



# **ServSafe Workplace**

## **Sexual Harassment Prevention Online Course**

### **State of Delaware Supplement**

*Revised December 2018*

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

*The information found in this supplement has been taken from the State of Delaware website.  
<https://dia.delawareworks.com/discrimination/sexual-harassment.php>*

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## Introduction

Sexual harassment is a form of sex discrimination that violates the Delaware Discrimination in Employment Act (DDEA). Delaware's anti-sexual harassment law applies to any employer employing four or more employees within Delaware at the time of the alleged violation of the law.

Delaware employers with 50 or more employees must provide all employees with interactive training and education on the prevention of sexual harassment. Applicants and independent contractors are excluded from the numerosity requirement for the training obligation.

Additionally, employers need not provide training to applicants, independent contractors or employees who are employed less than six months continuously. The law also clarifies that only employment agencies must "count and provide training to employees placed by" such agencies.

## Training Requirements

Training must be conducted for new employees within one year of the commencement of their employment. Existing employees must receive sexual-harassment training within one year of the effective date of the statute (January 1, 2020).

New supervisors must receive additional interactive training within one year of the commencement of their employment in a supervisory role. Existing supervisors must receive training by January 1, 2020. This supplemental training must cover the specific responsibilities of a supervisor in preventing and correcting sexual harassment as well as the legal prohibition against retaliation.

## Who Is Protected

A law passed in 2018 extends protections to all individuals in all workplaces, including employees, applicants, apprentices, staffing agency workers, independent contractors, elected officials and their staff, agricultural workers, domestic workers, and unpaid interns.

A victim of sexual harassment also does not have to be the person being harassed but could be anyone affected by the offensive conduct. Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

When possible, the victim should inform the harasser directly that the conduct is unwelcome and must stop.

## Prevention

Eliminating sexual harassment in the workplace starts with prevention. Employers should clearly communicate that sexual harassment in the workplace will not be tolerated. All employees should be provided with sexual harassment training. Additionally, the employer must establish an effective complaint or grievance process. Any complaint of sexual harassment must be addressed immediately.

## Retaliation

It is unlawful for your employer to take any negative action against you because you report or help an investigation that involves sexual harassment in the workplace. The Delaware Discrimination in Employment Act prohibits employers from retaliating or discriminating against any person because that person opposed an unlawful discriminatory practice. Some examples of retaliation include direct actions against an individual, like demotions or termination. It can also include less obvious behavior like increasing an employee's work load or transferring them to a location that is less desirable for them. The Delaware Discrimination in Employment Act protects employees against retaliation who have a good faith belief that their employer did something that was illegal, even if they were mistaken.

## Investigation Procedures

DDOL looks at the whole record when investigating sexual harassment. They may examine the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is then determined after examining the facts on a case-by-case basis.

## Internal Reporting

If you are a victim of or have witnessed a case of sexual harassment, please inform a manager, the equal employment opportunity officer at your workplace, or human resources immediately. The victim is encouraged to use any complaint mechanism provided by the employer.

## External Reporting

Report sexual harassment to the Delaware Department of Labor Office of Anti-Discrimination. Call 302-761-8200 or 302-424-1134 or visit <https://dia.delawareworks.com/discrimination/> to learn how to file a complaint or report discrimination. The Department can investigate or mediate your complaint and may be able to help you collect lost wages and other damages.