

## **NEW YORK SUPPLEMENT**

### **I. SEXUAL HARASSMENT (ADDENDUM TO DISCRIMINATION, HARASSMENT (INCLUDING SEXUAL HARASSMENT) & RETALIATION PREVENTION POLICY)**

Written complaints can be submitted internally using the form provided with this policy. If you need a copy of the form please contact your Human Resource Manager at 203-586-1771.

Aside from the internal complaint process at the Company, employees may choose to pursue external legal remedies with the following governmental entities based on the noted federal, state and local protections.

#### **State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within three years of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed an HRL complaint in state court.

Complaining internally to the Company does not extend your time to file with DHR or in court. The three years is counted from 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 are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary 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).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the 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, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. 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 DHR, DHR will 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 with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th 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. Contact the local police department.

## **II. REPRODUCTIVE HEALTH DECISION MAKING DISCRIMINATION POLICY**

The Company may not:

- discriminate nor take any retaliatory personnel action against an employee with respect to compensation, terms, conditions, or privileges of employment because of or on the basis of the employee’s or dependent’s reproductive health decision making, including, but not limited to, a decision to use or access a particular drug, device or medical service; or
- require an employee to sign a waiver or other document which purports to deny an employee the right to make their own reproductive health care decisions, including use of a particular drug, device, or medical service.

The Company also may not access an employee's personal information regarding the employee's or the employee's dependent's reproductive health decision making, including but not limited to, the decision to use or access a particular drug, device or medical service without the employee's prior informed affirmative written consent.

An employee may bring a civil action in any court of competent jurisdiction against the Company for any alleged violations of this policy. In any civil action alleging a violation of this policy, the court may: award damages, including, but not limited to, back pay, benefits and reasonable attorneys' fees and costs incurred to a prevailing plaintiff; afford injunctive relief against the Company if it commits or proposes to commit a violation of the provisions of this policy; order reinstatement; and/or award liquidated damages equal to 100% of the award for damages unless the Company proves a good faith basis to believe that its actions in violation of this policy were in compliance with the law.

Any act of retaliation for an employee exercising any rights granted under this policy shall subject the Company to separate civil penalties. For the purposes of this policy, retaliation or retaliatory personnel action shall mean discharging, suspending, demoting, or otherwise penalizing an employee for: making or threatening to make, a complaint to the Company, co-worker, or to a public body, that rights guaranteed under this policy have been violated; causing to be instituted any proceeding under or related to this policy; or providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry into any such violation of a law, rule, or regulation by the Company.

Employees with issues or concerns regarding this policy or who feel they have been subjected to any alleged violation of this policy should contact the Human Resources Department.

### **III. BREAKS**

All employees who work a shift of more than six (6) hours are entitled to one (1) uninterrupted, unpaid 30 minute meal break. The break scheduling and timing are at the sole discretion of the manager on duty but should be after the first two hours of the beginning of the shift and before the last two hours of the end of the shift. Meals for all shifts that are six (6) hours or less must be taken prior to or after your shift. Employees should not perform any work during their 30 minute unpaid meal break. Employees are allowed to leave the restaurant during all breaks. Employees must clock out and in for all meal breaks. If exceptional circumstances arise where an employee believes that they are unable to take an uninterrupted 30-minute meal break, the employee should notify their manager immediately. Employees may be entitled to additional meal breaks depending on the time and/or length of their shifts.

### **IV. TIP CREDIT POLICY**

Tips may be used as a credit against the minimum wage for **some** employees, including but not necessarily limited to servers and bartenders, as permitted by federal and state law. Federal and state law permit the Company to take a tip credit toward the minimum hourly wages paid to tipped employees. Therefore, in consideration of the additional tip income received by some tipped

employees, the Company may take a tip credit with respect to the hourly rate paid directly to tipped employees. As a result, the hourly rate paid directly to tipped employees may be less than the standard statutory minimum hourly wage rate. (The difference between the hourly cash wage rate paid directly by the Company and the minimum hourly wage rate is known as a tip credit.) However, this credit cannot exceed the tips the tipped employee actually receives and in no case will an employee's total compensation, including hourly wages and tips, be less than the statutory minimum hourly wage rate. All tips received by a tipped employee must be retained by the tipped employee, except for tips contributed to a valid tip pooling or tip sharing arrangement limited to employees who customarily and regularly receive tips. If a tipped employee does not receive enough tips over the course of a week to bring them up to the minimum hourly wage rate and overtime rate (if applicable), the employee will be paid additional wages that week to make up the difference.

All servers and bartenders paid at the tip credit rate (and any other employees for whom a tip credit may be taken) are hereby informed of the tip credit and your signature acknowledging that you were provided this handbook with this policy is further evidence that you were so informed and understand this tip credit notice.

You should also receive and sign a Notice and Acknowledgement of Pay Rate ("Notice") explaining similar tip-related concepts and informing you of your specific pay rates. Please contact the General Manager or Human Resources immediately if you have not received such a Notice or if you any questions about any of the provisions in this policy or any of the information contained in the Notice.

## **V. NEW YORK PAID SICK LEAVE**

**Eligibility.** The Company provides paid sick leave to employees who work in New York. For employees who work in New York who are eligible for sick leave under the general Paid Time Off policy and/or any other applicable sick time/leave law or ordinance, this policy applies solely to the extent it provides greater benefits/rights on any specific issue or issues than the general Paid Time Off policy and/or any other applicable sick time/leave law or ordinance.

**Accrual.** Employees begin accruing paid sick leave at the start of employment. Employees will accrue one (1) hour of paid sick leave for every thirty (30) hours worked, up to a maximum accrual of forty (40) hours each calendar year. Exempt employees are assumed to work forty (40) hours in each workweek unless their normal workweek is less than forty (40) hours, in which case paid sick leave accrues based upon that normal workweek. For purposes of this policy, the benefit year is the consecutive 12-month period beginning on an employee's anniversary date.

**Usage.** Employees may begin using accrued paid sick leave immediately. Paid sick leave may be used in a minimum increment of four (4) hours. An employee may not use more than forty (40) hours of accrued paid sick leave in any benefit year.

Employees may use accrued paid sick leave:

- 1) For a mental or physical illness, injury, or health condition of such employee or such employee's family member, regardless of whether such illness, injury, or health condition

has been diagnosed or requires medical care at the time that such employee requests such leave;

- 2) For the diagnosis, care, or treatment of a mental or physical illness, injury or health condition of, or need for medical diagnosis of, or preventive care for, such employee or such employee's family member; or
- 3) For an absence from work due to any of the following reasons when the employee or employee's family member has been the victim of domestic violence, a family offense, sexual offense, stalking, or human trafficking:
  - a. to obtain services from a domestic violence shelter, rape crisis center, or other services program;
  - b. to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
  - c. to meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;
  - d. to file a complaint or domestic incident report with law enforcement;
  - e. to meet with a district attorney's office;
  - f. to enroll children in a new school; or
  - g. to take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

A person who has committed such domestic violence, family offense, sexual offense, stalking, or human trafficking will not be eligible for paid sick leave for situations in which the person committed such offense and was not a victim, notwithstanding any family relationship.

For purposes of this policy, "family member" means an employee's child (biological, adopted, or foster child, a legal ward, or a child of an employee standing in loco parentis), spouse, domestic partner, parent (biological, foster, step, adoptive, legal guardian, or person who stood in loco parentis when the employee was a minor child), sibling, grandchild, or grandparent; and the child or parent of an employee's spouse or domestic partner.

Unless the employee advises the Human Resources Department otherwise, we will assume, subject to applicable law, that employees want to use available paid sick leave for absences for reasons set forth above and employees will be paid for such absences to the extent they have paid sick leave available.

**Notice and Documentation.** Employees may make requests to use paid sick leave orally or in writing. Employees must provide reasonable advance notice of the need to use accrued paid sick leave to the Human Resources Department if the need is foreseeable. Where the need is not foreseeable, employees should provide notice as early as practicable.

The Company may require supporting documentation for the use of paid sick leave where the employee uses sick leave for three or more consecutive or previously scheduled work days or shifts, to the extent permitted by applicable law. Requests for documentation should not specify the reason for leave but should be limited to: (i) an attestation from a licensed medical provider supporting the existence of a need for sick leave, the amount of leave needed, and a date that the

employee may return to work; or (ii) an attestation from an employee of their eligibility to leave. The Company will not require the disclosure of confidential information relating to a mental or physical illness, injury, or health condition of such employee or such employee's family member, or information relating to absence from work due to domestic violence, a sexual offense, stalking, or human trafficking, as a condition of providing paid sick leave. The Company will not require an employee to pay any costs or fees associated with obtaining medical or other verification of eligibility for use of sick leave.

**Payment.** Paid sick leave will be paid at the employee's regular rate of pay or the applicable state minimum wage, whichever is greater. Use of paid sick leave is not considered hours worked for purposes of calculating overtime.

**Carryover & Payout.** An employee may carry over accrued, unused paid sick leave under this policy to the following benefit year. Accrued but unused paid sick leave under this policy will not be paid at separation.

**Enforcement & Retaliation.** Employees will not be discharged, threatened, penalized or in any other manner discriminated or retaliated against because such employee has exercised their rights to paid sick leave under this policy and applicable law including, but not limited to, requesting paid sick leave and using paid sick leave, consistent with this policy and applicable law.

If employees have any questions regarding this policy, they should contact the Human Resources Department.

## **VI. LACTATION BREAKS**

Employees who are nursing are provided with break time to express breast milk for up to three (3) years after the birth of a child. Employees will not be discriminated against or retaliated against for exercising their rights under this policy and reasonable efforts will be made to provide a private room or location in close proximity to the work area for this purpose.

## **VII. BLOOD DONATION LEAVE**

In accordance with New York Labor Law, the Company will provide employees who work in New York at least twenty (20) hours per week up to three (3) hours of unpaid leave in any calendar year to donate blood.

Employees must provide Human Resources with reasonable notice of their intention to participate in a blood drive. If the blood drive is at an offsite location, employees must provide at least three (3) days advance notice. If the blood drive is onsite, employees must provide at least two (2) days advance notice.

The Company fully supports the use of this leave to make a blood donation. We will not tolerate any form of retaliation against an employee for requesting or using leave to donate blood.

## **VIII. NEW YORK STATE PAID FAMILY LEAVE (ADDENDUM TO FMLA POLICY)**

### **Eligibility Requirements**

Employees who have a regular work schedule of 20 or more hours per week and have been employed at least 26 consecutive weeks prior to the date paid family leave (“PFL”) begins (or who have a regular work schedule of less than 20 hours per week and have worked at least 175 days prior to the date PFL begins) are eligible for PFL. Paid time off can be counted toward an employee’s eligibility determination. Employees are eligible for PFL regardless of citizenship and/or immigration status. An employee has the option to file a waiver of PFL and therefore not be subject to deductions when their regular employment schedule is: (i) 20 or more hours per week but the employee will not work 26 consecutive weeks; or (ii) less than 20 hours per week and the employee will not work 175 days in a 52 consecutive week period.

### **Entitlement**

PFL is available to eligible employees for up to twelve (12) weeks within any 52 consecutive week period: (a) to participate in providing care, including physical or psychological care, for the employee’s family member (child, spouse, domestic partner, parent, parent-in-law, grandchild or grandparent) with a serious health condition; or (b) to bond with the employee’s child during the first twelve months after the child’s birth, adoption or foster care placement; or (c) for qualifying exigencies, as interpreted by the Family and Medical Leave Act (FMLA), arising out of the fact that the employee’s spouse, domestic partner, child, or parent is on active duty (or has been notified of an impending call or order to active duty) in the armed forces of the United States. The 52 consecutive week period is determined retroactively with respect to each day for which PFL benefits are currently being claimed.

PFL benefits are financed solely through employee contributions via payroll deductions. The weekly monetary benefit will be 67% of the employee’s average weekly wage or 67% of the state average weekly wage, whichever is less.

The Company and an employee may agree to allow the employee to supplement PFL benefits up to their full salary with paid time off, to the maximum extent permitted by applicable law.

An employee who is eligible for both statutory short-term disability benefits and PFL during the same period of 52 consecutive calendar weeks may not receive more than 26 total weeks of disability and PFL benefits during that period of time. Statutory short-term disability benefits and PFL benefits may not be used concurrently. If an employee is unable to work and qualifies for workers’ compensation benefits, the employee may not use PFL benefits at the same time the employee is receiving workers’ compensation benefits. An employee receiving reduced earnings may be eligible for PFL.

Leave *may not* be taken for any one, or for a combination of, the following reasons: (i) for a birth mother’s pregnancy or prenatal conditions; (ii) for an employee’s own health condition; and/or; (iii) for an employee’s own qualifying military event.

### **Definition of a Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition, including transplantation, preparation and recovery from surgery related to organ or tissue donation, that involves: (a) inpatient care in a hospital, hospice or residential health care facility; or (b) continuing treatment or continuing supervision by a health care provider.

### **Use of Leave**

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently in daily increments. Leave taken on an intermittent basis will not result in a reduction of the total amount of leave to which an employee is entitled beyond the amount of leave actually taken.

### **Employee Responsibilities**

An employee must provide thirty (30) days' advance notice before the date leave is to begin if the qualifying event is foreseeable. When thirty (30) days' notice is not practicable for reasons such as lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee must provide notice as soon as practicable and generally must comply with the Company's normal call-in procedures. Failure by the employee to provide (30) days' advance notice of a foreseeable event may result in partial denial of the employee's benefits for a period of up to thirty (30) days from the date notice is provided.

Employees must provide sufficient information to make the Company aware of the qualifying event and the anticipated timing and duration of the leave. Employees must specifically identify the type of family leave requested. Employees also must provide medical certifications and periodic recertification or other supporting documentation or certifications supporting the need for leave. An employee requesting paid family leave must submit a completed Request for Paid Family Leave or PFL-1 form and additional certification form(s) as follows to Standard Security Life Insurance Company: (1) Bonding Certification: PFL-2 Form plus documentation; (2) Health Care Provider Certification: PFL-4 Form plus Personal Health Information (PHI) Release (PFL-3 Form); or (3) Military Qualifying Event: PFL-5 Form plus documentation. To obtain the PFL claim forms, employees must contact the Company's PFL Carrier, Standard Security Life Insurance Company at 646-509-2100.

To submit a request for PFL, employees must populate part A of the PFL 1 Form, and submit it to the Company Human Resource manager. The Company will populate its section of the form – Part B, and will return it to employees within 3 business days. If the Company fails to respond, employees may submit all materials directly to Standard Security Life Insurance Company. Depending on the type of PFL leave employees are seeking, employees will be required to complete additional PFL forms as described in notice the employees will receive from Standard Security Life Insurance. Employees must submit the completed PFL forms to Standard Security Life Insurance before or within 30 days after the start of their leave. Standard Security Life Insurance must pay or deny leave requests within 18 calendar days of receiving an employee's completed forms.

### **Job Benefits and Protection**

During any PFL taken pursuant to this policy, the Company will maintain coverage under any existing group health insurance benefits plan as if the employee had continued to work. The employee must make arrangements with Human Resources prior to taking leave to pay their portion of any applicable health insurance premiums each month.

The Company's obligation to maintain health insurance coverage ceases if an employee's premium payment is more than 30 days late. If an employee's payment is more than 15 days late, the Company will send a letter notifying the employee that coverage will be dropped on a specified date unless the co-payment is received before that date.

Any employee who exercises their right to PFL will receive job protection. This means that upon the expiration of that leave, the employee will be entitled to be restored to the position held by the employee when the leave commenced, or to a comparable position with comparable benefits, pay, and other terms and conditions of employment. The taking of leave covered by PFL will not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. While on PFL, employees will not continue to accrue paid time off.

#### **Leave Concurrent with FMLA**

The Company will require an employee who is entitled to leave under both the FMLA and PFL, to take PFL concurrently with any leave taken pursuant to the FMLA. When the total hours taken for FMLA in less than full-day increments reaches the number of hours in an employee's usual workday, the Company may deduct one (1) day of PFL from an employee's annual available PFL.

#### **Questions and/or Complaints about PFL**

If employees have any questions regarding this policy, they should contact their management team. For additional information concerning leave entitlements and obligations that might arise when PFL is either not available or exhausted, please consult the Company's other leave policies or contact Human Resources at 203-586-1771 extension 303. The Company is committed to complying with the PFL and shall interpret and apply this policy in a manner consistent with the PFL. Employees who disagree with a denial of their claim for PFL may submit their dispute to arbitration. Employees will be provided with information about how to request arbitration.

Employees are protected from discrimination and retaliation for requesting or taking PFL. If employees believe their rights have been violated and/or denied job restoration as a result of requesting and/or taking PFL, they must send Human Resources a formal request for job reinstatement using the *Formal Request For Reinstatement Regarding Paid Family Leave (Form PFL-DC-119)*, which can be found in the forms section of <https://www.ny.gov/PaidFamilyLeave>. Employees must file the completed form with the Company and send a copy to: Paid Family Leave, P.O. Box 9030, Endicott, NY 13761-9030. If the Company does not comply with an employee's request for reinstatement within 30 days, the employee may file a PFL discrimination complaint with the Workers' Compensation Board using the *Paid Family Leave Discrimination Complaint (Form PFL-DC-120)*, which is also available on the New York Paid Family Leave website. Once an employee's complaint is received, the Board will assemble the employee's case and schedule a preliminary hearing in front of a Workers' Compensation Law Judge.

By signing this you acknowledge that you have read and understand the information given.

Employee's Printed Name: \_\_\_\_\_

Position: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_

Date: \_\_\_\_\_