



Town of Southold

Sexual Harassment Prevention Training

S9-23-10 | September 2023

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Report Highlights

Town of Southold

Audit Objective

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

Key Findings

SHP Training was not provided to all employees and elected officials. Of the 45 total individuals we tested (26 selected employees and all 19 elected officials), six employees or 23 percent of employees tested and 10 elected officials, did not complete the annual SHP Training.

Additionally, of the 423 total Town employees and elected officials, 10 Justice Court employees, 38 Police Department employees and the Town Historian were excluded from the SHP Training.

These 49 individuals represent 12 percent of all Town employees and elected officials, and include five of the 16 individuals in our testing that did not complete the annual SHP Training.

Key Recommendation

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

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

Background

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

The Town Supervisor is responsible for the overall administration of the Town's daily operations.

An Assistant Town Attorney (Assistant Attorney) is responsible for providing and ensuring completion of annual SHP Training except for police officers. A Police Lieutenant is responsible for providing and ensuring completion of annual SHP Training for police officers and public safety dispatchers.

Quick Facts

2021	
Total Employees & Elected Officials	423
Total Tested ^a	45
SHP Training Method	In-person (group) and video (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.

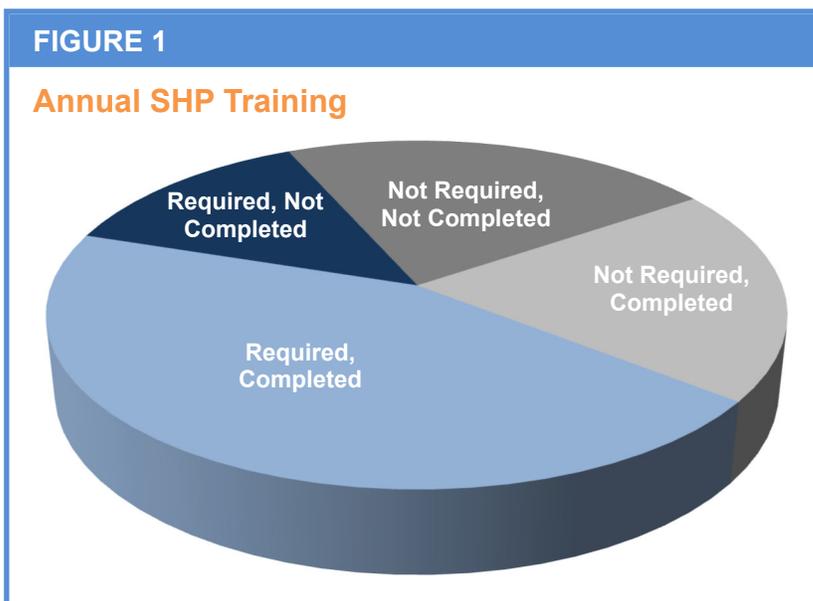
Furthermore, the annual training period may be based on any date the employer chooses, including, but not limited to, the calendar year or anniversary of each employee's start date. The guidance also recommends that new employees should receive the annual training as soon as possible after being hired.

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 Were Provided or Completed SHP Training

The Town provided annual SHP Training that met the minimum requirements to most employees and elected officials during the 2021 period and maintained records of who completed the training. Although there were no established procedures for newly hired employees, the Assistant Attorney told us new hires would receive the training at the next available session after their hire date. However, the Town excluded Justice Court employees, most civilian Police Department employees and the Town Historian from the training, and did not monitor to ensure everyone who was provided the training completed it.

We tested 45 individuals (26 selected employees and all 19 elected officials) to determine whether they completed the annual SHP Training. Six employees (23 percent of employees sampled) and 10 elected officials did not complete the training (Figure 1).



The other 20 selected employees and nine elected officials (64 percent of individuals tested) completed the 2021 annual SHP Training.

The Assistant Attorney disseminated and presented the SHP Training as an interactive, in-person group training for all employees, except for police officers and public safety dispatchers, to complete at one of four scheduled training sessions in July 2021. The initial SHP Training notification email, dated June 25, 2021, included an attachment with the dates and locations of the training sessions and indicated the training was mandatory for all employees. The Board's secretary forwarded this email to the Board members on June 25, 2021. However, the notification email was not sent to 10 Justice Court employees, 38 Police Department employees or the Town Historian. A Police Lieutenant disseminated a separate SHP Training as a video training and questionnaire, to be completed individually by all Police Officers and public safety dispatchers.

Of the 16 individuals from our sample who did not complete the SHP Training, five were not offered the training by the Town including:

- Two elected Justices,
- The Justice Court Director,
- The Town Historian, and
- One shoreline patrol officer.

The 11 individuals that were provided, but did not complete, the SHP Training included:

- Four Board members,
- Two Trustees of the Town's wetlands,
- The Town Clerk,
- The Town Tax Receiver,
- One equipment operator,
- One beach attendant, and
- One lifeguard.

At the completion of our fieldwork, the Assistant Attorney was no longer employed by the Town and was not available to interview to determine why these 11 individuals from our sample did not complete the SHP Training, or why the five employees from our sample were not offered the training. However, the secretary to the Town Attorney, who helped schedule the training sessions in 2021 while working for the former Town Attorney, told us that individuals who did not complete the training at one of the originally scheduled training sessions were not contacted to make alternate arrangements because the former Town Attorney's office was understaffed. She was not able to explain why the five employees were not notified about 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 SHP Training to all employees.
2. Should encourage elected officials to complete annual SHP Training.
3. Should 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

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OFFICE OF THE TOWN ATTORNEY TOWN OF SOUTHOLD

April 10, 2023

Office of the State Comptroller
Statewide Audit Unit
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Albany, New York 12236

Attn: [REDACTED]
Division of Local Government
and School Accountability

Unit Name: Town of Southold
Audit Report Title: Sexual Harassment Prevention Training
Audit Report Number: S9-23-10

Dear Madam:

The Town Board of the Town of Southold has reviewed and considered the draft audit findings and recommendations of the Comptroller's Office following its review of the Town's 2021 efforts in ensuring that all employees and elected officials both received and completed annual sexual harassment prevention training (SHP Training).

In short, the audit findings reveal that the Town provided annual SHP Training that met the minimum requirements to most employees and elected officials during the 2021 period and maintained records to document such training. Notwithstanding, the findings indicate that the Town's efforts could be more successful if it ensured that all employees and elected officials were notified of the required training. Specifically, the audit found that the Assistant Town Attorney failed to notify 10 Justice Court employees, 38 Police Department employees and the Town Historian of the required training. Further, the town's plan did not include follow up to confirm that training was completed.

The Town Board of the Town of Southold takes no issue with the audit methodology and standards and accepts as accurate the draft findings of the Comptroller. For this reason, it is the intention of the Town Board that this audit response serve also as the Corrective Action Plan (CAP).

Office of the State Comptroller
April 10, 2023
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Recommendation I

In an effort to assist the Town in its effort of full compliance, the audit recommends that the Town ensure that all eligible employees and elected officials are notified of the required SHP Training.

Internal investigation revealed that the former Assistant Town Attorney utilized the “all employees” function on town email in his effort to notify all employees. However this “all employees” function did not reach all eligible employees as it did not include the referenced Justice Court employees, Police Department CSEA employees and Town Historian.

Action Taken: On March 27, 2023 the Information Technology Commissioner, Lloyd Reisenberg, updated the “all employees” function to include the employees previously missing. Said function will now be updated with every new hire and every employment separation moving forward. This action was purposed to ensure that the Town’s obligation to notify all eligible employees of required SHP Training will be satisfied.

Recommendation II

In an effort to further assist the Town in its effort of full compliance, the audit recommends that the Town establish a procedure to monitor the completion of annual SHP Training by all employees and elected officials.

Action Taken: On March 28, 2023 a plan was developed to address how the Town will take action to confirm that required SHP Training is completed by all eligible employees and elected officials. The notification of training will now include a required completion date within 60 days (Training Period). For the period of 30 days thereafter (Review Period), the undersigned Town Attorney will be charged with regular communication with all department heads to access which employees have not taken the required training. The Town Attorney will be directly responsible for elected officials. Following the expiration of said Review Period all employees and elected officials who have not completed required SHP Training, in addition to their department head, will be required to attend a mandatory in-person meeting during work hours, at which time all required training will be completed.

The Town Board of the Town of Southold, in its effort to ensure 100% compliance with required annual SHP Training, has approved this plan. Please include this writing as the Town’s Response and Corrective Action Plan to be made part of the Final Audit document prepared by your office.

Your consideration of the foregoing is greatly appreciated.

Sincerely,


Paul M DeChance Esq

PMD/mm
Cc: Scott A Russell, Town Supervisor
Town Board

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 achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- 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 for the 2021 calendar year 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 interviewing the Town Clerk.
- Of the 423 total Town employees and elected officials, a sample of 10 percent (or 45) was selected. Using the Town's employee listing, all 19 elected officials were selected as part of the sample total, the remaining 26 employees were selected to include both supervisory and nonsupervisory titled employees. We used our professional judgment to select 13 supervisory employees and 13 nonsupervisory employees. Two of the 13 nonsupervisory employees selected were new hires.

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 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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