



## **PRODUCERS GUILD OF AMERICA ANTI-SEXUAL HARASSMENT GUIDELINES**

1/19/18

The Producers Guild is an organization that represents, protects, and promotes the interests of all members of the producing team and is committed to fostering work environments free from sexual harassment. We are in a transitional moment as a society, in which we are re-evaluating behavior in the workplace and beyond. Producers possess authority both on and off the set, and can provide key leadership in creating and sustaining work environments that are built on mutual respect.

Ultimately, prevention is the key to eliminating sexual harassment in the workplace. Through sufficient resources we can educate our members and their teams. Together we must model our commitment to a workplace free of harassment and encourage colleagues to do the same.

The PGA Anti-Sexual Harassment Task Force is undertaking a thorough review of the tools currently available to facilitate prevention, reporting, counseling and protection. We also are working with other organizations in the entertainment community, such as the industry-wide Commission led by Anita Hill, as well as TIME'S UP.

We offer the following information and recommendations as first steps to preventing and responding to harassment in the workplace. As further developments occur, the PGA's Anti-Sexual Harassment Task Force will share them with you. These guidelines are not meant to be taken as legal advice, but are provided to assist you in creating policies and programs and to assist individuals in responding to harassing behavior. You should always consult legal counsel as appropriate to ensure you are complying with federal and applicable state laws.

## **IDENTIFYING SEXUAL HARASSMENT\***

### **QUID PRO QUO HARASSMENT**

When a job, promotion or other professional benefit is conditioned on the recipient's submission to sexual advances or other conduct based on sex, or such benefits are denied to an individual because they refused to participate in a romantic or sexual activity.

*Examples: Producer agrees to cast actor/actress only if s/he submits to sexual request(s); Financier threatens to pull funding from project because an individual refuses to submit to sexual request(s).*

### **HOSTILE WORK ENVIRONMENT**

Unwelcome verbal, physical or visual conduct that is severe or pervasive, and which creates an intimidating, hostile, or offensive work environment or interferes with work performance. You may experience such sexual harassment even if the offensive conduct was not directed towards you.

*Examples: Making sexually explicit or derogatory comments or jokes, either out loud or via email; inappropriate touching or groping; visual conduct includes making sexually suggestive gestures or publicly displaying sexually suggestive or explicit images.*

### **COMMON MISCONCEPTIONS ABOUT SEXUAL HARASSMENT**

- A hug, kiss on the cheek, or casual touch is not necessarily sexual harassment. The key is whether the behavior was unwelcome or offensive.
- It does not matter if a person has sexual feelings towards the recipient, only that the behavior is of a sexual nature and that it was unwelcome and/or offensive.
- Sexual harassment laws do not create a general “civility” code. Personality conflicts or non-sexual insensitive actions do not in and of themselves constitute sexual harassment.

Sexual harassment is gender-neutral and orientation-neutral. It can be perpetrated by any gender against any gender.

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\* Descriptions and definitions are substantively drawn from the work of the TIME'S UP Legal, Legislative and Policy committee, as well as from materials provided by the California Department of Fair Employment and Housing.

## RECOMMENDATIONS

Sexual harassment is a form of sex discrimination that is illegal under federal law (Title VII of the Civil Rights Act of 1964) and may violate individual state laws. The law requires employers to take action to ensure that no worker ever be subject to sexual harassment in the workplace. Employers must have a policy against sexual harassment and explain to employees the process for reporting and investigating complaints about harassment. Employer must also take prompt remedial action reasonably calculated to end the harassment if they knew or should have known it occurred<sup>†</sup>.

The Producers Guild recommends:

- **First and foremost, all productions comply with federal and state laws regarding harassment.** If you are uncertain about the nature of the law, please consult with your in-house legal department (if you have one) or with an attorney. If you do not have access to such resources, reach out to one or more of the resources listed in Exhibit B.
- **Each production, in whatever medium or budget level, provides in-person anti-sexual harassment (ASH) training** for all members of the cast and crew, prior to the start of production and prior to every season of an ongoing production. Effective training should not be simply focused on avoiding legal liability, but must be part of a culture of respect that starts at the top. Such training takes different forms and styles; make certain that the training you utilize is tailored to your specific production and its needs. Producers should ensure that the individual trainer has experience providing training in the area of sexual harassment laws and that all levels of management are present at the training in order to demonstrate the production's commitment to the policy.
- **Each production continue to be vigilant in efforts to prevent sexual harassment during the production process.** Consider taking steps to maintain awareness of harassment on an ongoing basis, such as periodically adding sexual harassment to the AD's safety briefing.
- **Each production offer reporting procedures** that provide a range of methods, multiple points-of-contact, including contacts at different organizational levels and in different geographic workplaces (e.g., a TV series that shoots in New York but maintains a writers' room in Los Angeles), if applicable. We suggest **designating at least two (2) individuals**, ideally of different genders, that cast/crew members can approach if they are subject to or witness harassment.
- **Reports of harassment are listened to with attention and empathy.** If a cast or crew member reports an incident of harassment, assume the complainant is being sincere until further inquiry can be undertaken, while bearing in mind that the report itself does not predetermine guilt. Reassure the reporting party that the production takes harassment very seriously and that s/he will face no retaliation for reporting. The production should move quickly to address the allegations or engage a third party to do so, allowing for as much transparency as can be provided.

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<sup>†</sup> This summary provided by the U.S. Equal Employment Opportunity Commission (EEOC).

- **Producers be alert for any possibility of retaliation** against an employee who reports harassment and take steps to ensure that such retaliation does not occur. Retaliation is illegal, and it is a serious concern for individuals reporting harassment and can take many forms. Anyone making a complaint or participating in an investigation is protected against retaliation. Retaliation includes, but is not limited to, firing, change in work responsibilities, transfers, ignoring or excluding, unwarranted discipline, or otherwise making a complainant feel uncomfortable or unwanted in the workplace.
- Producers should be sensitive to interpersonal power dynamics and the way even their casual questions or requests may carry implicit authority. We recommend that producers conduct **all meetings and/or casting sessions in an environment that is professional, safe and comfortable for all parties**, and encourage others on the production to adhere to these same standards.

## **PROTOCOL FOR VICTIMS, WITNESSES, PRODUCERS<sup>‡</sup>**

A substantial body of law protects individuals from workplace harassment. (See Exhibit A.) The following recommendations are intended to supplement and facilitate observance of those laws.

- If you are (or believe yourself to be) the victim of a crime, ***contact the appropriate authorities immediately.*** Be aware of the **statute of limitations** on filing a charge for acts of harassment or abuse in your state.
- **Create and maintain documents.** Make notes regarding any harassment you suffered or witnessed, or any conversation or exchange with the harasser, including dates, times, places, and the specific behavior(s) you felt to be harassment. Make such notes as soon as possible following any incident, while your memory is still fresh. Keep these notes (or copies thereof) in a place outside the workplace. If possible, send yourself or a trusted friend a time-stamped email containing all of the relevant information. Also, maintain any relevant texts, emails, pictures or other documentation.
- If the behavior is not a crime, and if you are comfortable doing so, **consider speaking to the offending person.** Be specific about the behavior that made you uncomfortable, and try to communicate and help them understand what made you uncomfortable and/or feel unsafe. An example of what you may say is, “The comment you made to me the other day made me uncomfortable, and I am asking that you do not make similar comments to me in the future.”
- **Report the incident(s)** to one of the designated individuals working on the production. If that avenue is not available or for whatever reason feels unsafe, report the incident to the relevant HR department and/or seek the guidance of an attorney, if necessary. If you need to find resources, consult or refer to one of the resources, including Hotlines and administrative agencies, listed in Exhibit B, following these recommendations.
- If you are aware that a member of the team is being harassed and does not feel comfortable speaking to the alleged offender, the producer needs to **step up on behalf of the team member**, engaging in a candid discussion with the person about the harassing speech or behavior and ensure that they understand that the behavior must stop immediately. The producer then should ensure that the allegations are further addressed as warranted.

These recommendations are only the first step in a long process of changing our professional culture. Under federal law, sexual harassment is a form of discrimination. Ultimately, an inclusive workplace helps protect against all forms of discrimination. We will see even more progress once boardrooms and corporations—as well as production offices and sets—are balanced with gender and racially diverse leaders who will hire inclusive teams as a matter of standard practice. We look forward to refining these recommendations as new approaches are tested and new resources become available, and will share our findings with our PGA members and colleagues in the industry.

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<sup>‡</sup> As with “Identifying Sexual Harassment,” these recommendations rely on the work of the TIME’S UP Legal, Legislative and Policy committee

## **EXHIBIT A**

### **HISTORY AND BACKGROUND ON HARASSMENT LAW**

The U.S. Supreme Court held in the landmark case of *Meritor Savings Bank v. Vinson* (1986) that workplace harassment is an actionable form of discrimination prohibited by Title VII of the Civil Rights Act of 1964. Some acts (e.g., rape, sexual assault, blackmail/extortion, etc.) rise to the level of criminal conduct. It is not always easy to assess whether harassing behavior is illegal. Victims are encouraged to first report any complaints they have to their employer. They also can consult with an attorney and take the steps outlined in the recommendations of these ASH guidelines. Victims also are encouraged to consult any of the resources provided for in Exhibit B.

## **EXHIBIT B**

### **RESOURCES FOR REPORTING AND ENFORCEMENT**

- If you are looking for an attorney, you can contact the TIME'S UP Legal Defense Fund, which is housed at the National Women's Law Center: [www.nwlc.org/timesup](http://www.nwlc.org/timesup).
- Women In Film has launched a Sexual Harassment help line — an integrated program to refer victims of harassment to designated mental health counselors, law enforcement professionals, and civil and criminal lawyers and litigators: (323) 545-0333 / [womeninfilm.org](http://womeninfilm.org).
- You also may contact the California Bar Association (<http://www.calbar.ca.gov/>) or your local state bar association, which should provide you with referrals and/or access to free legal services.
- The Actors Fund provides free and confidential help for those who have experienced sexual harassment. Services include short term one-on-one counseling, referrals for helpful resources and assistance in locating legal services. Please visit the following link for more information:  
<http://actorsfund.org/services-and-programs/entertainment-assistance-program>.
- SAG-AFTRA has a hotline to report sexual harassment or abuse: (323) 549-6644. Members of the SAG-AFTRA union, as well as all other relevant unions, also may contact their union representative for assistance.
- If you do not have a Human Resources department or the internal reporting process at your company is not effective, then consider filing a formal complaint with a federal or state agency. The three most common states where production takes place and the corresponding agencies are:
  - California: <https://www.dfeh.ca.gov/>
  - New York: <http://www1.nyc.gov/site/cchr/index.page>
  - Georgia: <https://dol.georgia.gov/>

Or you may contact the Federal Equal Employment Opportunity Commission (EEOC):  
<https://www.eeoc.gov/employees/charge.cfm>.

## **EXHIBIT C**

### **RESOURCES AVAILABLE TO AID IN SEXUAL HARASSMENT TRAINING**

Producers can take many measures to discourage or eliminate harassment. One of the most essential, as noted earlier, is reliance on anti-sexual harassment (ASH) training and presentations. One resource the other Guilds and studios have relied on for training purposes is Contract Services: Contact: Gabriel Silva, 818.565.0550 ext. 2033, [gsilva@csatf.org](mailto:gsilva@csatf.org).

Please make certain that the training you engage is specifically tailored to the needs and challenges of your production (e.g., size of cast/crew, length of shoot, different cohorts of employees, extensive location work, challenging subject matter, etc.) and that the trainer is experienced in discrimination and harassment laws. Ask that your training includes guidance to encourage “bystander intervention” which empowers co-workers and gives them the tools to intervene when they witness harassing behavior.

As a further resource, we encourage you to review the guidelines for the filming of scenes of a sexual nature as they appear in SAG/AFTRA's contracts ([https://www.sagaftra.org/files/2014\\_sag-aftra\\_cba.pdf](https://www.sagaftra.org/files/2014_sag_aftra_cba.pdf)) found in Section 43, Page 110 (for principal performers) and Section 17, Pages 674 and 747 (for background performers).