

TIOGA COUNTY, NEW YORK

# Office of the County Attorney

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## FINANCE, LEGAL & SAFETY COMMITTEE

May 9, 2023

10:30 a.m.

- APPROVAL OF MINUTES: April 11, 2023
- FINANCIAL
  - Safety
  - Law
- OLD BUSINESS
  - Litigation
  - Ethics Board
  - In Rem
  - Motorola tower project
- NEW BUSINESS
  - Amended and new policies
  - Resolutions
  - Financial Disclosures for Boards and Section A employees
  - Cyber policy
  - Historical Artifact
  - ILS Budget
- PERSONNEL
- RESOLUTIONS
  - APPOINT MEMBER TO THE ETHICS BOARD
  - AMEND EMPLOYEE HANDBOOK: SECTION 35. TIOGA COUNTY SEXUAL HARASSMENT PREVENTION POLICY
  - ESTABLISH NEW BUDGET LINE, MODIFY 2023 BUDGET AND TRANSFER FUNDS LAW DEPARTMENT
  - AMEND EMPLOYEE HANDBOOK: SECTION IX. SAFETY RULES, SUBSECTION M. RESTRICTING FIREARMS AND OTHER WEAPONS IN OR ON COUNTY BUILDINGS, WORKSITES OR VEHICLES
  - APPOINT MEMBER TO THE ETHICS BOARD

- AMEND EMPLOYEE HANDBOOK: ADD NEW POLICY TO SECTION IX. SAFETY RULES; SUBSECTION O., ENTITLED RESPIRABLE CRYSTALLINE SILICA EXPOSURE CONTROL PLAN
  - ACCEPT INDIGENT LEGAL SERVICES AWARD AND AMEND 2023 BUDGET
- 
- PROCLAMATIONS
  - EXECUTIVE SESSION
  - ADJOURNMENT

# Office of the County Attorney



## FINANCE, LEGAL AND SAFETY COMMITTEE

April 11, 2023

10:30 A.M.

### ATTENDANCE:

Legislators: Chair Sauerbrey, Ciotoli, Brown, Mullen, Monell, Standing, and Roberts

Staff: Legislative Clerk Haskell, County Attorney DeWind, Treasurer McFadden, Deputy Treasurer Chandler, Chief Accountant Jerzak, Accountant Schurter, Safety Officer Holbrook, Personnel Officer Parke, Paralegal Humes, Assigned Counsel Administrator Graven

**APPROVAL OF THE MINUTES:** Legislator Ciotoli asked for a motion to approve the March 14, 2023 minutes. Legislator Standing made the motion seconded by Legislator Mullen and was unanimously carried.

**FINANCIAL:** Safety's budget has had recent expenditures for maintenance to the AEDs located at County buildings and security expenses. Legal will need to transfer funds to purchase books for Assistant County Attorney Lanouette.

### OLD BUSINESS:

- All litigation is moving forward. The County has received a decision on a motion to dismiss which resulted in a partial dismissal and removal of several causes of action however the County was unfortunately not fully released from the action.
- A recent Court case may have an impact on the County's Tax Foreclosure process. The case allows parties to challenge service in some circumstances. The In Rem process is being re-evaluated to determine if additional service steps will be required beyond the usual service through regular and certified mailing. Some of the properties are vacant, making personal service problematic. There will be additional expenses and time demands if personal service is required.
- The Ethics Board continues to have two (2) board seats available. An application was received and will be forwarded to Mr. DeWind for review.
- An accessible parking ad was placed in the Pennysaver with monies from the accessible parking education fund used to pay for this ad.
- The 2023 Annual Policy Review and Attestation trainings has been completed by most employees.

- All AED machines are operational. Tioga County ASAP Coalition would like permission to place a NARCAN kit at the Ronald E. Dougherty County Office Building and in Veterans' office. They would cover the costs for the kits.
  - Aye: Chair Sauerbrey, Legislators Ciotoli, Brown, Mullen, Standinger
  - No: Legislators Roberts and Monell
- The County has been asked to participate in the Equitable Retention Mortgage Assistance (ERMA). This program is similar to the Mortgage Assistance Program (MAP) the County is currently using. To qualify for ERMA applicants must meet certain income requirements and be at least sixty-two (62) years old. Sustainable Neighborhoods and Catholic Charities would assist with applications. There is no expense to the County to participate.
  - Aye: Chair Sauerbrey, Legislators Ciotoli, Roberts, Standinger, Mullen, Brown
  - No: Legislator Monell
- Work is continuing on the 2020 In Rem and Motorola Tower Project. The ADA survey is in process with county buildings inspected for compliance.

#### NEW BUSINESS:

- The sexual harassment policy and forms have been updated to ensure compliance with New York State regulations.
- April is Fair Housing Month. An ad has been placed in the Pennysaver naming Mr. DeWind as the Fair Housing Officer.
- Audiograms and hearing conservation training was just completed for the Department of Public Works employees.
- The Building Coordinator Program has been reinstated for all buildings. This program is a requirement of PESH.
- Security guards started Monday and requested thirty (30) knives and one (1) handgun be secured in vehicles the first day. It is anticipated modifications will need to be made as issues are identified.

RESOLUTIONS: AUTHORIZE CONTRACT WITH ACCORD, A CENTER FOR DISPUTE RESOLUTION, INC. FOR OFFICE SPACE; AMEND EMPLOYEE HANDBOOK: SECTION IV. PERSONNEL RULES, SUBSECTION R. ENTITLED TIOGA COUNTY SEXUAL HARASSMENT PREVENTION POLICY; AUTHORIZATION TO JOIN AND PARTICIPATE IN NEW NATIONAL OPIOID SETTLEMENTS WITH CVS, WALGREENS, AND WALMART CONCERNING CLAIMS RELATED TO THE OPIOID CRISIS; RESOLUTION TO APPROVE AND ENTER INTO A MOU WITH THE TOWN OF OWEGO FOR CDL DRUG TESTING; AMEND RESOLUTION NO. 124-23; ESTABLISH NEW BUDGET LINE, REQUEST AND TRANSFER RESERVE FUNDS, AND MODIFY 2023 BUDGET SAFETY OFFICE; TRANSFER

OF FUNDS 2023 BUDGET MODIFICATION COUNTY LIABILITY INSURANCE FUND;  
AUTHORIZE ACCEPTANCE OF YEAR FIVE FUNDING FROM THE NYS OFFICE OF  
INDIGENT LEGAL SERVICES AND ACCEPT YEAR FIVE FUNDING FOR HURRELL-  
HARRING GRANT AND AMEND 2023 BUDGET: these resolutions were moved into  
full Legislative session without further questions.

PROCLAMATIONS: Fair Housing Month

EXECUTIVE SESSION: None

ADJOURNMENT: Legislator Ciotoli adjourned the Finance, Legal, and Safety  
Committee meeting at 11:43 A.M.

Respectfully submitted,

*Christine Freyvogel*

Secretary to the County Attorney



# TIOGA COUNTY, NEW YORK

## Tioga County 2023 SAFETY BUDGET REPORT

FOR 2023 06

	ORIGINAL APPROP	TRANFRS/ ADJUSTMTS	REVISED BUDGET	YTD ACTUAL	ENCUMBRANCES	AVAILABLE BUDGET	PCT USE/COL
<b>CI Liability Insurance Fund</b>							
<b>CI8042 504 Coordinator/Safety</b>							
CI8042 424010 Interest And Earn	0	0	0	-114.09	.00	114.09	100.0%
CI8042 510010 Fulltime	57,523	0	57,523	8,615.21	.00	48,907.79	15.0%
CI8042 540140 Contracting servi	164,500	-161,000	3,500	2,020.00	730.00	750.00	78.6%
CI8042 540140 M7674 Contracting	0	161,000	161,000	7,588.37	97,411.63	56,000.00	65.2%
CI8042 540340 Literature	250	0	250	.00	.00	250.00	.0%
CI8042 540410 Nursing Supplies	2,000	0	2,000	1,226.27	.00	773.73	61.3%
CI8042 540420 Office Supplies	400	0	400	17.99	.00	382.01	4.5%
CI8042 540480 Postage	75	0	75	.00	.00	75.00	.0%
CI8042 540640 Supplies (Not Off	600	0	600	274.69	.00	325.31	45.8%
CI8042 540733 Training/All Othe	3,500	0	3,500	417.19	.00	3,082.81	11.9%
CI8042 581088 State Retirement	2,744	0	2,744	1,060.92	.00	1,682.86	38.7%
CI8042 583088 Social Security F	2,232	0	2,232	612.56	.00	1,619.54	27.4%
CI8042 584088 Workers Compensat	1,224	0	1,224	195.88	.00	1,028.46	16.0%
CI8042 585588 Disability Insura	0	0	0	10.44	.00	-10.44	100.0%*
CI8042 586088 Health Insurance	0	0	0	4,052.48	.00	-4,052.48	100.0%*
CI8042 588988 Eap Fringe	15	0	15	2.44	.00	12.12	16.8%
TOTAL 504 Coordinator/Safety	235,063	0	235,063	25,980.35	98,141.63	110,940.80	52.8%
TOTAL Liability Insurance Fund	235,063	0	235,063	25,980.35	98,141.63	110,940.80	52.8%
TOTAL REVENUES	0	0	0	-114.09	.00	114.09	
TOTAL EXPENSES	235,063	0	235,063	26,094.44	98,141.63	110,826.71	
GRAND TOTAL	235,063	0	235,063	25,980.35	98,141.63	110,940.80	52.8%

\*\* END OF REPORT - Generated by Freyvogel, Christine \*\*



# TIOGA COUNTY, NEW YORK

## Tioga County 2023 LEGAL BUDGET REPORT

FOR 2023\_06

	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD ACTUAL	ENCUMBRANCES	AVAILABLE BUDGET	PCT USE/COL
<b>A General Fund</b>							
<b>A1420 Law</b>							
A1420 412706 Shared Services-At	-50,079	0	-50,079	.00	.00	-50,079.00	.0%*
A1420 510010 Full Time	212,439	0	212,439	65,365.61	.00	147,073.39	30.8%
A1420 510020 Part Time/Temporar	45,000	0	45,000	10,365.39	.00	34,634.61	23.0%
A1420 510050 All other(On Call,	2,000	0	2,000	.00	.00	2,000.00	.0%
A1420 520200 Office Equipment	450	0	450	.00	.00	450.00	.0%
A1420 540010 Advertising	100	27	127	.00	127.00	.00	100.0%
A1420 540040 Books	500	-27	473	434.75	.00	38.25	91.9%
A1420 540180 Dues	1,200	0	1,200	678.00	.00	522.00	56.5%
A1420 540330 Legal Fees	65,000	0	65,000	14,507.50	27,600.00	22,892.50	64.8%
A1420 540390 Mileage Expense	100	0	100	.00	.00	100.00	.0%
A1420 540420 Office Supplies	825	-85	740	150.48	.00	589.52	20.3%
A1420 540480 Postage	150	0	150	75.87	.00	74.13	50.6%
A1420 540485 Printing/Paper	400	0	400	114.43	.00	285.57	28.6%
A1420 540731 Training/State Req	200	85	285	285.00	.00	.00	100.0%
A1420 581088 State Retirement F	17,918	0	17,918	6,951.63	.00	10,966.79	38.8%
A1420 583088 Social Security Fr	15,182	0	15,182	5,925.86	.00	9,256.32	39.0%
A1420 584088 workers Compensati	3,673	0	3,673	1,664.98	.00	2,008.04	45.3%
A1420 585588 Disability Insuran	204	0	204	70.47	.00	133.11	34.6%
A1420 586088 Health Insurance F	49,507	0	49,507	28,836.52	.00	20,670.86	58.2%
A1420 588988 Eap Fringe	44	0	44	20.74	.00	22.94	47.5%
<b>TOTAL Law</b>	<b>364,813</b>	<b>0</b>	<b>364,813</b>	<b>135,447.23</b>	<b>27,727.00</b>	<b>201,639.03</b>	<b>44.7%</b>
<b>TOTAL General Fund</b>	<b>364,813</b>	<b>0</b>	<b>364,813</b>	<b>135,447.23</b>	<b>27,727.00</b>	<b>201,639.03</b>	<b>44.7%</b>
<b>TOTAL REVENUES</b>	<b>-50,079</b>	<b>0</b>	<b>-50,079</b>	<b>.00</b>	<b>.00</b>	<b>-50,079.00</b>	
<b>TOTAL EXPENSES</b>	<b>414,892</b>	<b>0</b>	<b>414,892</b>	<b>135,447.23</b>	<b>27,727.00</b>	<b>251,718.03</b>	
<b>GRAND TOTAL</b>	<b>364,813</b>	<b>0</b>	<b>364,813</b>	<b>135,447.23</b>	<b>27,727.00</b>	<b>201,639.03</b>	<b>44.7%</b>

\*\* END OF REPORT - Generated by Freyvogetl, Christine \*\*

REFERRED TO:

LEGISLATIVE WORKSESSION  
FINANCE, LEGAL & SAFETY COMMITTEE

RESOLUTION NO. -23

APPOINT MEMBER TO  
BOARD OF ETHICS

WHEREAS: A vacancy exists on the Board of Ethics due to the prior term of Peter Fitch having expired on March 31, 2023; and

WHEREAS: Wendy Neild, a resident of Tioga County, NY has agreed to serve on the Board of Ethics for the currently vacant three-year term with an additional term being available thereafter subject to Legislative reappointment; therefore be it

RESOLVED: That Wendy Neild be and hereby is appointed to the Board of Ethics for a retroactive term beginning April 1, 2023 through March 31, 2026.



REFERRED TO:

FINANCE, LEGAL AND SAFETY COMMITTEE

RESOLUTION NO. -23

AMEND EMPLOYEE HANDBOOK:  
SECTION IV. PERSONNEL RULES, SUBSECTION R.  
ENTITLED TIOGA COUNTY SEXUAL HARASSMENT  
PREVENTION POLICY

WHEREAS: On April 11, 2023, the New York State Department of Labor (DOL), in consultation with the New York State Division of Human Rights, released a revised sexual harassment policy; and

WHEREAS: The Tioga County Sexual Harassment Prevention Policy needs to be amended in whole due to numerous updates and changes; and

WHEREAS: The County Attorney has reviewed the Employee Handbook for compliance with State and Federal Law and has identified the need to amend the policy in its entirety and replace it; therefore be it

RESOLVED: That the Tioga County Sexual Harassment Prevention Policy be amended in its entirety and replaced as follows:

**r. SEXUAL HARASSMENT PREVENTION POLICY**

**TIOGA COUNTY SEXUAL HARASSMENT PREVENTION POLICY**

Sections:

- I. Purpose and Goals
- II. Sexual Harassment and Discrimination Prevention Policy
- III. What is Sexual Harassment
- IV. Retaliation
- V. Reporting Sexual Harassment
- VI. Supervisory Responsibilities
- VII. Bystander Intervention
- VIII. Complaints and Investigation of Sexual Harassment
- IX. Legal Protections and External Remedies
- X. Conclusion

**I. Purpose and Goals**

Tioga County is committed to maintaining a workplace free from harassment and discrimination. Sexual harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but Tioga County recognizes that discrimination can be related

to or affected by other identities beyond gender. Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or status as a victim of domestic violence. Our different identities impact our understanding of the world and how others perceive us. For example, an individual's race, ability, or immigration status may impact their experience with gender discrimination in the workplace. While this policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. The purpose of this policy is to teach employees to recognize discrimination, including discrimination due to an individual's intersecting identities, and provide the tools to act when it occurs. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This policy is one component of Tioga County's commitment to a discrimination-free work environment.

### **Goals of this Policy:**

Sexual harassment and discrimination are against the law. After reading this policy, employees will understand their right to a workplace free from harassment.

Employees will:

- learn what harassment and discrimination look like
- what actions they can take to prevent and report harassment
- how they are protected from retaliation after taking action

The policy will also explain the investigation process into any claims of harassment. Employees are encouraged to report sexual harassment or discrimination by filing a complaint internally with Tioga County. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws. To file an employment complaint with the New York State Division of Human Rights, please visit <https://dhr.ny.gov/complaint>. To file a complaint with the United States Equal Employment Opportunity Commission, please visit <https://www.eeoc.gov/filing-charge-discrimination>.

## **II. Sexual Harassment and Discrimination Prevention Policy:**

1. Tioga County's policy applies to all employees, applicants for employment, and interns, whether paid or unpaid. The policy also applies to additional covered individuals. It applies to anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in our workplace. These individuals 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 through a contract with Tioga County. For the remainder of this policy, we will use the term "covered individual" to refer to these individuals who are not direct employees of the company.

2. Sexual harassment is unacceptable. Any employee or covered individual who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for employees. In New York, harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.
3. Retaliation is prohibited. Any employee or covered individual that reports an incident of sexual harassment or discrimination, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint is protected from retaliation. No one should fear reporting sexual harassment if they believe it has occurred. So long as a person reasonably believes that they have witnessed or experienced such behavior, they are protected from retaliation. Any employee of Tioga County who retaliates against anyone involved in a sexual harassment or discrimination investigation will face disciplinary action, up to and including termination. All employees and covered individuals working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, the County Attorney, or Personnel Officer. All employees and covered individuals who believe they have been a target of such retaliation may also seek relief from government agencies, as explained below in the section on [Legal Protections](#).
4. Discrimination of any kind, including sexual harassment, is a violation of our policies, is unlawful, and may subject Tioga County to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and employers or supervisors who fail to report or act on harassment may be liable for aiding and abetting such behavior. Employees at every level who engage in harassment or discrimination, including managers and supervisors who engage in harassment or discrimination or who allow such behavior to continue, will be penalized for such misconduct.

5. Tioga County will conduct a prompt and thorough investigation that is fair to all parties. An investigation will happen whenever management receives a complaint about discrimination or sexual harassment, or when it otherwise knows of possible discrimination or sexual harassment occurring. Tioga County will keep the investigation confidential to the extent possible. If an investigation ends with the finding that discrimination or sexual harassment occurred, Tioga County will act as required. In addition to any required discipline, Tioga County will also take steps to ensure a safe work environment for the employee(s) who experienced discrimination or harassment. All employees, including managers and supervisors, are required to cooperate with any internal investigation of discrimination or sexual harassment.
6. All employees and covered individuals are encouraged to report any harassment or behaviors that violate this policy. All employees will have access to a complaint form to report harassment and file complaints. Use of this form is not required. For anyone who would rather make a complaint verbally, or by email, these complaints will be treated with equal priority. An employee or covered individual who prefers not to report harassment to their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency.

Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the County Attorney and/or the Personnel Officer.

7. This policy applies to all employees and covered individuals, such as contractors, subcontractors, vendors, consultants, or anyone providing services in the workplace, and all must follow and uphold this policy. This policy must be provided to all employees in person or digitally through email upon hiring and will be posted prominently in all work locations. For those offices operating remotely, in addition to sending the policy by email, it will also be available on the organization's shared network.

### **III. What Is Sexual Harassment?**

Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms

of gender discrimination including gender role stereotyping and treating employees differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of Tioga County's policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts. Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature when:

- The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;
- Employment depends implicitly or explicitly on accepting such unwelcome behavior; or
- Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of such behavior. Such decisions

can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- Behaviors that contribute to a **hostile work environment** include, but are not limited to, 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, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee'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 or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by 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. **This list is just a sample of behaviors and should not be considered exhaustive.** Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or
  - Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).
- Unwanted sexual comments, advances, or propositions, such as:

- Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;
    - This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially those industries where hospitality and tips are essential to the customer/employee relationship;
  - Subtle or obvious pressure for unwelcome sexual activities; or
  - Repeated requests for dates or romantic gestures, including gift-giving.
- Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.
- Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:
  - Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or
  - Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- 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;
  - This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, 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, or name-calling;
- Intentional misuse of an individual's preferred pronouns; or
- Creating different expectations for individuals based on their perceived identities:
  - Dress codes that place more emphasis on women's attire;
  - Leaving parents/caregivers out of meetings.

### **Who Can be a Target of Sexual Harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects employees and all covered individuals described earlier in the policy. **Harassers can be anyone in the workplace.** A supervisor, a supervisee, or a coworker can all be harassers. Anyone else in the workplace can also be harassers including an independent contractor, contract worker, vendor, client, customer, patient, constituent, or visitor.

Sexual harassment does not happen in a vacuum and discrimination experienced by an employee can be impacted by biases and identities beyond an individual's gender. For example:

- Placing different demands or expectations on black women employees than white women employees can be both racial and gender discrimination;
- An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behavior. It is especially important for all employees to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

### **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 or industry sponsored events or parties. Calls, texts, emails, and social media usage by employees or covered individuals can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.



Sexual harassment can occur when employees are working remotely from home as well. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

#### **IV. Retaliation**

Retaliation is unlawful and is any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Examples of retaliation may include, but are not limited to:

- Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an employee as "difficult" and excluding them from projects to avoid "drama";
- Undermining an individual's immigration status; or
- Reducing work responsibilities, passing over for a promotion, or moving an individual's desk to a less desirable office location.

Such retaliation is unlawful under federal, state, and (where applicable) 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:

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

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

## **V. Reporting Sexual Harassment**

**Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination.** Any employee or covered individual is encouraged to report harassing or discriminatory behavior to a supervisor, manager, County Attorney or Personnel Officer. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, County Attorney or Personnel Officer.

Reports of sexual harassment may be made verbally or in writing. A written complaint form is attached to this policy if an employee would like to use it, but the complaint form is not required. Employees who are reporting sexual harassment on behalf of other employees may use the complaint form and should note that it is on another employee's behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another employee is also acceptable.

Employees and covered individuals who believe they have been a target of sexual harassment may at any time seek assistance in additional available forums, as explained below in the section on [Legal Protections](#).

## **VI. Supervisory Responsibilities**

Supervisors and managers have a responsibility to prevent sexual harassment and discrimination. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are required to report such suspected sexual harassment to the County Attorney or Personnel Officer. Managers and supervisors should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act.

Supervisors and managers can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. Supervisors and managers can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment to continue after they know about it.

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

While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

## **VII. Bystander Intervention**

Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it.

## **VIII. Complaints and Investigations of Sexual Harassment**

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt, thorough, and started and completed as soon as possible. The investigation will be kept confidential to the extent possible. All individuals

involved, including those making a harassment claim, witnesses, and alleged harassers deserve a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Tioga County will take disciplinary action against anyone engaging in retaliation against employees who file complaints, support another's complaint, or participate in harassment investigations.

Tioga County recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize an employee. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, investigations will be done in accordance with the following steps. Upon receipt of a complaint, the County Attorney and/or Personnel Officer:

1. Will conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate. If the complaint is verbal, request that the individual completes the complaint form in writing. If the person reporting prefers not to fill out the form, the County Attorney and/or Personnel Officer will prepare a complaint form or equivalent documentation based on the verbal reporting;
2. Will take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, emails or phone records that may be relevant to the investigation. The County Attorney and/or Personnel Officer will consider and implement appropriate document request, review, and preservation measures, including for electronic communications;
3. Will seek to interview all parties involved, including any relevant witnesses;
4. Will create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - a. A list of all documents reviewed, along with a detailed summary of relevant documents;
  - b. A list of names of those interviewed, along with a detailed summary of their statements;
  - c. A timeline of events;
  - d. A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and

- e. The basis for the decision and final resolution of the complaint, together with any corrective action(s).
5. Will keep the written documentation and associated documents in a secure and confidential location;
6. Will promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and
7. Will inform the individual(s) who reported of the right to file a complaint or charge externally as outlined in the next section.

## **IX. Legal Protections and External Remedies**

Sexual harassment is not only prohibited by Tioga County, but it is also prohibited by state, federal, and, where applicable, local law.

The internal process outlined in the policy above is one way for employees to report sexual harassment. Employees and covered individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

### **New York State Division of Human Rights:**

The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in New York State and protects employees and covered individuals, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints of sexual harassment filed with DHR may be submitted any time **within three years** of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the Human Rights Law, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to Tioga County does not extend your time to file with DHR or in court. The three years are counted from the 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 sexual harassment has occurred. Probable cause cases receive a public hearing before an administrative law judge. If sexual harassment is found at the hearing, DHR has the power to award relief. Relief varies but it may include requiring your employer to take action to stop the harassment, or repair the damage caused by the harassment, including paying of monetary damages, punitive 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. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Go to [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at **1(800) HARASS3** for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

### **The United States Equal Employment Opportunity Commission:**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e *et seq.* An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of 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. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated or believes that unlawful discrimination occurred by does not file a lawsuit.

Individuals may obtain relief in mediation, settlement, or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work 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 (TTY: 1-800-669-6820), 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 the New York State Division of Human Rights, DHR will automatically 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. For example, employees who work in New York City may file complaints of sexual harassment or discrimination with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 22 Reade Street, 1<sup>st</sup> Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

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

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

## **X. Conclusion**

The policy outlined above is aimed at providing employees at Tioga County and covered individuals an understanding of their right to a discrimination and harassment free workplace. All employees should feel safe at work. Though the focus of this policy is on sexual harassment and gender discrimination, the New York State Human Rights law protects against discrimination in several protected classes including sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or domestic violence survivor status. The prevention policies outlined above should be considered applicable to all protected classes.

REFERRED TO: FINANCE, LEGAL AND SAFETY COMMITTEE

RESOLUTION NO. -23 ESTABLISH NEW BUDGET LINE,  
MODIFY 2023 BUDGET AND TRANSFER FUNDS  
LAW DEPARTMENT

WHEREAS: The Legal department has identified a need for a budget line to be established for the payment of an attorney and judge for after-hours arraignments of adolescent offenders; and

WHEREAS: There is no line item for this expenditure and Legislative approval is required for budget amendments; therefore be it

RESOLVED: That Legal's 2023 budget be modified with the newly established LEGAL FEES-ADOLESCENCE OFFENDER budget line A1420 540331; and be it further

RESOLVED: That the following funds be transferred:

FROM: A1420	510050	ALL OTHER	\$2000.00
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TO: A1420	540331	LEGAL FEES- ADOLESCENCE OFFENDER	\$2000.00
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REFERRED TO: FINANCE, LEGAL AND SAFETY COMMITTEE  
PERSONNEL COMMITTEE

RESOLUTION NO. AMEND EMPLOYEE HANDBOOK:  
SECTION IX. SAFETY RULES, SUBSECTION M.  
RESTRICTING FIREARMS AND OTHER  
WEAPONS IN OR ON COUNTY BUILDINGS,  
WORKSITES OR VEHICLES

WHEREAS: To ensure Tioga County maintains a workplace safe and free from violence for all employees, Tioga County prohibits the possession or use of dangerous weapons on County property; and

WHEREAS: The Tioga County Restricting Firearms and Other Weapons in or on County Buildings, Worksites or Vehicles Policy needs to be amended in whole due to numerous updates and changes; and

WHEREAS: The County Attorney has reviewed the Employee Handbook and has identified the need to amend the policy in its entirety and replace it; therefore be it

RESOLVED: That the Tioga County Restricting Firearms and Other Weapons in or on County Buildings, Worksites or Vehicles Policy be amended in its entirety and replaced as follows:

**m. RESTRICTING FIREARMS AND OTHER WEAPONS IN OR ON COUNTY BUILDINGS, WORKSITES OR VEHICLES**  
**(FORMERLY POLICY #49)**

**POLICY ON RESTRICTING FIREARMS AND OTHER  
WEAPONS IN OR ON COUNTY BUILDINGS,  
WORKSITES OR VEHICLES**

- I. Policy Statement
- II. Employee Responsibilities
- III. Supervisor/Department Head Responsibilities
- IV. Violation of Policy

**I. POLICY STATEMENT**

No person shall possess any "Deadly Weapon" as defined in New York State Penal Law Section 10.00, Subsection 12, as referred to in Subdivision I (A) of this policy, or any of the enumerated items described in Subdivision I (B), of this policy, in any building owned, leased, or operated by the County or at a worksite of the County, or in a vehicle owned or leased by the County; provided

however that the term 'worksite' or "building" shall not be construed to include any parking lot or exterior building grounds of any building owned, leased, or operated by the County, provided, however, that this policy shall not be interpreted in a manner which would limit the right of a member of the public to carry or possess any lawful weapon in or upon any public highway, right of way, or parking lot.

New York Penal Law Section 10.00 (12) (as of April 11, 2005,) defines the term 'deadly weapon' as including but not limited to: "any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged or a switchblade knife, gravity knife, pilum ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles or metal knuckles".

- A. The following items are prohibited: all rifles, handguns, shotguns, long guns, and machine guns including those using BB's, pellets, or darts, imitation pistols, any other dangerous deadly instrument or any weapon, whether loaded or unloaded.
- B. In addition to the items defined in the above Section I (A), the following items are likewise prohibited but not limited to: knives, switchblades, shivs, shanks, mace, pepper spray, tasers or electric shock devices, slingshots, martial art devices, dynamite and other high explosives, black powder, pellet powder, detonators, safety fuses, igniters, fireworks, ammunition, bombs and grenades.

This policy does not apply to the Sheriff or any deputies or to any other person or persons of municipal, County, State and Federal governments specifically authorized by law to possess any of the above weapons as part of their public job duties.

Individuals in possession of a valid concealed weapons permit are not exempt under this policy and are prohibited from carrying firearms on County property at any time.

The possession, transfer, use and/or distribution of weapons, explosives, or firearms is prohibited on Tioga County property, at County-sponsored events, while conducting County business, or while attending off-site events where employees are representing the County in an official capacity.

Tioga County shall provide a copy of this policy to employees upon hire and make the policy accessible to all individuals via the County website.

## **II. EMPLOYEE RESPONSIBILITIES**

- A. Any County employee who observes, suspects, or has knowledge of an individual in possession of weapons, explosives, or firearms not connected to their employment as a law enforcement officer must report this to their Supervisor and/or Department Head immediately.
- B. Any County employee who observes unattended items they reasonably believe to be weapons, explosives, or firearms must immediately report this to their Supervisor and/or Department Head immediately.
- C. In applying this policy, no employee shall take any action that will risk their own safety or the safety of other individuals. No attempt should ever be made by an employee to restrain or forcibly evict an armed person from county property.
- D. Employees who feel an immediate risk to their safety or the safety of others, should avoid any interaction with the individual. Steps should be taken to secure the area and the employee shall immediately call 911.

## **III: SUPERVISOR/DEPARTMENT HEAD RESPONSIBILITIES**

- A. Supervisors and Department Heads are expected to be knowledgeable of and shall be responsible for implementing this policy within their respective departments.

## **IV: VIOLATION OF POLICY**

- A. Employee Violations
  - 1. In the event of any observed or suspected violations of this policy, Supervisors and/or Department Heads shall inform the employee(s) that they are in violation of the policy and request the weapon, explosive, or firearm be removed from the premises immediately. Any weapon, firearm, or explosive found by Supervisors and/or Department Heads may also be confiscated at the Department Head or Supervisor's discretion.
  - 2. Supervisors and/or Department Heads shall immediately notify the Personnel Officer or their designee of any observed or suspected violations of this policy upon discovery or receiving a report from any individual with a concern.
  - 3. The Personnel Officer or their designee shall investigate reported violations of this policy immediately and assist Department Heads with initiating appropriate action(s) to respond to violations of this policy. Where appropriate the Personnel Officer or their designee may refer the matter to law enforcement for investigation and prosecution.
  - 4. If a violation is believed to be immediate and life threatening, Supervisors and/or Department Heads should immediately call 911.

- B. Violation of this policy by County appointed officers shall subject such officer to discipline up to and including immediate suspension or discharge in accordance with State Law, County, union, and Civil Service discipline and discharge procedures. Discipline is in addition to, and not in lieu of, any criminal or other action provided by Federal or State law.
- C. Violation of this policy by elected officials shall be governed by the applicable provisions of the County Law or other laws of the State of New York which apply to the conduct of elected officials.
- D. Members of the general public shall be denied admission to any building owned, leased, or operated by the County or at a worksite of the County, or in a vehicle owned or leased by the County and may be subject to ban from County property at the Department Head's discretion. This should be done in a calm, informative, non-confrontational manner.
- E. The Sheriff shall be notified in writing of any report of any County officer, elected official or employee or member of the general public who is in violation of this policy.
- F. Retaliation against any individual who has reported a possible violation of this policy is prohibited. Incidents of retaliation shall result in disciplinary action, up to and including termination, in accordance with State Law, County, union, and Civil Service discipline and discharge procedures.

REFERRED TO:

LEGISLATIVE WORKSESSION  
FINANCE, LEGAL & SAFETY COMMITTEE

RESOLUTION NO. -23

APPOINT MEMBER TO  
BOARD OF ETHICS

WHEREAS: A vacancy exists on the Board of Ethics due to the prior term of Joan Case having expired on March 31, 2023; and

WHEREAS: Thomas M. Hall, a resident of Tioga County, NY has agreed to serve on the Board of Ethics for the currently vacant three-year term with an additional term being available thereafter subject to Legislative reappointment; therefore be it

RESOLVED: That Thomas M. Hall be and hereby is appointed to the Board of Ethics for a retroactive term beginning April 1, 2023 through March 31, 2026.

REFERRED TO:

FINANCE, LEGAL AND SAFETY COMMITTEE

RESOLUTION NO. -23

AMEND EMPLOYEE HANDBOOK:  
ADD NEW POLICY TO SECTION IX. SAFETY RULES;  
SUBSECTION O., ENTITLED RESPIRABLE CRYSTALLINE  
SILICA EXPOSURE CONTROL PLAN

WHEREAS: The Occupational Safety and Health Administration (OSHA) has issued two standards to protect workers from exposure to respirable crystalline silica; one is for construction (Silica Construction Standard) and one for general industry (Silica General Industry Standard). The standards require employers to limit worker exposure to silica dust to less than 50 µg/m<sup>3</sup>, as an 8-hour time-weighted average; and

WHEREAS: Tioga County has employees that may perform tasks that may expose them to silica dust; and

WHEREAS: The Safety Officer has written a Respirable Crystalline Silica Exposure Control Plan for compliance with OSHA and the Public Safety and Health Bureau (PESH) regulations; therefore be it

RESOLVED: That the Tioga County Legislature authorizes the adoption of the Respirable Crystalline Silica Exposure Control Plan; and be it further

RESOLVED: That the Employee Handbook is hereby amended to add a new policy to Section IX, Subsection o. entitled Respirable Crystalline Silica Exposure Control Plan.

**o. RESPIRABLE CRYSTALLINE SILICA EXPOSURE CONTROL PLAN**

**RESPIRABLE CRYSTALLINE SILICA EXPOSURE CONTROL PLAN**

CONTENTS:

- I. INTRODUCTION
- II. SCOPE AND APPLICABILITY
- III. COMPETENT PERSON
- IV. WORK PRACTICE AND ENGINEERING CONTROLS
- V. EXPOSURE DETERMINATION
- VI. HOUSEKEEPING MEASURES
- VII. EXPOSURE ASSESSMENT
- VIII. ALTERNATIVE CONTROLS
- IX. RESPIRATORY PROTECTION
- X. WORK AREA RESTRICTION

- XI. MEDICAL SURVEILLANCE
- XII. TRAINING
- XIII. RECORDS
- XIV. ANNUAL REVIEW AND UPDATE
- XV. AVAILABILITY

## **I. INTRODUCTION**

This Exposure Control Plan is established to ensure that employee exposures to crystalline silica are minimized to safe or negligible levels, and to comply with the OSHA/PESH requirements. It is Tioga County's policy to provide a place of employment that is free from recognized hazards that cause or are likely to cause death or serious physical harm to employees or the public. Therefore, employees shall not perform any silica related job activity without the proper training, and use of engineering controls, safe work practices, and respiratory protection to ensure the safety of exposed employees.

## **II. SCOPE AND APPLICABILITY**

Silica exposure can occur in job activities that involve road building and concrete construction where sand, gravel, and concrete are used. Construction related activities including cutting, drilling, grinding, grouting operations, and use of heavy equipment during demolition activities involving silica-containing materials can also contribute to crystalline silica exposure.

The Permissible Exposure Limit (PEL) for worker exposures to silica is 50 micrograms of respirable crystalline silica per cubic meter of air ( $\mu\text{g}/\text{m}^3$ ) as an 8-hour time-weighted average (TWA).

Overexposure of respirable crystalline silica adversely affects the lungs and may cause silicosis, lung cancer, or other diseases. This safety policy and procedure provides guidelines to protect employees from the immediate and long-term effects of respirable crystalline silica.

## **III. COMPETENT PERSON**

The following persons are designated as a "Competent Persons" tasked with making frequent and regular inspections of job sites, materials, and equipment, to implement this written plan:

- Commissioner Of Public Works
- Deputy Commissioner of Public Works
- Highway Supervisors
- Building and Grounds Supervisors
- Tioga County Safety Officer

#### IV. WORK PRACTICE AND ENGINEERING CONTROLS

The Table below lists construction activities with potential silica exposure, along with required engineering and work practice controls. We will follow these engineering and work practice control methods for the specified tasks in all instances.

If methods of exposure control are not sufficient to limit exposure requirements, Personal Protective Equipment (PPE) shall be provided. The exception is where employee exposure will remain below the action level of 25 µg/m<sup>3</sup> as an 8-hour TWA under any foreseeable conditions.

TABLE I

Equipment/task	Engineering and work practice control methods	Required respiratory protection and minimum assigned protection factor (APF)	
		≤ 4 hours/shift	>4 hours/shift
(i) Stationary masonry saws	Use saw equipped with integrated water delivery system that continuously feeds water to the blade. Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions.	None	None
(ii) Handheld power saws (any blade diameter)	Use saw equipped with integrated water delivery system that continuously feeds water to the blade. Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions:		
	-When used outdoors	None	APF 10
	-When used indoors or in an enclosed area	APF 10	APF 10



Equipment/task	Engineering and work practice control methods	Required respiratory protection and minimum assigned protection factor (APF)	
		≤ 4 hours/shift	>4 hours/shift
(iii) Handheld power saws for cutting fiber-cement board (with blade diameter of 8 inches or less)	For tasks performed outdoors only: Use saw equipped with commercially available dust collection system. Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions. Dust collector must provide the air flow recommended by the tool manufacturer, or greater, and have a filter with 99% or greater efficiency.	None	None
(iv) Walk-behind saws	Use saw equipped with integrated water delivery system that continuously feeds water to the blade. Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions:		
	-When used outdoors	None	None
	-When used indoors or in an enclosed area	APF 10	APF 10
(v) Drivable saws	For tasks performed outdoors only:		
	Use saw equipped with integrated water delivery system that continuously feeds water to the blade. Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions.	None	None

Equipment/task	Engineering and work practice control methods	Required respiratory protection and minimum assigned protection factor (APF)	
		≤ 4 hours/shift	>4 hours/shift
(vi) Rig-mounted core saws or drills	Use tool equipped with integrated water delivery system that supplies water to cutting surface. Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions.	None	None
(vii) Handheld and stand-mounted drills (including impact and rotary hammer drills)	Use drill equipped with commercially available shroud or cowling with dust collection system. Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions. Dust collector must provide the air flow recommended by the tool manufacturer, or greater, and have a filter with 99% or greater efficiency and a filter-cleaning mechanism. Use a HEPA-filtered vacuum when cleaning holes.	None	None
(viii) Dowel drilling rigs for concrete	For tasks performed outdoors only:		
	Use shroud around drill bit with a dust collection system. Dust collector must have a filter with 99% or greater efficiency and a filter cleaning mechanism Use a HEPA-filtered vacuum when cleaning holes.	APF 10	APF 10

Equipment/task	Engineering and work practice control methods	Required respiratory protection and minimum assigned protection factor (APF)	
		≤ 4 hours/shift	>4 hours/shift
(ix) Vehicle-mounted drilling rigs for rock and concrete	Use dust collection system with close capture hood or shroud around drill bit with a low-flow water spray to wet the dust at the discharge point from the dust collector.	None	None
	OR		
	Operate from within an enclosed cab and use water for dust suppression on drill bit.	None	None
(x) Jackhammers and handheld powered chipping tools	Use tool with water delivery system that supplies a continuous stream or spray of water at the point of impact:		
	-When used outdoors	None	APF 10
	-When used indoors or in an enclosed area	APF 10	APF 10
	OR		
	Use tool equipped with commercially available shroud and dust collection system.		
	Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions.		
	Dust collector must provide the air flow recommended by the tool manufacturer, or greater, and have a filter with 99% or greater efficiency and a filter-cleaning mechanism:		

Equipment/task	Engineering and work practice control methods	Required respiratory protection and minimum assigned protection factor (APF)	
		≤ 4 hours/shift	>4 hours/shift
	-When used outdoors	None	APF 10
	-When used indoors or in an enclosed area	APF 10	APF 10
(xi) Handheld grinders for mortar removal (i.e., tuck-pointing)	Use grinder equipped with commercially available shroud and dust collection system.	APF 10	APF 25
	Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions.		
	Dust collector must provide 25 cubic feet per minute (cfm) or greater of airflow per inch of wheel diameter and have a filter with 99% or greater efficiency and a cyclonic pre-separator or filter-cleaning mechanism.		
(xii) Handheld grinders for uses other than mortar removal	For tasks performed outdoors only: Use grinder equipped with integrated water delivery system that continuously feeds water to the grinding surface.	None	None
	Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions.		
	OR		
	Use grinder equipped with commercially available shroud and dust collection system		

Equipment/task	Engineering and work practice control methods	Required respiratory protection and minimum assigned protection factor (APF)	
		≤ 4 hours/shift	>4 hours/shift
	Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions.		
	Dust collector must provide 25 cubic feet per minute (cfm) or greater of airflow per inch of wheel diameter and have a filter with 99% or greater efficiency and a cyclonic pre-separator or filter-cleaning mechanism:		
	-When used outdoors	None	None
	-When used indoors or in an enclosed area	None	APF 10
(xiii) Walk-behind milling machines and floor grinders	Use machine equipped with integrated water delivery system that continuously feeds water to the cutting surface.	None	None
	Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions.		
	OR		
	Use machine equipped with dust collection system recommended by the manufacturer.	None	None
	Operate and maintain tool in accordance with manufacturer's instructions to minimize dust emissions.		

Equipment/task	Engineering and work practice control methods	Required respiratory protection and minimum assigned protection factor (APF)	
		≤ 4 hours/shift	>4 hours/shift
	Dust collector must provide the air flow recommended by the manufacturer, or greater, and have a filter with 99% or greater efficiency and a filter-cleaning mechanism.		
	When used indoors or in an enclosed area, use a HEPA-filtered vacuum to remove loose dust in between passes.		
(xiv) Small drivable milling machines (less than half-lane)	Use a machine equipped with supplemental water sprays designed to suppress dust. Water must be combined with a surfactant.	None	None
	Operate and maintain machine to minimize dust emissions.		
(xv) Large drivable milling machines (half-lane and larger)	For cuts of any depth on asphalt only: Use machine equipped with exhaust ventilation on drum enclosure and supplemental water sprays designed to suppress dust.	None	None
	Operate and maintain machine to minimize dust emissions.		
	For cuts of four inches in depth or less on any substrate:		

Equipment/task	Engineering and work practice control methods	Required respiratory protection and minimum assigned protection factor (APF)	
		≤ 4 hours/shift	>4 hours/shift
	Use machine equipped with exhaust ventilation on drum enclosure and supplemental water sprays designed to suppress dust.	None	None
	Operate and maintain machine to minimize dust emissions.		
	OR		
	Use a machine equipped with supplemental water spray designed to suppress dust. Water must be combined with a surfactant.	None	None
	Operate and maintain machine to minimize dust emissions.		
(xvi) Crushing machines	Use equipment designed to deliver water spray or mist for dust suppression at crusher and other points where dust is generated (e.g., hoppers, conveyers, sieves/sizing or vibrating components, and discharge points).	None	None
	Operate and maintain machine in accordance with manufacturer's instructions to minimize dust emissions.		
	Use a ventilated booth that provides fresh, climate-controlled air to the operator, or a remote-control station.		

Equipment/task	Engineering and work practice control methods	Required respiratory protection and minimum assigned protection factor (APF)	
		≤ 4 hours/shift	>4 hours/shift
(xvii) Heavy equipment and utility vehicles used to abrade or fracture silica-containing materials (e.g., hoe-ramming, rock ripping) or used during demolition activities involving silica-containing materials	Operate equipment from within an enclosed cab.	None	None
	When employees outside of the cab are engaged in the task, apply water and/or dust suppressants as necessary to minimize dust emissions.	None	None
(xviii) Heavy equipment and utility vehicles for tasks such as grading and excavating but not including: Demolishing, abrading, or fracturing silica-containing materials	Apply water and/or dust suppressants as necessary to minimize dust emissions.	None	None
	OR		
	When the equipment operator is the only employee engaged in the task, operate equipment from within an enclosed cab.	None	None

## V. EXPOSURE DETERMINATION

Below are the staff members covered under this plan, and the specific operations in which they have potential exposure to crystalline silica:

TABLE II

Job Title	Activity or operation	Frequency (per year)
Highway Maintenance Workers and Supervisors, Building and Grounds Maintenance Mechanics	Cutting, grinding, chipping, or breaking up of concrete or asphalt	Occasionally, up to approximately 10 days per year as part of other operations



## **VI. HOUSEKEEPING MEASURES**

Employees will:

- Use wet methods, such as a water spray on the dust source, wet mopping or wiping, (non-silica containing) sweeping compounds, or vacuums with HEPA filters to remove dust from floors and surfaces.
- Keep bags and other containers of silica-containing waste tightly closed to prevent the dust from escaping and becoming airborne.

Employer will:

- Provide employees with a place to wash up close to the worksite if possible.
- Provide employees with access to vacuums with HEPA filters so that they can safely remove dust from their work clothes before going home.

Employees will not:

- Dry sweep or dry dust to clean up.
- Use compressed air to blow the dust away from surfaces or remove dust from clothing.

## **VII. EXPOSURE ASSESSMENT**

Exposure and work practice controls as noted in TABLE 1 will be used. Exposures above action limits are not anticipated, but in the event of failure of engineering controls, proper PPE including AFP10 respirators will be worn by employees in proximity to source.

## **VIII. ALTERNATIVE CONTROLS**

For any equipment and tasks conducted in this facility and not listed in TABLE 1, alternative control methods will be used to control exposures below the PEL, which may include the following: Wet methods, ventilation, enclosures.

These equipment and tasks are shown below, along with the control methods required at this facility:

TABLE III

Task/equipment	Required engineering and/or work practice control	Required respiratory protection
Road Sweeping	Continuous water supply to wet materials, enclosed vehicle cab with properly rated cabin air filter.	None, if operator is in an enclosed cab with properly rated cabin air filter, and continuous water supply to wet material surfaces.

**IX. RESPIRATORY PROTECTION**

Respirators will be used where required under TABLE I, or where required under another OSHA Standard (for example, abrasive blasting with silica sand).

All users of respirators will be included in a Respiratory protection program (with the exception of voluntary use of filtering facepiece respirators). Please refer to Tioga County's Respiratory Protection Program.

The following staff members/job titles will be included in a Respiratory Protection Program for silica:

None. Exposure control methods under TABLE 1 do not require the use of respirators for the tasks listed as they are performed outdoors for less than 4 hours per shift. If visible dust is produced or there occurs a failure of engineering controls, operations will be ceased until the condition is corrected.

**X. WORK AREA RESTRICTION**

To minimize the number of employees exposed to respirable crystalline silica, including exposures generated by other employers, a restricted work area will be established. Access to this work area will be limited to those involved directly in the work. Signs will be posted as necessary.

**XI. MEDICAL SURVEILLANCE**

Employees who are required under the OSHA/PESH Standard to use a respirator for 30 or more days per year must be included in a medical surveillance program. The program must be at no cost to the employee and administered at a reasonable time and place.

The following staff members/job titles will be included in a Medical Surveillance Program for Silica:

None: We do not expect any of our staff to meet the threshold for being included in a medical surveillance program.

## **XII. TRAINING**

Each employee will have access to safety data sheets and will be trained in accordance with the provisions of the Hazard Communication Standard and the topics below.

The following topics will be addressed:

- Each affected employee will be able to demonstrate knowledge and understanding of:
  
- Health hazards associated with exposure to respirable crystalline silica, including cancer, lung effects, immune system effects, and kidney effects;
  
- Specific tasks in the workplace that could result in exposure to respirable crystalline silica;
  
- Specific engineering controls, work practices, and respiratory protection implemented for protection against exposure to respirable crystalline silica;
  
- The contents of the standards;
  
- The identity of the designated competent person; and
  
- The purpose and a description of the medical surveillance program.

## **XIII. RECORDS**

Air monitoring/Exposure data. If air monitoring is indicated, this record shall include at least the following information:

- Date for each sample;
- Task monitored;
- Sampling and analytical methods used;

- Number, duration, and results of samples taken;
- Identity of the analytical laboratory;
- Type of PPE worn by the employees; and
- Name, social security number, and job classification of all employees represented by the monitoring, indicating which employees were actually monitored.

Exposure records will be maintained and made available in accordance with 29 CFR 1910.1020<sup>1</sup>.

Objective data (if used to characterize employee exposures in lieu of monitoring): This record shall include at least the following information:

- Crystalline silica-containing material in question;
- Source of the objective data;
- The testing protocol and results of testing;
- A description of the process, task, or activity on which the objective data were based; and
- Other data relevant to the process, task, activity, material, or exposures on which the objective data were based.

Objective data will be maintained and made available in accordance with 29 CFR 1910.1020.

Medical surveillance (if necessary): The record shall include the following information about the employee:

- Name and social security number;
- A copy of written medical opinions; and
- A copy of the information provided to the medical provider.

Medical records will be maintained and made available in accordance with 29 CFR 1910.1020.

#### **XIV. ANNUAL REVIEW AND UPDATE**

This Plan shall be reviewed and updated at least annually and as needed.

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<sup>1</sup> See the Publication *Access to Medical and Exposure Records*; U.S. Department of Labor Occupational Safety and Health Administration; OSHA 3110 2001 (Revised)

## **XV. AVAILABILITY**

This written plan will be made readily available for examination and copying upon request, to employees and their designated representatives.

REFERRED TO: FINANCE/LEGAL COMMITTEE

RESOLUTION NO. -23 ACCEPT INDIGENT LEGAL SERVICES AWARD AND AMEND 2023 BUDGET

WHEREAS: The Assigned Counsel Administrator's Office has been awarded an Indigent Legal Services Grant (C130049) in the amount of \$61,902.00; and

WHEREAS: The Tioga County ILS was awarded \$61,902.00 from 01/01/23 through 12/31/25; and this funding now needs to be appropriated; therefore be it

RESOLVED: That the ILS Grant of \$61,902.00 be appropriated and the 2023 Budget be amended as follows:

Revenue Account: A1173 430260 State Aid Indigent	\$ 61,902.00
Expense Account: A 1173 510010 Full Time Salary	\$ 44,778.79
A 1173 510020 Part Time Salary	\$ 13,215.69
A 1173 540040 Books/Westlaw	\$ 1,575.92
A 1173 540620 Software	\$ 2,331.60

And be it further

RESOLVED: That available funds on year end of the original \$61,902.00 will be carried forward into future years until used.