



Town of New Hartford

Sexual Harassment Prevention Training

S9-23-11 | September 2023

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Report Highlights

Town of New Hartford

Audit Objective

Determine whether Town of New Hartford (Town) employees and elected officials completed annual sexual harassment prevention training (SHP Training).

Key Findings

SHP Training was provided to most employees and elected officials. Of the 20 total individuals we tested (11 selected employees and all nine elected officials), three employees or 27 percent of employees tested and six elected officials did not complete the annual SHP Training.

Additionally, the Town excluded new hires at the Highway Department who started after April’s scheduled session from SHP Training.

Key Recommendations

Ensure all employees complete annual SHP Training and encourage elected officials to complete the training.

Town officials generally agreed with our recommendations and have indicated they planned to initiate corrective action.

Background

The Town, located in Oneida County, is governed by an elected five-member Town Board (Board) composed of the Town Supervisor (Supervisor) and four Board members.

The Supervisor is responsible for the overall day-to-day management of the Town under the Board’s direction.

The Director of Payroll and Personnel (Director), Police Chief and Highway Superintendent (Superintendent) are responsible for providing and ensuring completion of annual SHP Training for most Town and Police and Highway Departments employees, respectively.

Quick Facts

2021	
Total Employees & Elected Officials	172
Total Tested^a	20
SHP Training Method	Classroom (group) Online module (individual)

a) See Appendix B for information on our sampling methodology.

Audit Period

January 1, 2021 – December 31, 2021

Sexual Harassment Prevention Training

Sexual harassment is a form of workplace discrimination, and may include harassment based on sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Sexual harassment is unlawful when, among other things, it subjects an individual to inferior terms, conditions or privileges of employment.

Employees have a legal right to a workplace free from sexual harassment and are required to work in a manner that prevents sexual harassment. All employers and officials should be committed to maintaining such a workplace.

How Should Officials Help Prevent Sexual Harassment?

New York State (NYS) Labor Law Section 201-g requires employees to be provided with SHP Training on an annual basis. This obligation includes local government employees. While the law does not expressly require training for local elected officials, they should be encouraged to complete SHP Training as well.¹

NYS Department of Labor (DOL), in consultation with the NYS Division of Human Rights (DHR), has established a model for employers to use for this training.

Alternatively, employers may elect to develop their own training. Employers that do not use the model SHP Training program must ensure the SHP Training they use meets or exceeds the following minimum requirements. The SHP Training must:

- Be interactive,
- Include an explanation of sexual harassment consistent with guidance issued by DOL, in consultation with DHR,
- Include examples of conduct that would constitute unlawful sexual harassment,
- Include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to targets of sexual harassment,
- Include information concerning employees' rights of redress and all available forums for adjudicating complaints, and
- Include information addressing conduct by supervisors and any additional responsibilities for such supervisors.

Employees have a legal right to a workplace free from sexual harassment and are required to work in a manner that prevents sexual harassment.

¹ See, e.g., chapter 139 of the Laws of 2022 (what was deemed effective as of the effective date of section 1 of Ch. 160 L. 2019) amending the Executive Law to clarify that a city, town, village or other political subdivision shall be considered an employer of any employee or official, including any elected official, for purposes of the Human Rights Law.

Furthermore, the annual training period may be based on any date the employer chooses, including, but not limited to, the calendar year or anniversary of each employee's start date. The guidance also recommends that new employees should receive the annual training as soon as possible after being hired.

SHP Training can be provided in different ways depending on the needs of the local government or school district, including in person, via webinar, an online interactive training module, or on another individual basis with a mechanism for feedback by the employee.

Not All Employees and Elected Officials Completed SHP Training

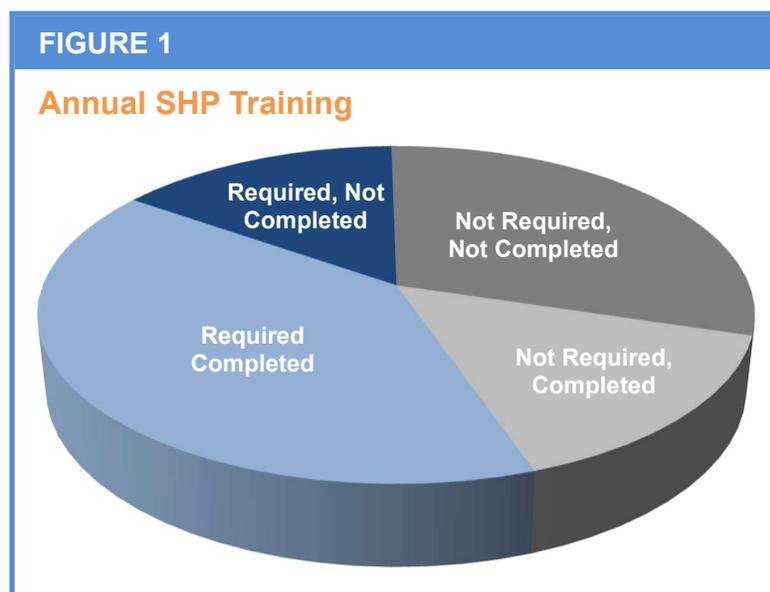
The Town provided annual SHP Training that met the minimum requirements to employees and elected officials during the 2021 period and maintained records of who completed the training. Newly hired Town and Police Department employees were expected to complete the training soon after hire. However, Highway Department employees hired after the one scheduled department training day in April were expected to complete training during the next year's scheduled training day.

We tested 20 individuals (11 selected employees and all nine elected officials) to determine whether they completed the annual SHP Training. Three employees (27 percent of the employees sampled) and six elected officials did not complete the training (Figure 1).

These three employees and six elected officials included:

- Three Board members,
- Two Justices,
- The Supervisor,
- One deputy clerk,
- One highway department laborer, and
- One highway heavy equipment operator.

The other eight selected employees and three elected officials (55 percent of individuals tested) completed the 2021 annual SHP Training.



The Director and a Police Sergeant disseminated the SHP Training as an interactive, online training module for non-Highway employees and elected officials to complete individually. The Superintendent disseminated the SHP Training to Highway Department employees as an interactive, in-person group presentation through a third-party instructor at the Highway Department's annual training day in April 2021.

The Director told us she had face-to-face discussions with employees and elected officials that had not completed the SHP Training to encourage them to take the training. The Police Chief kept a Police Department training log signed and dated by employees for their SHP Training completion with individual certificates of SHP Training for each employee. The Superintendent told us all Highway Department employees were required to attend the training day in April 2021.

The Director told us that she requested the six elected officials and Town employee (deputy clerk) take the online SHP Training, but they did not. The other two untrained employees were Highway Department employees. One of the two employees, a highway laborer, was hired after the April 2021 training date and the Superintendent told us no other training dates were scheduled for the 2021 period.

The Superintendent told us the heavy equipment operator attended the training but did not sign the attendance sheet.

The Supervisor told us that he did not take the Town's SHP Training because he took training at his other place of employment. However, no proof of training completion was requested or provided to the Town, by the Supervisor. He also told us the three Board members may have trained outside of the town, but the Town did not receive documentation for any of their training completion.

One Justice told us he was unaware if he took the Town's SHP Training in 2021. The other Justice did not respond when contacted to discuss the SHP Training.

A lack of SHP Training is an ongoing risk to the Town's ability to provide employees and other individuals in the workplace with an environment free from sexual harassment. Furthermore, the implications of sexual harassment in the workplace can have a far-reaching impact, from the Town's finances to employee productivity, and to a safe work environment. Therefore, it is important that all employees and other individuals in the workplace complete the Town's annual SHP Training.

What Do We Recommend?

Town officials:

1. Must provide annual SHP Training to all employees.
2. Should continue to monitor the completion of annual SHP Training by all employees and elected officials and develop additional administrative procedures to help ensure all employees and elected officials complete the annual SHP Training.

Appendix A: Response From Town Officials

SUPERVISOR
Paul A. Miscione
DEPUTY SUPERVISOR
Anthony J. Trevisani
TOWN ATTORNEY
Herbert J. Cully

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COUNCILMEN
James Messa, 1st Ward
Richard Lenart, 2nd Ward
David M. Reynolds, 3rd Ward
Richard B. Woodland, 4th Ward

Unit Name: Town of New Hartford
Audit Report Title: Sexual Harassment Prevention Training
Audit Report Number: S9-23-11

For each recommendation included in the audit report, the following is our corrective action(s) taken or proposed. For recommendations where corrective action has not been taken or proposed, we have included the following explanations.

Audit Recommendation:

1. Must provide annual SHP training to all employees.
2. Should continue to monitor the completion of annual SHP Training by all elected officials and employees and develop additional administrative procedures to help ensure all elected officials and employees complete the annual SHP Training.

We agree with the above findings/recommendations and have put an action plan together. The plan is slated to be presented and approved at the April 8, 2023 Town Board Meeting.

This addresses both findings.

Implementation Plan of Action(s):

We have updated the State and Human Rights section of our Sexual Harassment Policy as per New York State to read: "Complaints with DHR may be filed any time within 3 years 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 sexual harassment."

Copy of the Action plan is attached.

Implementation Date:
April 19, 2023

Person Responsible for Implementation:
Paul Miscione, Town Supervisor

Signed: _____

Name ✓
Town Supervisor

Date
April 6, 2023

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To accomplish our audit objective and obtain relevant audit evidence, our procedures included the following steps:

- We used our professional judgment to select the Town for audit based on geographic location across NYS applied to a list of counties, cities, towns, villages and school districts (excluding NYC), not currently in the OSC audit process at the time of selection.
- We interviewed Town officials to gain an understanding of the process for creating, disseminating and monitoring sexual harassment prevention training for employees and elected officials.
- We reviewed relevant State laws and guidance from NYS, as well as Town policies to gain an understanding of their sexual harassment prevention policy and training.
- We reviewed the Town Board meeting minutes from January 2021 through November 2022 to determine action taken related to sexual harassment prevention.
- We reviewed and assessed the sexual harassment prevention training materials provided by the Town to determine whether the training met minimum required State law.
- We determined the total number of employees and elected officials employed at the Town during our audit period by obtaining and reviewing an employee listing and discussions with Town officials.
- Of the 172 total Town employees and elected officials, a sample of 12 percent (or 20) was selected. Using the Town's employee listing, all nine elected officials were selected as part of the sample total, the remaining 11 employees were selected to include both supervisory and nonsupervisory titled employees. We used our professional judgment to select four supervisory employees and nonsupervisory employees. Two of the 11 employees selected were new hires, both nonsupervisory titles.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results

onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Town Board to make the CAP available for public review in the Town Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

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