

Agenda
GOVERNANCE COMMITTEE MEETING
May 25, 2023 at 10:00 a.m.
Watershed Education Center (Vitale Park)
Lakeville, NY 14480

1. Review and Discussion of updated Personnel Policies

- **Whistleblower Policy**
- **Drug and Alcohol Policy**
- **Policy Against Discrimination and Harassment**
- **Leave for Cancer Screenings and Claim Form**

Next Meeting: Wednesday, June 28, 2023 @ 8 am

PURPOSE

The Livingston County Water & Sewer Authority's Code of Ethics requires directors, committee members, officers, and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the Authority, the practice of honesty and integrity in fulfilling our responsibilities and compliance with all applicable laws and regulations is expected. Employees are strongly encouraged to discuss with supervisors, managers, or other appropriate personnel, when in doubt, about the best and ethical course of action in a particular situation.

The Whistleblower Policy is a method of encouraging the reporting of complaints and concerns regarding questionable accounting, internal accounting controls, and auditing matters, including those regarding the circumvention or attempted circumvention of internal accounting controls or that would otherwise constitute a violation of the Authority's accounting practices.

The Authority's Audit Committee is responsible for investigating & resolving all reported whistleblower complaints and allegations.

SCOPE

It is the responsibility of all directors, committee members, officers, and employees to comply with the Code of Ethics and to report violations or suspected violations in accordance with this Whistleblower Policy.

POLICY

I. Definitions

For purposes of this policy:

1. **Good Faith.** Good faith is evident when the report is made without malice or consideration of personal benefit and the employee has a reasonable basis to believe that the report is true; provided, however, a report does not have to be proven to be true to be made in good faith. Good faith is lacking when the disclosure is known to be malicious or false.
2. **Wrongdoing.** Examples of wrongdoing include, but are not limited to, fraud, including financial fraud and accounting fraud, violation of laws and regulations, unethical behavior or practices, endangerment to public health or safety and negligence of duty.
3. **Adverse Employment Action.** Examples of adverse employment action include, but are not limited to, suspension or termination.

II. Protection of Whistleblowers

No board member, committee member, officer, or employee who in good faith reports a violation of the Authority's Code of Ethics shall suffer harassment, retaliation or adverse employment consequence.

An employee who retaliates against someone who has reported a violation in good faith is subject to adverse employment action.

The identity of any employee who makes reports pursuant to this policy shall not be revealed to persons in the employee's department, division, or work location. The Authority will make good faith efforts to protect the confidentiality of employees making reports provided, however, the Authority or its employees and agents shall be permitted to reveal the reporting employee's identity and confidential information to the extent necessary to permit a thorough and effective investigation or required by law or court proceedings. In addition, the Authority will not tolerate any effort made by any other person or group, to ascertain the identity of any person who makes a good faith allegation anonymously.

The Authority Board and its Audit Committee shall not retaliate and shall not tolerate any retaliation by management or any other person or group, directly or indirectly, against anyone who, in good faith, makes an allegation or provides assistance to the Audit Committee, management or any other person or group, including any governmental, regulatory or law enforcement body, investigating the allegation.

This policy presumes that employees will act in good faith and will not make false accusations when reporting wrongdoing. An employee who knowingly or recklessly makes statements or disclosures that are not in good faith may be subject to adverse employment action. Employees who report acts of wrongdoing pursuant to this policy can and will continue to be held to the Authority's general job performance standards and adherence to the Authority's policies and procedures.

III. Reporting Violations

The Authority suggests that employees share their questions, concerns, suggestions, or complaints with someone who can address them properly. In most cases, an employee's supervisor is in the best position to address an area of concern. However, if you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor's response, you are encouraged to speak with anyone in management whom you are comfortable in approaching. Supervisors and managers are required to report suspected wrongdoings to the Audit Committee, who has specific and exclusive responsibility to investigate all reported violations. For suspected fraud, or when you are not satisfied or uncomfortable with this process, individuals should contact the Audit Committee directly.

Employees who become aware of any wrongdoing or suspected wrongdoing are encouraged to make a report as soon as possible. Acts of wrongdoing may be disclosed in writing, by telephone or in person. Contact information is posted in the employee break room disclosing Audit Committee members, addresses and telephone numbers.

Note: When reporting an alleged violation by telephone, it is not required to leave your name.

In the event the act of wrongdoing concerns a member of the Audit Committee, the report of wrongdoing should be filed with the Authority's general counsel who will determine who to disclose the information to for further investigation. The address and phone number of the Authority's general counsel is included on the Audit Committee listing in the employee break room.

IV. Procedures for Receiving Accounting Allegations

1. Any allegation that is made directly to management, whether openly, confidentially, or anonymously, shall be promptly reported to the Audit Committee.

2. Each allegation forwarded to the Audit Committee, whether openly, confidentially, or anonymously, shall be reviewed by the Audit Committee, who may, in their discretion, consult with any member of management or employee whom they believe would have appropriate expertise or information to assist the Audit Committee. The Audit Committee shall determine whether the Audit Committee or management should investigate the Accounting Allegation, taking into account the following considerations:

- a. If the Audit Committee determines that management should investigate the allegation, management shall thereafter promptly investigate and report the results, in writing, to the Audit Committee. Management shall be free in its discretion to engage outside auditors, counsel or other experts to assist in the investigation and analysis of results.
- b. If the Audit Committee determines that it should investigate the allegation, the Audit Committee shall promptly determine what professional assistance, if any, it needs in order to conduct the investigation. The Audit Committee shall be free in its discretion to engage outside auditors, counsel, or other experts to assist in the investigation and analysis of results.
- c. All whistleblower records shall be retained for a period of seven years.

V. Training

All employees will be made aware of this policy and its related procedures annually via staff meeting.

PURPOSE

These policies are based on the requirements of New York State Public Officers Law Section 74 and shall serve as a guide for official conduct and are intended to enhance the ethical and professional performance of the Authority's directors and employees and to preserve public confidence in the Authority's mission.

SCOPE

This Code of Ethics shall apply to all directors, officers and employees of the Livingston County Water and Sewer Authority ("Authority").

POLICY

I. Prohibited Conduct

Disciplinary action up to and including termination of employment may result for any of the following:

- a. The use, consumption, possession, manufacture, distribution or sale of prohibited drugs or drug paraphernalia by employees during working hours, when performing job duties, or when on LCWSA property. The term "working hours" includes meal and break times during the employee's workday. "Performance of job duties" includes LCWSA-reimbursed travel in LCWSA or private vehicles. The term "prohibited drugs" means marijuana, cocaine, opiates, amphetamines, phencyclidine, methamphetamine, methylenedioxymethamphetamine and any other substance for which use is prohibited under Federal Department of Transportation Federal Motor Carrier Safety Administration (FMCSA) regulations (49 CFR Part 382.213). This includes any drug or substance identified in 21 CFR 1308.11 Schedule I; or any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308, except when the use is pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- b. The use, consumption, possession, manufacture, distribution or sale of alcohol during working hours, when performing job duties, or when on LCWSA property is strictly prohibited. This prohibition does not apply to originally sealed, unopened containers of alcoholic beverages which are kept in an employee's vehicle or to LCWSA-sponsored activities at which alcoholic beverages are served or allowed. In the event of such activities, employees must conduct themselves in a manner which does not present a danger to themselves, other employees, the general public or the LCWSA's image or reputation.
- c. Reporting to work or working under the influence of alcohol or prohibited drugs. An employee who has a blood-alcohol concentration of 0.04 or higher will presumptively be considered to be under the influence of alcohol. An employee who tests positive for a prohibited drug under DOT testing procedures and standards will presumptively be considered to be under the influence of prohibited drugs. See Section VII of this Policy for consequences of a positive test for alcohol or a prohibited drug.

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- d. Use of alcohol within four hours of reporting to work or within four hours after receiving notice to report to work.
 - e. Use of alcohol following an accident subject to testing under this Policy for eight hours after the accident, or until the employee undergoes a post-accident alcohol test, whichever occurs first.
 - f. Being arrested, charged with or convicted of a drug or alcohol-related offense. In determining what action to take in these circumstances, the LCWSA will consider the nature of the charge, the circumstances of the arrest, the employee's record with the LCWSA, and the impact the arrest, charge or conviction may have (or has) on the public, the LCWSA's residents and the LCWSA's image and reputation. In addition to discipline (including termination), an employee may be suspended or reassigned pending resolution of an arrest or charge.
 - g. Refusing to submit to, or failing to cooperate in, any test for alcohol or a prohibited drug. Failing to fully cooperate includes refusal to complete any necessary documents and submitting an adulterated or substitute specimen in any test required under this Policy.
 - h. Violation of any requirement of FMCSA regulations.
 - i. Knowingly allowing anyone under his/her supervision to violate the preceding provisions of this Policy.

II. Prescription and Over-The-Counter Medications

Employees taking prescription or non-prescription medications which may impact the judgment, coordination or job performance of the employee must report such use in writing to the employee's department head. Prescription medicines must be kept in their original container. Instructions provided by the manufacturer or physician for all medications must be followed.

III. Types of Testing

Employees are subject to the following types of testing:

Random Testing. The LCWSA will periodically conduct testing which involves the random selection of employees for drug and/or alcohol tests.

Reasonable Suspicion. The LCWSA may require testing if it has reasonable suspicion that the employee, while on duty, is under the influence of alcohol or a substance listed or referenced in Section III(a).

Basis of Reasonable Suspicion. Reasonable suspicion need not rise to the level of the standard of probable cause but must be substantially more than a hunch. Good cause is necessary for the suspicion and such cause should be documented. Reasonable suspicion may be based upon:

- Observable phenomena, such as direct observation of illegal use or possession of prohibited drugs and/or physical symptoms of being under the influence of prohibited drugs.
- Observable phenomena, such as direct observation of the use or possession of alcohol while on duty and/or physical symptoms of being under the influence of alcohol while on duty.
- A pattern of abnormal conduct or erratic behavior.

- Arrest or conviction for a drug related offense or the identification of an employee as the focus of a criminal investigation into illegal drug use or trafficking.
- Arrest or conviction for an alcohol related offense committed while on or off duty.
- Information provided either by reliable and credible sources or from other sources which is independently corroborated.

Post-Accident. If an on-duty employee has an accident while operating a motorized vehicle or motorized equipment which causes an injury or property damage, the LCWSA may send the employee for testing.

Return-To-Duty. If an employee has violated alcohol and/or prohibited drug rules, the employee is required to take an alcohol and/or drug test before returning to work.

Follow Up. If an employee returns to work after a positive test, follow up testing will be performed in accordance with a schedule established by the Substance Abuse Professional.

IV. Testing Procedures

The following testing procedures shall be followed:

Notice of Requirement to Submit to Testing. The Executive Director or his/her designee will instruct the employee to report for testing. The employee will be informed of when and where to report for such testing. An employee will not be called in for random testing during non-working hours of the employee. This does not preclude reasonable suspicion or post-accident testing of an employee when not on duty.

If an employee is being sent for reasonable suspicion testing, the employee may request information regarding the basis of the suspicion. Such information shall be provided to the employee in writing no later than two business days¹ after the request.

Challenging Reasonable Suspicion. The employee has the right to challenge reasonable suspicion. This challenge must be submitted in writing to the member of the LCWSA Board of Directors' Governance Committee designated for such purposes within two business days of the date reasonable suspicion testing was directed. The employee must submit to the sample collection and the samples will be tested. Test results will be held by the testing agent and not communicated to the LCWSA. The employee and a LCWSA representative will be provided with the opportunity to state their cases to the LCWSA Administrator at a hearing held within 10 business days of the employee's challenge of reasonable suspicion. The LCWSA Administrator will render his/her decision in writing to the parties within ten days of the hearing. If the LCWSA Administrator determines that there was reasonable suspicion for testing, the testing agent will forward the test results to the LCWSA, otherwise the test results will not be communicated to the LCWSA. During the challenge, the employee will be placed on an administrative leave without pay. The employee may use vacation, holidays or personal leave accruals to receive pay during the leave. If it is determined that there was no reasonable suspicion or there is reasonable suspicion, but the test results are negative, the employee will be paid, or leave accruals will be reimbursed, for all missed work time.

¹ "Business days" shall mean Monday through Friday, excluding holidays.

Employee Submits to Testing. The employee will submit to testing as required by the LCWSA. If the employee is being sent for reasonable suspicion testing or post-accident testing, the LCWSA will provide a driver to transport the employee to and from the testing site. Employees who are sent for testing must complete all necessary forms and releases. An employee who refuses to cooperate with any aspect of testing will be subject to disciplinary action which may include termination of employment.

Testing Agent. The testing agent shall be Safe Driver Solutions or another mutually agreed upon testing agent.

Employee Discloses Medications. The employee will disclose any medications, dietary supplements, illegal drugs, alcohol or other relevant substances that have been ingested within a relevant period to the testing agent as directed. This disclosure will be confidential and shall not be provided to the LCWSA unless there is a final positive test result.

Testing. An evidential breath testing device will be used for alcohol tests with tests administered by a certified breath alcohol technician. In the event that an employee is unable to produce enough breath for a breath alcohol test, a blood sample will be drawn and will be tested to determine blood alcohol concentration level. Drug tests will be performed by urinalysis by a scientifically accepted screening test with confirmation of positive results by Gas Chromatography-Mass Spectrometry or by another method which is scientifically accepted as being at least as reliable as the Gas Chromatography-Mass Spectrometry test. Blood testing may also be used as required and/or permitted by FMCSA regulations. Split samples will be taken for drug tests. The urinalysis or blood testing shall be performed by a Department of Health and Human Services certified laboratory.

Results. The testing agent will notify the LCWSA of the final test results. If necessary, the employee will sign a release and/or authorization acceptable to the testing agent to authorize and direct the provision of final test results to the LCWSA. The LCWSA will notify the employee of the results promptly. In the case of negative test results, the LCWSA or its designee will notify the employee in writing mailed by first class mail to the employee's last known home address. In the case of positive test results, the LCWSA will notify the employee in writing which shall be either hand delivered to the employee or mailed by certified mail, return receipt requested, to the employee's last known home address. The LCWSA shall mail or deliver notice of the positive test results to the employee within 10 business days of receipt. All results will be confidential and information regarding the results will be disseminated on a need to know basis only. A positive test result for drugs will be detection of a substance listed or referenced in Section III(a) and will be subject to Section VII of this Policy. A test result of 0.04 blood alcohol concentration or greater shall be deemed a positive test result subject to Section VII of this Policy. A test result of less than 0.04 but 0.02 or greater blood alcohol concentration will result in the employee's suspension from duty for a period of 24 hours.

Challenging Test Result. If an employee wishes to challenge a positive drug test result, he/she must request, in writing, a second analysis within 72 hours of his/her receipt of notice of the positive test result. The second half of the split sample will be analyzed by a different certified laboratory using the same testing techniques described in the "Testing" paragraph of this section. If an employee is suspended pending the results of the second analysis and the second analysis does not confirm the first, the employee shall be made whole for any pay or benefits lost as a result of the suspension.

Cost of Test. The cost of pre-employment, random, reasonable suspicion and post-accident test(s) shall be paid by the LCWSA, to the extent not covered by the employee's health insurance (if any). The cost of return-to-duty and follow-up test(s) shall be the responsibility of the employee.

Payment of Employee. Employees shall be paid for testing time, including travel time to and from the test or collection site. This time shall be treated as time worked.

V. Consequences of Positive Test Result

The effect of an employee's positive test result shall be as follows:

First Offense. After the first positive alcohol test, the employee will be provided with a list of Substance Abuse Professionals ("SAPs") readily available to the employee and acceptable to the LCWSA, with names, addresses and telephone numbers. The SAP will evaluate the employee and recommend appropriate treatment. If the employee wishes to use a specified treatment professional/facility, he/she must inform the SAP of his/her preference. If the SAP determines that the suggested professional/facility is properly qualified to carry out the recommended treatment, the SAP shall approve the professional/facility. If the SAP determines that the suggested professional/facility is not properly qualified to carry out the recommended treatment, the SAP shall designate one or more professionals(s)/facility(ies) that the employee may use. Any professional/ facility which is approved for treatment must: (1) provide the recommended treatment, and (2) make regular reports to the SAP regarding the employee's compliance with the treatment program and his/her progress. If the professional/facility fails to do either or both of these things, the SAP may require the employee to seek treatment from another source. The employee must follow the treatment recommendations of the SAP. If the employee complies with these requirements and is fit to return to work within one year from the date of the positive test, then the employee may return to duty, subject to any follow up testing requirements established by the SAP after consultation with the treatment professional. Otherwise, the employee may be discharged.

Other Offense. For subsequent offenses, the LCWSA may discharge the employee immediately.

Cost of Treatment recommended by SAP. The cost of treatment shall be the responsibility of the employee, to the extent not covered by the employee's health insurance.

Leave During Treatment. An employee may use accruals of sick, vacation, holiday and personal time to receive pay while seeking treatment, otherwise this period of time will be a leave without pay. Employee health benefits shall remain in effect during any periods of paid absence.

VI. Reporting Criminal Convictions

Employees must, as a condition of employment, abide by the terms of this Policy and report any conviction under criminal drug statutes for violations occurring on or off LCWSA premises while conducting LCWSA business. A conviction must be reported to the LCWSA within five (5) calendar days after the conviction.

VII. Voluntary Requests for Assistance

Voluntary requests for assistance with respect to alcohol problems will not be subject to discipline for first requests provided the request is made before: (1) notice of testing is given to the employee, (2) the occurrence of an accident, or (3) arrest for an alcohol related offense. The provisions of this section do not apply to drug related requests.

VIII. Notice of Policy

The LCWSA will provide each employee with a copy of this policy.

IX. Educational Materials

The United States Department of Transportation website has educational materials that explain the requirements of the regulations. These include:

1. **General information:** The United States Department of Transportation, Office of Drug and Alcohol Policy & Compliance website: <http://www.dot.gov/ost/dapc/>
2. **Frequently asked questions:** http://www.dot.gov/ost/dapc/odapc_faq.html
3. **Provisions of the law that apply to you:** <http://www.dot.gov/odapc/am-i-covered>
4. **Employee information:** <http://www.dot.gov/odapc/employee>
5. **Employee handbook:**
<http://www.dot.gov/sites/dot.dev/files/docs/ODAPC%20EmployeeHandbook%20En.pdf>

X. LXWSA Designee

The person that can answer questions and provide additional information with respect to the Educational Materials listed in Section XI of this Policy is: Jason Molino, Executive Director, Livingston County Water & Sewer Authority, 1997 D'Angelo Drive, Lakeville, NY 14480, (585) 346-3523, jmolino@lcwsa.us.

XI. Satisfaction of Notice and Education Requirements

CSEA agrees that employee access to the Educational Materials listed in Section XI, coupled with the provisions of drug and alcohol testing Memorandum of Agreement of the collective bargaining agreement between the LCWSA and CSEA, and this Policy satisfy all Policy and Notice Requirements set forth in Section 2 of the drug and alcohol testing Memorandum of Agreement and all LCWSA obligations under 49 CFR 382.601, and other applicable regulations.

CERTIFICATE OF RECEIPT

I hereby certify that I have received and reviewed a copy of the Educational Materials referenced in Section XI of this LCWSA Drug and Alcohol Policy, a copy of this Policy and a copy of drug and alcohol testing Memorandum of Agreement of the collective bargaining agreement between the LCWSA and CSEA.

Print Name

Signature

Date

PURPOSE

Livingston County Water & Sewer Authority (“LCWSA” or “the Authority”) 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 LCWSA 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 LCWSA’s policy to provide an employment environment free from harassment and discrimination based on race, color, 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.

SCOPE AND OBJECTIVES

- A. Scope of Policy** This Policy applies to all LCWSA employees and all personnel in a contractual or other business relationship with the LCWSA including, for example, applicants, temporary or leased employees, interns (whether paid or unpaid), independent contractors, vendors, consultants, volunteers and visitors. In the remainder of this Policy, the term “employees” refers to this collective group. This Policy applies with equal force on LCWSA property as it does at LCWSA-sponsored events, programs, and activities that take place off Authority premises.
- B. Policy Objectives** By adopting and publishing this Policy, it is the intention of the LCWSA 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 LCWSA 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 LCWSA;
 - (3) Clearly advise all supervisors and employees 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 LCWSA 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 below in Section 10 of this Policy. Any change in the designated Compliance Officers shall be distributed in writing to all current employees and shall be posted. This Code of Ethics shall apply to all directors, officers and employees of the Livingston County Water and Sewer Authority (“Authority”).

DEFINITIONS

“Prohibited Discrimination of Employees”

Prohibited discrimination of employees can take the form of any adverse employment action against an employee, by either a LCWSA employee or official or a third party engaged in activities sponsored by

the LCWSA 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 that subjects an employee to inferior terms, conditions, or privileges of employment because of an individual's membership in one or more of the protected categories. 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, gender or other protected status. 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 LCWSA 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 his or her protected characteristic; sex stereotyping, continuing to ask someone for dates or to meet after work after the person has made it clear that he or she does 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 LCWSA e-mail system or other electronic communication devices (e.g. voice mail) or using the LCWSA’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

I. Policy

The LCWSA prohibits harassment and discrimination based on any characteristic protected by applicable law and will not tolerate any form of unlawful discrimination or harassment. The LCWSA 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 but not limited to, the Executive Director and Director of Operations, 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 supervisor or one of the Compliance Officers listed in Section 10 of this Policy in accordance with the Complaint Procedure set forth in this Policy. Any supervisor must take immediate and appropriate corrective action when suspected instances of prohibited harassment and/or discrimination come to his/her attention to assure compliance with this Policy as well as report the suspected misconduct to the LCWSA's designated Compliance Officers. Furthermore, if any employee believes that any supervisor or the Executive Director 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 the alternate LCWSA Compliance Officer or if both are alleged to have violated the policy, (s)he should contact a member of the LCWSA Board of Directors.

Each employee is assured pursuant to Section 6 of 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 he/she has been retaliated against in violation of this policy should report violations to one of the Compliance Officers listed in Section 10 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 in Section 10 of this Policy.

II. 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 his or her supervisor or a Compliance Officer listed in Section 10 of this Policy, or another supervisor. Likewise, anyone who witnesses or becomes aware of instances of harassment or discrimination should report such behavior to his or her supervisor or a Compliance Officer listed in Section 10 of this Policy, or another supervisor. 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. It 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 LCWSA'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 LCWSA 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, she/he can obtain assistance from any one of the Compliance Officers or the supervisor to which he/she 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 LCWSA's Compliance Officers or a supervisor, the written complaint, or oral complaint as the case may be, should be promptly forwarded to one of the LCWSA's Compliance Officers.

Complainants are expected to cooperate with the LCWSA'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

Supervisors and managers have a responsibility to prevent sexual harassment and discrimination. All supervisors or the Executive Director 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 LCWSA's Compliance Officers.

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

Supervisors and the Executive Director 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 on 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 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 LCWSA 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 LCWSA may be required by law to contact and cooperate with the appropriate law enforcement authorities. During the pendency of an investigation, the LCWSA 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, she/he is encouraged to contact a Compliance Officer or his/her supervisor, as the case may be, to whom the complaint was made 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.

III. Investigation Procedures

A. Timing of Investigations

LCWSA will promptly investigate all allegations of discrimination and harassment prohibited by this Policy. The LCWSA 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 LCWSA Compliance Officers and/or other impartial persons designated by the LCWSA. 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. LCWSA investigators should pursue reasonable steps to investigate each complaint in a thorough and comprehensive manner. Any notes, memoranda, or other records created by LCWSA employees or agents conducting investigations under this Policy shall be deemed confidential and privileged to the extent allowed by law.

Investigators will typically create a written document 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 Complainant 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 LCWSA will remind the individual(s) reporting the complaint of his/her 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 LCWSA property.

IV. 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 him/her 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 he/she 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.

V. Record Keeping

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

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

VI. Legal Protections and External Remedies

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

Aside from the internal process at the LCWSA, 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 that accrue on or after August 12, 2020 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 LCWSA does not extend an individual's 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.

An individual does not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate an individual's 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 LCWSA 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,

PURPOSE

Pursuant to New York Civil Service Law Section 159-b, all LCWSA employees are entitled to take up to four (4) hours of paid leave each calendar year, without charge to leave credits, for the purpose of any type of cancer screening scheduled during the employees' regular work hours.

SCOPE

This Leave for Cancer Screenings shall apply to all employees of the Livingston County Water and Sewer Authority ("LCWSA").

POLICY

The paid leave may be used for screening any form of cancer, including but not limited to breast cancer, prostate cancer, cervical cancer, skin cancer, colon cancer, ovarian cancer, bladder cancer, or lung cancer. Cancer screening may include physical exam, imaging, biopsy, Pap Smear, mammogram, blood test or surgical procedure for the purpose of detecting cancers.

Travel time is included in this four (4) hour cap. Absence beyond the four (4) hour cap must be charged to leave credits, if available, or be unpaid (employees are not granted compensatory time off for cancer screenings that occur on a day off or a holiday). Employees who undergo screenings outside their regular work schedule do so on their own time.

Leave for cancer screenings is not cumulative and expires at the close of business on the last day of each calendar year.

Employees must comply with and follow the customary LCWSA leave procedures, including making a request for time off in advance, obtaining approval of the request, and notifying the Executive Director or his/her designee that the leave is for cancer screening.

Furthermore, an employee must provide satisfactory medical documentation that the absence was for the purpose of screening for any type of cancer, by submitting a completed Claim Form for Cancer Screening. The Claim Form for Cancer Screening with Healthcare Provider's statement is available in the Administrative Office.

LCWSA will keep the Cancer Screening statements confidential to the fullest extent required and allowed by law, with only those required to grant approval or certify time and attendance reports having access.

If claiming excused leave, please provide this completed Claim Form to the Executive Director in a confidential envelope. For this benefit to be paid, this Claim Form must be received by the Executive Director no later than end of the pay period in which the leave is taken.

Employee Name: _____

Date of screening: _____ Time of appointment: _____

Total time requested (with travel): _____

On _____ (date) I used _____ hours of paid cancer screening leave, which included appointment and travel time.

Employee's signature: _____ Date: _____

I, _____ (please print) attest the above patient underwent a cancer screening procedure on the date/time set forth above.

Healthcare Provider Signature: _____
(Doctor, Nurse Practitioner, Nurse, Technician, Medical Office Personnel)

Address/Location of screening: _____