaults, persistent brushing up against a person's body, unnecessary touching and flashing or other unwelcome physical conduct.
- **Other:** Hostile actions taken against an individual because of an individual's sex, sexual orientation, gender identity and the status of being transgender or because of any other protected characteristic, 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; bullying, yelling, or name-calling.

Any employee who feels discriminated against or harassed should report so that any violation of this Policy can be corrected promptly. Any harassing conduct, even if a single incident, can be addressed under this Policy.

POLICY

The EACM prohibits harassment and discrimination based on any characteristic protected by applicable law and will not tolerate any form of unlawful discrimination or harassment. The EACM will take all steps necessary to prevent and stop the occurrence of unlawful discrimination and/or harassment, including sexual harassment, in the workplace.

All employees, including all managers, are responsible for ensuring a work environment free from prohibited harassment and discrimination. All employees will be held responsible and accountable for avoiding or eliminating inappropriate conduct that may give rise to a claim of harassment or discrimination. Employees are encouraged to report violations to a manager or one of the Compliance Officers listed at the end of this Policy in accordance with the Complaint Procedure set forth in this Policy. Managers must take immediate and appropriate corrective action when suspected instances of prohibited harassment and/or discrimination come to their attention to assure compliance with this Policy as well as report the suspected misconduct to the EACM's designated Compliance Officers. Furthermore, if any employee believes that any manager has violated this policy or has not properly responded to and/or handled a report or concerns of discrimination or harassment, the employee should immediately contact one of the EACM's designated Compliance Officers.

Each employee is assured pursuant to this Policy, that retaliation against an individual who makes a complaint or report under this Policy is absolutely prohibited and constitutes, in and of itself, a violation of this Policy. Employees who engage in retaliation against any employee for making or encouraging another employee to make a good faith complaint of harassment or discrimination, for opposing in good faith any practices forbidden by applicable anti-discrimination laws or for filing a good faith complaint with, or otherwise participating in any manner in an internal workplace investigation or an external investigation, proceeding or hearing conducted by any federal or state agency charged with enforcing employment discrimination laws shall be subject to discipline, up to and including termination of employment. Any employee who believes they have been retaliated against in violation of this policy should report violations to one of the Compliance Officers listed at the end of this Policy in accordance with the Complaint Procedure set forth in this Policy.

Any questions regarding the scope or application of this Policy should be directed to one of the Compliance Officers listed at the end of this Policy.

POLICY ENFORCEMENT

A. Complaint Procedure for Employees

1. Notification Procedure

Prompt reporting of complaints or concerns is encouraged so that

timely and constructive action can be taken before relationships become strained. Reporting of all perceived incidents of prohibited discrimination and/or harassment is encouraged and essential, regardless of the offender's identity or position. An employee or other individual who feels aggrieved because of harassment or discrimination shall contact their manager or a Compliance Officer listed at the end of this Policy. Likewise, anyone who witnesses or becomes aware of instances of harassment or discrimination should report such behavior to their manager or a Compliance Officer listed at the end of this Policy. Employees should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can occur in different degrees, potential discipline for engaging in harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.

2. **Making a Complaint**

Complaints are accepted orally and in writing. All employees are encouraged to use the EACM's "Complaint of Alleged Discrimination" form. A copy of this form is attached to this Policy. Additional complaint forms can be obtained from a Compliance Officer, with no questions asked. Because an accurate record of the allegedly objectionable behavior is necessary to resolve a complaint of prohibited discrimination or harassment, the EACM encourages employees to place complaints in writing, even if originally made orally. If an employee has any questions or difficulty filling out the complaint form, they can obtain assistance from any one of the Compliance Officers or the manager to which they complained. All complaints should include: the name of the complaining party, the name of the alleged offender(s), date(s) of the incident(s), description of the incident(s), names of witnesses to the incident(s) and the signature of the complaining party.

Once the complaining party has completed and dated a complaint, with or without the assistance of one of the EACM's Compliance Officers or a manager, the written complaint, or oral complaint as the

case may be, should be promptly forwarded to one of the EACM's Compliance Officers.

Complainants are expected to cooperate with the EACM's investigation procedures by providing all relevant information relating to the complaint, as are other supervisory and non-supervisory employees having relevant or related knowledge or information.

3. **Supervisory Responsibilities**

Managers have a responsibility to prevent sexual harassment and discrimination. All managers who receive a complaint or information about suspected harassment or discrimination, observe what may be harassing behavior or for any reason to suspect that harassment is occurring, are required to report such suspected harassment or discrimination to one of the EACM's Compliance Officers.

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

Managers will also be subjected to discipline for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the emotional impact to the complainant as well as all parties involved. Supervisors and managers will ensure complaints are handled with sensitivity and without retaliation.

4. **Bystander Intervention**

Any employee witnessing harassment as a bystander is encouraged to report it. The following are standard methods of bystander intervention that can be used by a witness to discrimination or harassment who wants to intervene:

- a. Interrupting harassment by engaging with the individual being harassed;
- b. Asking a third party to help intervene in harassment;
- c. Making a record of the harassment to benefit a future investigation;
- d. Following up with the harassed individual and confirming the behavior was not okay; or
- e. If safe, confronting the harasser(s) and naming the behavior as inappropriate. When confronting harassment, physically assaulting an individual or reciprocating by engaging in harassment, is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide for how to react when witnessing harassment in the workplace. As set forth above, any employee witnessing harassment as a bystander is encouraged to report it; a supervisor or manager who is a bystander to harassment is required to report it.

B. Time for Reporting a Complaint

Prompt reporting of all complaints is strongly encouraged. All employees should be aware that appropriate resolution of complaints and effective remedial action oftentimes is possible only when complaints are promptly filed.

C. Confidentiality and Privacy

The EACM shall keep complaints as confidential as is consistent with a thorough investigation, and other laws and regulations regarding employees. To the extent complaints made under this Policy implicate criminal conduct, the EACM may be required by law to contact and cooperate with the appropriate law enforcement authorities. During the pendency of an investigation the EACM will consider implementation of appropriate mitigating measures in an effort to ensure against retaliation and ensure complaints and investigations are handled with sensitivity toward those participating.

D. Acknowledgement of Complaint

Upon receipt of an oral or written complaint, the Compliance Officer should

endeavor to contact promptly the complainant to confirm that the complaint has been received. If the complainant does not receive such confirmation promptly, they are encouraged to contact a Compliance Officer or their manager to ensure its receipt. The purpose of this acknowledgment procedure is to ensure that all complaints are received by authorized individuals, carefully processed and promptly investigated.

INVESTIGATION PROCEDURES

A. Timing of Investigations

The EACM will promptly investigate all allegations of discrimination and harassment prohibited by this Policy. The EACM will also attempt to complete investigations under this Policy promptly. The length of the investigation will depend upon the complexity and particular circumstances of each complaint.

B. Method of Investigation

Investigations will provide all parties due process, and reach reasonable conclusions based on the evidence collected. Investigations will be conducted by EACM Compliance Officers and/or other impartial persons designated by the EACM. The primary purposes of all investigations under this Policy will be to determine:

- Did the conduct complained of occur?;
- Did the conduct complained of violate this Policy?; and
- What remedial measures or preventative steps, if any, shall be taken?

Investigations will necessarily vary from case to case and may typically include the following: fact-finding interviews, including of the accuser and the accused; document request, review and preservation, depositions, observations, or other reasonable methods. EACM investigators should pursue reasonable steps to investigate each complaint in a thorough and comprehensive manner. Any notes, memoranda, or other records created by EACM employees or agents conducting an investigation under this Policy shall be deemed confidential and privileged to the extent allowed by law.

Investigators will typically create a written documentation of the

investigation (such as a letter, memo or email), which contains the following:

- A list of all documents reviewed, along with a detailed summary of relevant documents;
- A list of names of those interviewed, along with a detailed summary of their statements;
- A timeline of events;
- A summary of prior relevant incidents, reported or unreported; and
- The basis for the decision and final resolution of the complaint, together with any remedial actions.

C. Notification to Complaining Party and the Accused Party

The results of the investigation shall be communicated in writing to both the person filing the complaint and the accused party. The EACM will remind the individual(s) reporting the complaint of their rights pursuant to the Legal Protections and External Remedies Section of this Policy.

D. Remedial Measures

This Policy is intended to prevent all forms of unlawful discrimination and harassment and put an end to any prohibited discrimination that is found to have occurred. While disciplinary action may be appropriate in certain instances, punitive measures are not the exclusive means for responding to prohibited discrimination or harassment. During the pendency of any investigation being conducted pursuant to this Policy, remedial measures may be taken if appropriate and necessary.

Any individual who is found to have engaged in prohibited discrimination or harassment or conduct which may be prohibited by this Policy, may receive education, training, counseling, warnings, discipline, or other measures designed to prevent future violations of this Policy. Disciplinary action may include: warnings, suspension, or discharge from employment. Any third party found to have engaged in discrimination or harassment of an employee may be barred from EACM property.

PROHIBITION AGAINST RETALIATION AND ABUSE OF THE POLICY

Unlawful retaliation can be any action that could discourage an employee from coming forward to make a complaint or support a discrimination or harassment claim. Adverse action need not be job-related or occur in the workplace to constitute retaliation (e.g., threats of physical violence outside of work hours). Examples of retaliation may include, but are not limited to: demotion, termination, denying accommodations, reducing hours, or the assignment of less desirable shifts; publicly releasing personnel files; refusing to provide a reference or providing an unwarranted negative reference; labeling an employee as “difficult” and excluding them from projects to avoid “drama;” undermining an individual’s immigration status; or reducing work responsibilities, passing over for a promotion, or moving an individual’s desk to a less desirable office location.

Retaliation is strictly prohibited by this Policy and by law against anyone for making or encouraging another employee to make a good faith complaint of harassment or discrimination, for opposing in good faith any practices forbidden by applicable anti-discrimination laws or for filing a good faith complaint with, or otherwise participating in any manner in an internal workplace investigation or an external investigation, proceeding or hearing conducted by any federal or state agency charged with enforcing employment discrimination laws.

Even if the alleged harassment or discrimination does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if they 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 or discrimination.

Complaints of retaliation should be brought directly to a Compliance Officer. Such complaints will be promptly investigated. If retaliation is found, the person retaliating will be subject to corrective action up to and including termination from employment, or in the case of a non-employee, an appropriate remedy up to and including termination of the business relationship.

RECORD KEEPING

The EACM shall maintain a written record of all complaints of discrimination and/or harassment for a period of at least three years. The EACM shall also document the steps taken with regard to investigations, as well as conclusions reached and remedial action taken, if any. The EACM shall also maintain these documents for, at a minimum, three

years.

The EACM's records regarding alleged discrimination and harassment shall be maintained separate and apart from personnel records in a secure and confidential location.

LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Discrimination and harassment based on protected characteristics, including sexual harassment, are not only prohibited by the EACM but are also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the EACM, 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 harassment based on other protected characteristics set forth in this Policy, 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 discrimination or harassment. Complaints of sexual harassment may be filed with DHR at any time **within three years** of the alleged sexual 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 harassment, including sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the EACM does not extend your time to file with DHR or in court. The one year or three years is counted from the 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 or other illegal harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual or other illegal 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 (in sex discrimination and sexual harassment cases only) 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.

Go to dhr.ny.gov/complaint for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on a computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at 1(800) HARASS3 for more information about filing a sexual harassment complaint. This hotline can also provide a referral to a volunteer attorney experienced in sexual harassment matters who can provide limited free assistance and counsel over the phone.

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 discrimination or 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. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit.

The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred but does not file a lawsuit.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, 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 or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will automatically 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, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit 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.

QUESTIONS

Any questions by employees of the EACM about this Policy or potential harassment or discrimination or retaliation should be brought to the attention of one of the EACM’s Compliance Officers. The names, addresses, and telephone numbers of the EACM’s Compliance Officers are listed at the end of this Policy.

COMPLIANCE OFFICERS

Name: Jessica Armbrust, General Manager
Office Location: 591 Main Street, East Aurora, NY 14052
Telephone Number: (716) 655-2667 x111

Name: Nick Geary, Produce Manager
Office Location: 591 Main Street, East Aurora, NY 14052
Telephone Number: (716) 655-2667