

OPERATION OSWEGO COUNTY, INC.  
BOARD OF DIRECTORS MEETING  
Lake Ontario Event and Conference Center  
26 East First Street, Oswego, New York  
December 16, 2019

PRESENT:

ANDERSON  
BATEMAN  
BEHLING  
CULLINAN  
EGAN  
GLASS

GRECO  
HOLST  
JOYCE  
MERVINE  
MURPHY  
PHELPS

RANSOM  
SHARKEY IV  
SOLAZZO  
TASCARELLA  
TUCKER  
TURNER

Counsel: Kevin Caraccioli, Esq.

Staff: Treadwell, LaMontagne, Wheelock, Woolson and Perwitz

Ex-Officio: Stahl

Guests: Tim McKernan and Jason Chiesa

President Bateman called the meeting to order at 3:02 p.m. at 26 East First Street in Oswego. President Bateman reported that the Notice of the Meeting was posted in the Palladium Times on November 27, 2019.

President Bateman introduced Tim McKernan, Facility Manager at EJ USA for a presentation. Mr. McKernan gave a history and overview of EJ USA.

President Bateman introduced Jason Chiesa, CNY Regional Representative for the NYS Department of Labor. Mr. Chiesa gave a presentation regarding the Workforce grant opportunities.

President Bateman listed the items in the Consent Agenda and asked if there were any reports in the Consent Agenda that anyone would like pulled out for further discussion. There were none.

CONSENT AGENDA

**On a motion by Mr. Ransom, seconded by Mr. Phelps, the Consent Agenda Items were approved, as follows: Board of Directors Minutes of September 16, 2019; Real Estate Development Committee Minutes of September 27, 2019; Marketing & Development Committee Minutes of October 23, 2019; and Executive Committee Minutes of November 21, 2019.**

Financial Statements

Treasurer Joyce noted that approval is for the quarter financial statements. He reviewed the Financial Statements for OOC, Inc. for September 30, 2019 and for OOC Foundation, Inc. for September 30, 2019. Mr. Mervine inquired about the Negative A/R amount on the OOC Balance Sheet. It was noted that it was most likely prepayments received, but would clarify this at the next Meeting. **On a motion by Mr. Mervine, seconded by Mr. Turner, the Financial Statements for July through September 2019 for OOC and July through September 2019 for OOC Foundation were approved.**

#### SBA 504 Updates

Mr. LaMontagne presented the Independent Loan Review Report in detail including the noted deficiencies and recommended corrective actions. The deficiencies and corrective actions were discussed by the Board and the corrective actions were agreed to be appropriate. The Report was recommended for approval by the Executive Committee at its November 21, 2019 meeting. **On a motion by Mr. Behling, seconded by Ms. Glass, the Independent Loan Review Report was approved.**

Mr. LaMontagne reported on the results of the SBA SMART Review, which was completed in July. He noted the overall assessment of OOC is “Acceptable with Corrective Action Required”. A copy of SMART Analytical Review Report and the cover letter dated December 9, 2019 were both distributed to each Board Member and signatures acknowledging receipt were obtained. Mr. LaMontagne noted that OOC has 30 days to reply in writing about how it intends to address the Review Findings and Recommendations. Mr. LaMontagne commented that OOC would be consulting with resources at the SBA to get assistance in developing corrective actions and implementing the recommendations. Mr. LaMontagne reported that Corrective Actions are expected to be in place and approved by the Board within 120 days.

#### Summary Results of Confidential Evaluation of Board Performance

President Bateman reviewed the results of the confidential evaluation of board performance, noting that 18 members returned their evaluations. Mr. Treadwell noted that this is an annual requirement and the results must be filed with the ABO.

#### Policies for Annual Review

Mr. Caraccioli noted that there are three annual Policies that are recommended by the Executive Committee to be approved, with no changes. These include Conflict of Interest Policy, Procurement Policy and Use of Discretionary Funds Policy. **On a motion by Ms. Holst, seconded by Mr. Anderson, the Conflict of Interest Policy, Procurement Policy and Use of Discretionary Funds Policy were approved.** Mr. Caraccioli noted that there is an annual statement required from each Board Member to sign and return regarding the Conflict of Interest Policy. Policies are attached.

#### Sexual Harassment Policy

Mr. Caraccioli reported that the Sexual Harassment Policy was approved and recommended by the Executive Committee for adoption by the Board. **On a motion by Mr. Mervine, seconded by Mr. Turner, the Sexual Harassment Policy was approved.** Mr. Caraccioli noted that staff and board members are required to have Sexual Harassment Training by the end of the year and would need an acknowledgement from each Board Member that they have complied with this training. The staff of OOC have all received this training. Policy is attached.

#### 2020 Action Plan

**On a motion by Mr. Turner, seconded by Ms. Holst, it was approved to table the 2020 Action Plan until the February Board Meeting to give all members a chance to review the plan.**

Economic Development Projects

Mr. Treadwell gave an update/review of the following projects: 43 North Marina, Champlain Valley Specialty of NY, Universal Properties, Manufacturing Start-Up Facility, Mackenzie-Childs, Advanced Manufacturing Institute and Abundant Solar. He noted that the winning CFA projects would be announced on December 19, 2019.

ADJOURNMENT

**On a motion by Ms. Holst, seconded by Mr. Joyce, the meeting was adjourned at 4:51 p.m.**

Respectfully submitted,

Eric Behling  
Secretary

# **OPERATION OSWEGO COUNTY, INC.**

## **CONFLICT OF INTEREST POLICY**

### **Article I – Purpose**

The purpose of the conflict of interest policy is to protect the Operation Oswego County, Inc.'s (OOC) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the OOC or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

### **Article II – Definitions**

#### **1. Interested Person**

Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

#### **2. Financial Interest**

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- a. An ownership or investment interest in any entity with which OOC has a transaction or arrangement,
- b. A compensation arrangement with OOC or with any entity or individual with which OOC has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual which OOC is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

## **Article III – Procedures**

### **1. Duty to Disclose**

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

### **2. Determining Whether a Conflict of Interest Exists**

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

### **3. Procedures for Addressing the Conflict of Interest**

- a. An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
- b. The chairperson of the governing body or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the governing board or committee shall determine whether OOC can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in OOC's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

### **4. Violations of the Conflicts of Interest Policy**

- a. If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

- b. If, after hearing the members, response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

#### **Article IV – Records of Proceedings**

The minutes of the governing board and all committees with board delegated powers shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

#### **Article V – Compensation**

- a. A voting member of the governing board who receives compensation, directly or indirectly, from OOC for services is precluded from voting on matters pertaining to that member's compensation.
- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from OOC for services is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from OOC, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

#### **Article VI – Annual Statements**

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person;

- a. Has received a copy of the conflicts of interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and

## **Article VII – Periodic Reviews**

To ensure OOC operates in a manner consistent with its corporate purposes and does not engage in activities that could jeopardize its tax status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to OOC's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

## **Article VIII – Use of Outside Experts**

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

This Policy has been reviewed and approved by the Executive/Governance Committee at its meeting held on November 21, 2019, and the Board of Directors at its meeting held on December 16, 2019.

---

Eric Behling  
Secretary

**[END OF POLICY]**

# OPERATION OSWEGO COUNTY, INC.

## PROCUREMENT POLICY

Adopted the 2<sup>nd</sup> day of December, 2015

### SECTION 1. INTRODUCTION.

**(A) Scope.** In accordance with Article 18-A of the General Municipal Law (the “Act”), Section 104-b of the General Municipal Law, and the Public Authorities Accountability Act of 2005, OPERATION OSWEGO COUNTY, INC. (the “Organization”) is required adopt procurement policies which will apply to the procurement of goods and services not subject to the competitive bidding requirements of Section 103 of the General Municipal Law and paid for by the Organization for its own use and account.

**(B) Purpose.** Pursuant to Section 104-b of the General Municipal Law, the primary objectives of this policy are to assure the prudent and economical use of public monies in the best interests of the taxpayers of a political subdivision or district, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and corruption.

### SECTION 2. PROCUREMENT POLICY.

**(A) Determination Required.** Prior to commencing any procurement of goods and services, the Executive Director or an authorized designee shall prepare a written statement setting forth the basis for (1) the determination that competitive bidding is not required for such procurement, and if applicable (2) the determination that such procurement is not subject to any requirements set forth in this policy. Such written statements shall be maintained by the Executive Director or such authorized designee in a specially designated procurement file.

**(B) Procedure for determining whether Procurements are subject to Competitive Bidding.** The procedure for determining whether a procurement of goods and services is subject to competitive bidding shall be as follows:

(1) The Executive Director or an authorized designee shall make the initial determination as to whether competitive bidding is required. This determination will be based on Section 103 of the General Municipal Law which requires competitive bidding for expenditures of (a) more than \$35,000 for the performance of any public works contract (services, labor or construction), and (b) more than \$20,000 for any purchase contract (acquisition of commodities, materials, supplies or equipment).

(2) The Executive Director or such authorized designee shall review the purchase request against prior years' expenditures and a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate purchases of a similar nature will exceed the above competitive bidding procedures shall be followed for said expenditure.

(3) The Executive Director or such authorized designee shall present any legal issues regarding the applicability of the competitive bidding requirements stated herein to the Organization's Counsel.

**(C) Methods of Competition to be used for Non-Bid Procurements and Procurements Exempt by Statute.** Alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals or written quotations, verbal quotations or any other method of procurement which furthers the purposes of this Section except for items excepted herein (see 7 below) or procurements made pursuant to:

- (1) General Municipal Law Section 103 (3) (through county contracts), or
- (2) General Municipal Law Section 104 (through state contracts), or
- (3) State Finance Law, Section 175-b (from agencies for the blind or severely handicapped), or
- (4) Correction Law, Section 186 (articles manufactured in correctional institutions).

**(D) Procedures for the Purchase of Commodities, Equipment or Goods under \$20,000.**

- (1) **Up to \$1,000:** The discretion of the Executive Director or authorized designee.
- (2) **\$1,001 - \$10,000:** Documented verbal quotations from at least three vendors.
- (3) **\$10,001 - \$20,000:** Written/fax quotations from at least three vendors.

**(E) Procedures for the Purchase of Public Works or Services under \$35,000.**

- (1) **Up to \$10,000:** The discretion of the Executive Director or authorized designee.
- (2) **\$10,001 - \$20,000:** Documented verbal quotations from at least three vendors.
- (3) **\$20,001 - \$35,000:** Written/fax quotations from at least three vendors.

**(F) Basis for the Award of Contracts.** Contracts will be awarded to the lowest responsible vendor who meets the specifications.

**(G) Award to Other than the Lowest Cost Quoted.** Circumstances justifying an award to other than the lowest cost quoted include the following:

- (1) Delivery requirements;
- (2) Quality requirements;
- (3) Quality;
- (4) Past vendor performance;

- (5) The unavailability of three or more vendors who are able to quote on a procurement;  
and
- (6) It may be in the best interests of the Organization to consider only one vendor who has previous expertise with respect to a particular procurement.

**(H) Documentation.**

(1) For each purchase made the Executive Director or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.

(2) The basis for any determination that competitive bidding is not required shall be documented, in writing, by the Executive Director or such authorized designee, and filed with the purchase order or contract therefore.

(3) For those items not subject to competitive bidding such as professional services, emergencies, purchased under city contracts or procurements from sole sources, documentation should include a memo to the files which details why the procurement is not subject to competitive bidding and include, as applicable:

- (a) a description of the facts giving rise to the emergency and that they meet the statutory criteria; or
- (b) a description of the professional services; or
- (c) written verification of city contracts; or
- (d) opinions of Counsel, if any; or
- (e) a description of sole source items and how such determinations were made.

(4) Whenever an award is made to other than the lowest quote the reasons for doing so shall be set forth in writing and maintained in the procurement file.

(5) Whenever the specified number of quotations cannot or will not be secured, the reasons for this shall be indicated in writing and maintained in the procurement file.

**(I) Exceptions to Bidding.** Exceptions to the foregoing bidding requirements are permitted in the following circumstances:

(1) **Emergency Situation.** An emergency exists if the delay caused by soliciting quotes would endanger the health, welfare or property of the municipality or of the citizens. With approval by the Executive Director such emergency shall not be subject to competitive bidding or the procedures stated above.

(2) **Resolution Waiving Bidding Requirements.** The Organization may adopt a resolution waiving the competitive bidding requirements whenever it is determined to be impracticable.

(3) **Sole Source.** Defined as a situation when there is only one possible source from which to procure goods and/or services and it is shown that the item needed has unique benefits,

the cost is reasonable for the product offered and there is no competition available. In this situation, a request for a resolution waiving bidding requirements, as described above, is required.

(4) **True Lease.** Prices will be obtained through quotations whenever possible. The award shall be made on the basis of goods and/or services to be provided, ability to meet the specifications desired and price.

(5) **Insurance.** All insurance policies shall be procured in accordance with the following procedures:

(1) Premium less than \$15,000 – documented telephone quotations from at least three agents (if available).

(2) Premium over \$15,001 – written quotations/fax or proposals from at least three agents (if available)

(6) **Professional Services.** This category includes services which require special education and/or training, license to practice or are creative in nature. Examples of professional services are: lawyers, doctors, accountants, engineers, artists, etc.

(J) **Minority and Women Business Enterprises.** The Organization shall comply with all applicable legal requirements relating to the hiring of such businesses.

(K) **Input from members of the Organization.** Comments concerning the procurement policy shall be solicited from the members of the Organization from time to time.

(L) **Annual Review.** The Organization shall annually review its policies and procedures.

(M) **Unintentional Failure to Comply.** The unintentional failure to comply with the provisions of Section 104-b of the General Municipal Law shall not be grounds to void action taken or give rise to a cause of action against the Organization or any officer thereof.

### **SECTION 3. APPROVAL.**

This Policy has been reviewed and approved by the Executive/Governance Committee at its meeting held on November 21, 2019, and the Board of Directors at its meeting held on December 16, 2019.

---

Eric Behling  
Secretary

**[END OF POLICY]**

# **OPERATION OSWEGO COUNTY, INC.**

## **Use of Discretionary Funds Policy**

This Policy is adopted the 14<sup>th</sup> day of December, 2017, by the unanimous vote of the OPERATION OSWEGO COUNTY, INC., a quorum of its members having been present and voting in the affirmative.

**WHEREAS**, the Board of the OPERATION OSWEGO COUNTY, INC. must authorize the use of OOC funds; and

**WHEREAS**, the OOC Board yearly reviews and updates its Mission Statement & Objectives as appropriate; and

**WHEREAS**, the members of the OOC Board have executed an Acknowledgement of Fiduciary Responsibility;

**NOW, THEREFORE, be it**

**RESOLVED** that the Members of the OPERATION OSWEGO COUNTY, INC. establish the following policy regarding the expenditure of OOC discretionary funds:

**1. General:** The expenditure of OOC funds is to be limited to purposes that are related to and supportive of the mission and authority of the OOC and shall not be spent in support of the private or personal interests or to the benefit of directors, management or staff.

**2. Expense Reimbursement** – Employees and Board members may be reimbursed for expenses, incurred while carrying out OOC business, including, but not limited to, meals, lodging, mileage, parking, highway tolls. An employee or board member using his/her own vehicle to conduct OOC business will be reimbursed at the mileage rate established by the County of Oswego Legislature.

**3. Training/Memberships-** Employees and Board Members are entitled to be reimbursed for training, education and membership fees which are incurred for the purpose of advancing the mission of the OOC. Professional licensing expenses or membership in a Board Member or Employees Professional Organizations are not reimbursable.

**4. Annual Meeting-** Expenses incurred as a result of attendance at the Annual Meeting of the New York State Economic Development Council shall be reimbursed.

**5. Prior Board Approval-** Prior Board approval shall be obtained for the incurrence of expenses in excess of \$500.00 for travel and meetings.

## **Use of Discretionary Funds Policy – Cont.**

**6. Business Meetings-** Payment for Business Meetings, including meals, involving current or prospective projects may be reimbursed.

**7. Board Approval** – Expenses shall be reimbursed only after review and approval by the Board.

**8. Ineligible Expenses-** Expenses incurred for the purchase of alcoholic beverages, tobacco products, or expenses incurred on behalf of spouses or friends or guests are not eligible for reimbursement.

This Policy has been reviewed and approved by the Executive/Governance Committee at its meeting held on November 21, 2019, and the Board of Directors at its meeting held on December 16, 2019.

---

Eric Behling  
Secretary

# Operation Oswego County, Inc.

## Sexual Harassment Policy

Adopted the 16<sup>th</sup> day of December, 2019

Operation Oswego County, Inc. is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. Operation Oswego County, Inc. has a zero-tolerance policy for sexual harassment in the workplace. This Policy is one component of Operation Oswego County, Inc.'s commitment to a discrimination-free work environment.

Sexual harassment is against the law. All employees have a legal right to a workplace free from sexual harassment, and employees can enforce this right by filing a complaint internally with Operation Oswego County, Inc., or with a government agency or in court under federal, state or local antidiscrimination laws.

### **Sexual Harassment Policy:**

1. Operation Oswego County, Inc. Sexual Harassment Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with Operation Oswego County, Inc.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination.
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. Operation Oswego County, Inc. has a zero-tolerance policy for such retaliation against anyone who, in good faith complains or provides information about suspected sexual harassment. Any employee of Operation Oswego County, Inc. who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. Any employee, paid or unpaid intern, or non-employee<sup>1</sup> working in the workplace who believes they have been subject to such retaliation should inform a supervisor, manager, or President. Any employee, paid or unpaid intern, or non-employee who believes they have been a victim of

<sup>1</sup>A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.

such retaliation may also seek compensation in other available forums, as explained below in the section on Legal Protections.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and subjects Operation Oswego County, Inc. to liability for harm to victims of sexual harassment. Harassers may also be individually subject to liability. Employees of every level, who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be penalized for such misconduct.
5. Operation Oswego County, Inc. will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. Operation Oswego County, Inc. will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are ***required*** to report any complaint that they receive, or any harassment that they observe to the President.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be posted prominently in all work locations and be provided to employees upon hiring.

### **What Is “Sexual Harassment”?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or

- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

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

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

### **Examples Of Sexual Harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical assaults of a sexual nature, such as:
  - Touching, pinching, patting, grabbing, brushing against another employee's body or poking another employees' body;
  - Rape, sexual battery, molestation or attempts to commit these assaults;
  - Unwanted sexual advances or propositions, such as:
    - Requests for sexual favors accompanied by implied or overt threats concerning the victims job performance evaluation, a promotion or other job benefits or detriments;
    - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile work environment.

- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, 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, name-calling.

### **Who Can Be A Target Of Sexual Harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. A perpetrator of sexual harassment 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 Sexual Harassment Occur?**

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

## **What Is “Retaliation”?**

Unlawful retaliation can be any action that would keep a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.

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

- Filed a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- Opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- Complained that another employee has been sexually harassed; or
- Encouraged a fellow employee to report harassment.

## **Reporting Sexual Harassment**

**Preventing sexual harassment is everyone’s responsibility.** Operation Oswego County, Inc. cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, or the President. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, or the President.

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

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

## **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassing is occurring, ***is required*** to report such suspected sexual harassment to the Standing Committee on Workplace Discrimination. The Committee shall be comprised of three (3) members designated by the President, the Vice President, and the Secretary, and at least one (1) of the Committee shall be a female. In the event of a conflict by any one or more members of the Committee preventing that member from serving on the Committee, the Board shall designate an alternate member. The Committee shall investigate the report as more fully set forth below.

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

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

## **Complaint And Investigation Of Sexual Harassment**

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

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough and should be completed within 30 days. All persons involved, including complainants, witnesses and alleged perpetrators will be accorded due process to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Employees who participate in any investigation will not be retaliated against.

Investigations will be done in accordance with the following steps:

- Upon receipt of complaint, the Committee will conduct an immediate review of the allegations, and take any interim actions, as appropriate. If complaint is oral, encourage the individual to complete the “Complaint Form” in writing. If he or she refuses, prepare a Complaint Form based on the oral reporting.

- If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- 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 relevant documents;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - A final resolution of the complaint, together with any corrective actions(s).
  - Keep the written documentation and associated documents in the employer's records.
  - Promptly notify the individual who complained and the individual(s) who responded of the final determination and implement any corrective actions identified in the written document.
  - Inform the individual who complained of their right to file a complaint or charge externally as outlined below.

### **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by Operation Oswego County, Inc. but is also prohibited by state, federal, and where applicable, local law.

Aside from the internal process at Operation Oswego County, Inc., employees may also choose to pursue legal remedies with the following governmental entities **at any time**.

### **New York State Division of Human Rights (DHR)**

The Human Rights Law (HDR), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to Operation Oswego County, Inc. does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination 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 monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400 [www.dhr.ny.gov](http://www.dhr.ny.gov)  
Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information FHR's regional offices across New York State.

### **United States Equal Employment Opportunity Commission (EEOC)**

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief but may take other actions including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she 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 (1-800-669-6820 (TTY)), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov)

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. Presently, Oswego County, Inc. does not have a separate local law related to sexual harassment and discrimination.

### **Contact the Local Police Department**

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact one of the following local law enforcement agencies:

Oswego County Sheriff’s Department (315) 349-3302  
New York State Police (Fulton Station) (315) 593-6194  
Fulton City Police Department (315) 598-4504  
Oswego City Police Department (315) 342-8120

In the event of an emergency dial 911.

***END OF POLICY***

# Operation Oswego County, Inc.

## Complaint Form for Reporting Sexual Harassment

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the **Committee on Sexual Harassment and Workplace Discrimination, c/o Operation Oswego County, Inc.; 44 West Bridge Street, Oswego, N.Y.13126**. Once you submit this form, the Operation Oswego County, Inc. must follow its sexual harassment prevention policy and investigate any claims.

If you are more comfortable reporting verbally or in another manner, Operation Oswego County, Inc. is still required to follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

**For additional resources, visit: [ny.gov/combating-sexual-harassment](http://ny.gov/combating-sexual-harassment)**

### COMPLAINT INFORMATION

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Work Address: \_\_\_\_\_

Personal Phone: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Job Title: \_\_\_\_\_

Email: \_\_\_\_\_

Preferred Communication Method (circle one): Personal Phone, Work Phone, Mail, E-Mail

### SUPERVISORY INFORMATION

Immediate Supervisor's Name: \_\_\_\_\_

Immediate Supervisor's Title: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Work Address: \_\_\_\_\_

### COMPLAINT INFORMATION

1. Your complaint of Sexual Harassment is made against:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Work Address: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Adoption of this form does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.

Relationship to you:  Supervisor  Subordinate  Co-Worker  Other

2. Please describe the conduct or incident(s) that is the basis of this complaint and your reasons for concluding that the conduct constitutes sexual harassment. Please use additional sheets of paper if necessary and attach any relevant documents or evidence. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

3. Date(s) Sexual harassment occurred:

Is the sexual harassment continuing?  Yes  No

4. Please list the names and contact information of any witnesses or individuals that may have information related to your complaint: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

The last two questions are optional but may help facilitate the investigation.

5. Have you previously complained or provided information (verbal or written) about sexual harassment at the Operation Oswego County, Inc.? If yes, when and to whom did you complain or provide information? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Employees that file complaints with their employer might have the ability to get help or file claims with other entities including federal, state or local government agencies or in certain courts.

6. Have you filed a claim regarding this complaint with a federal, state or local government agency?  Yes  No

Have you instituted a legal suit or court action regarding this complaint?  
 Yes  No

Have you hired an attorney with respect to this complaint?  Yes  No

I request that Operation Oswego County, Inc. investigate this complaint of sexual harassment in a timely and confidential manner as outlined below, and advise me of the results of the investigation.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Instructions for Employers**

If you receive a complaint about alleged sexual harassment, you must follow your sexual harassment prevention policy by investigating the allegations through actions such as:

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

You should create a written document of the findings of the investigation, along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.