

Nelson A. Rockefeller Empire State Plaza Performing Arts Center Corporation
(herein referred to as "The Egg")

EMPLOYEE HANDBOOK

POLICIES **Rules of Attendance**

Public Hours

The Egg is open to the public and should be sufficiently staffed during public hours so as to provide any needed services.

Workweek (Full Time Employees)

Due to the nature of presenting the performing arts the workweek for full time salaried employees of The Egg will vary from week to week and will include working on evenings and weekends. Salary is calculated as 37.5 hours per week. It is anticipated that employees will report a minimum of 37.5 hours for *each week* of a two week time period. This may be a combination of hours worked and leave accrual taken. The workweek is Wednesday through Thursday to coincide with payroll.

All employee schedules must be approved by their designated supervisor, and changes in schedule after this approval must be submitted to and approved by the Executive Director.

The Egg requires employees to have flexibility in their work schedules and recommends the use of alternative work schedules where it will maximize productivity of operations and quality of service, expand coverage, and increase employee morale. When considering employees' requests for individual schedules, the operating needs of the Egg are the foremost, but certainly not the only consideration when accommodating employees.

The appropriate supervisors or Executive Director's approval will be required when an alternative work schedule is submitted by an employee.

Attendance Records

All Egg employees must maintain a record of their working time. A daily record of hours worked or leave used will be posted by each employee on a Time and Attendance sheet. A Time and Attendance sheet, which certifies your attendance, must be signed and submitted to your supervisor. Time sheets are subject to review by a supervisor to confirm their accuracy.

Time sheets not submitted in a timely manner may result in a hold being placed on a paycheck.

Paid Holidays

The official holidays for the Egg are:

New Years Day	Labor Day
Martin Luther King Jr. Day	Columbus Day
Presidents Day	Veterans Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day
Juneteenth Day	

For these days each *full time* Egg employee is credited with 7.5 hours towards his/her basic work week. Should an employee be required to work on any of these official holidays, he/she will be able to transfer this 7.5 hour credit (in whole day increments *only*) to another day of their choice, pending approval by the employee's direct supervisor or The Egg Executive Director.

Each fiscal year The Egg may designate up to two of these holidays as floating holidays, which can be used on another date of their choice (in full day increments only) in order to meet the needs of The Egg.

Accrued holiday hours must either be utilized or be scheduled and receive approval to be utilized within 60 days of earned date. In addition all accrued holiday time must be used by the last day of the fiscal year or they become forfeit on the first day of the new fiscal year. The Executive Director may, with concurrence from the Chair, extend the 90 day provision when requested in writing by the employee. Any approved extension will automatically expire on September 30, and any unused accruals will be forfeited. In no case shall any extension carry over into the next year without the Chair's approval.

Vacation

Full time employees who are in full pay status for at least seven workdays of the ten during each biweekly pay period earn vacation credit.

At the completion of 13 biweekly payroll periods of service, new employees are credited with 48.75 (6^{1/2} days) of vacation. Thereafter vacation is credited at the rate of 7.5 hours (one day) every two pay periods.

Seven and one half (7.5), or one day of vacation are credited at the completion of each full year of continuous service, up to a maximum of seven such additional days of vacation.

Employees who have completed seven years of service are credited with vacation at the rate of 20 days per year (11.5 hours every two payroll periods). These employees also add one half hour bonus to their annual leave credits on their annual leave anniversary date for each year of service.

Each full time employee may accrue up to 40 days (300 hours) of vacation credit during the fiscal year (April 1-March 31). These accrual hours must either be utilized or be scheduled and receive approval to be utilized within 90 days, by the last day of the fiscal year or they become forfeit on the first day of the new fiscal year. The Executive Director may, with concurrence from the Chair, extend the 90 day provision when requested in writing by the employee. Any approved extension will automatically expire on September 30, and any unused accruals will be forfeited. In no case shall any extension carry over into the next year without the Chair's approval.

Use of Vacation accrual

Vacation accruals are taken at the mutual convenience of the Egg and the employee. Requests for utilization of vacation time must be submitted in writing to the employee's immediate supervisor for prior approval and subsequently accepted by the Executive Director and/or the Chairman of The Egg. Substantial and reasonable notice of at *least* one week **must** be provided for each vacation leave request.

Conflicts with Egg activities and/or necessary business may result in denial of leave requests.

In the event of death, retirement or separation from service, cash compensation may not exceed 30 days (225 hours).

Personal leave

All full time Egg employees receive upon starting work, and each year thereafter on the anniversary of that start date, credit for five days (37.5 hours) to be used during that year for personal business occurring during the course of normal business hours. Personal days may be used incrementally and are to be used for non-health related business.

Personal day allotments not used in the year are forfeited.

Sick leave

All full time Egg employees receive credit for sick time accruals immediately upon beginning employment. Sick time is accrued at the rate of one half-day each biweekly pay period, for a total of 13 days per year. Sick leave may be accumulated to a maximum of 200 days (1500 hours). Documentation to substantiate prolonged sick time usage may be required at any time and at management's discretion to assure proper use of sick leave.

An employee is required in the case of illness to notify his/her supervisor within two hours of the beginning of the normal work day, and preferably earlier if possible.

Sick leave credits may be used for personal illness; illness or death in the employee's family up to a maximum of 15 days per year; and for personal visits to the doctor or dentist. In addition sick leave credits may be used for absence of an employee who is visually handicapped or hearing impaired for the purpose of obtaining a guide dog and any other related training.

Appropriate documentation must be provided if requested by senior management. Failure to provide such documentation maybe considered undocumented leave, and a payroll deduction for those sick accrued sick hours utilized will result. Supervisors should make certain that medical excuses are valid and have the right along with senior management to verify the dates in question.

In general, employees may only use sick leave to the extent that it has been earned. Employees who do not have enough time credited to cover an absence due to illness maybe granted up to 5 days (37.5 hours) of advance sick leave accruals fro personal illness. These credits are to be repaid as soon as is practical from accumulated vacation, compensatory and/or new sick time accruals. Upon termination, the value of any advanced sick time taken that has not been repaid will be deducted from any compensation due the employee.

Abuse of sick time accrual usage may result in disciplinary action.

Family and Medical Leave Act (FMLA)

The Family and Medical Leave Act (FMLA) provides employees who are face with serious family or personal illness or child care responsibilities in connection with birth, adoption, foster parenting or placement, with reasonable amounts of leave in order to support stability and productivity in the workplace.

Employees of the Egg are eligible for coverage under the FMLA if they have been employed by the Egg for at least one year and have performed a minimum of 1250 hours of service during the 12 consecutive months immediately proceeding the date the requested leave is to begin. Eligible employees may take unpaid leave or paid leave charged to leave credits under certain circumstances for a period of up to 12 workweeks in a calendar year for the following reasons:

1. to care for the employee's spouse, son or daughter, or parent (as defined under law) who has a serious health condition;
2. for a serious health condition that makes the employee unable to perform their job; or
3. to care for the employee's child after birth, or placement of a child for adoption or foster care.

Under certain conditions, this leave may be taken on an intermittent basis. Employees are also entitled to the uninterrupted continuation of health and other insurances, provided the employee meet the obligations for payment of their shares of premiums during the leave period.

Under the Act, the Egg has a right to 30 days advance notice from any employee requesting such leave, where practicable. In addition the Egg will require an employee to submit certification from a health care provider (as defined by the Act) to substantiate that the leave is due to a serious health condition of the employee or member of the family. The Egg may also require documentation from an employee absent due to personal illness as a condition of returning to work.

All FMLA requests must be submitted to the Executive Director and approved by the Chair of the Empire Center at the Egg.

Other Leave

Eligible employees are granted leave without pay without charge to credits for jury duty or subpoenaed court attendance, including travel to and from the courthouse. Employees must submit to their supervisor a signed statement of the dates and hours served. This material is to be submitted with the appropriate time card. On those days when employees are dismissed early from court service, they are expected to report for the balance of the workday.

Employees involved as parties in court actions must charge leave credits for time taken off.

Compensatory time

"Exempt" full time, salaried Egg employees may be required to work additional hours due to the nature of their duties. These employees are eligible for compensatory time consideration upon completion of 40 hours of service during any regular weekly (Thursday through Wednesday) period. Accrual of these hours is factored in terms of a weekly, not daily, accumulation. Compensatory time will be applied before use of personal, holiday and/or vacation accruals and will be forfeit if unused within 180 days. Compensatory time accruals may not exceed 225 hours at any time and have no value at time of separation of service.

Overtime pay

Positions eligible for overtime pay are determined in accordance with the Fair Labor Standards Act, and in general, receive overtime pay at the rate of time plus one half for hours worked in excess of 40 each week. The rate and ratio of overtime compensation may be determined by department.

Tardiness

Tardiness, extended lunches and early departure may be subject to disciplinary action.

Responsibility of Supervision

Supervisors are responsible for ensuring their staff adhere to Egg attendance procedures concerning work schedules, time and attendance sheets, tardiness and use of leave credits; arrival and departure of staff is made in such a way as not to interfere with other employees working different schedules; and the unit is staffed for the public and official hours without undue burden on any employee.

Equal Employment Opportunity/Affirmative Action

Federal and state law, as well as Empire Center (the Egg) policy provide for equal employment opportunity without regard to race, creed, color, religion, national origin, age, sex, disability, marital status, sexual orientation or veteran's status.

Smoking

Smoking is not allowed inside Egg offices, or anywhere else in the facility, in compliance with New York State law.

Any and all breaks for smoking must be done outdoors or on the Plaza level and must be off time. There is *no* provision for smoking breaks in the NYS labor laws. As with all laws and ordinances, complete compliance is expected of all employees at all times, *without exception*.

Alcohol and Substance Abuse

The use of alcohol or illegal substances on the job site is strictly prohibited and may be cause for immediate dismissal.

As well, alcoholic beverages are not allowed anywhere on the premises without a valid NYS liquor license. It is important that if anyone on staff, or any incoming talent or technical personnel are discovered with alcohol or illegal substances that management be informed **immediately**.

Dress Code

It is the responsibility of department supervisors to develop and implement appropriate dress codes for their employees. All employees should dress in a professional manner. In most cases this would exclude the wearing of shorts, sandals, flip-flops, hats, tee shirts, tank tops, and frayed or faded jeans. It is understood that working conditions, particularly for members of the stage crew, must allow for clothing that is appropriate for engaging in physical labor. Supervisors may approve dress code exceptions as appropriate due to work and weather conditions, provided that the overall goal of presenting the Center in a professional light is not dramatically compromised.

Telephone Usage

Personal phone calls, whether incoming or outgoing, are expected to not last more than five minutes total, to be kept to a minimum, and not to supersede Egg business or the conduct of same with other Egg employees.

Any non business related long distance call by an employee is considered an abuse of the telephone policy and may result in disciplinary action. In addition, employees will be required to reimburse the Egg for costs associated with any non business personal telephone calls.

Dual Employment

Any employee of the Egg who receives compensation from any other employer must file a notice of dual employment with the Executive Director.

Dual employment, either paid or voluntary (with regard to full time employees), must not result in any conflict of interest or interference with regular work hours or work efficiency.

EMPLOYEE BENEFITS

Health Insurance

At the discretion of the Board of Directors, the Egg sponsors a comprehensive health insurance program only for full time employees and their dependents. Enrolment is optional. The program contains a variety of plans that include the Empire Plan and several HMO's. The Corporation absorbs a major portion of the cost of coverage, but employees must pay a premium.

At the discretion of the Board, other available benefits include dental, vision, hearing disability, life and workers compensation insurances.

Retirement Plan

A retirement plan will be provided to all eligible employees of the Egg.

The Egg is a member of the NYS Retirement system. All full time must join upon date of hire. Part time Egg employees have an option to join and date of hire and must state and sign a waiver if they decline to join. Full details regarding participation and requirements are available from The Egg Business Manager.

Personnel Practices and Procedures

Payroll Information

Egg full time employees are paid bi-weekly on a one week lag basis. All part-time personnel are paid on a two week lag basis. Payroll periods run from Thursday through Wednesday. In general, paychecks are available after 12pm on Wednesdays. Checks not picked up by close of business on payday will be mailed.

Job Descriptions

All employee positions at the Egg are defined by a written job description. Each description is scripted by the supervisor overseeing the position and approved by the Executive Director, at which point it is submitted to the employee for review, discussion and signature. This process should be completed as close to the hiring process or assignment to a new job as possible. Signed descriptions are on file with the Business Manager as well as with the Executive Director.

Performance Reviews

Annual reviews are conducted based on the anniversary of the employee's date of employment. Special performance reviews are performed based on individual circumstances.

If the employee's supervisor or The Egg Executive Director finds the services of a staff member unsatisfactory, but believes that the employee's performance can be improved, the staff member will be advised in writing by the Executive Director of the fact that his/her work is unsatisfactory and of ways that it is unsatisfactory. The staff member will be counseled by The Egg Executive Director or their supervisor on methods of improvement, and a trial period will be suggested. The trial period will involve measurable goals which, if not met by the end of the trial period, may result in the termination of employment. A memorandum to the employee's file will be made of this meeting. The employee's supervisor or The Egg Executive Director will make a review during the trial period, and a memorandum of findings will also be included in the files. If performance has not improved by the end of the trial period, termination will occur.

The Chair of the Empire Center at the Egg will conduct an annual performance review of the Executive Director.

Employee Conduct

Actions for which discipline shall be imposed include (but are not limited to); violations of Egg policy, incompetence, misconduct, insubordination, and abusive or obscene language and/or gestures.

Termination of Employment

Termination of employment is defined as release from service to the Egg, either through dismissal or voluntary resignation. Dismissal may be immediate or within a designated time frame. In instances of voluntary resignation, a minimum two week notification is requested.

There is no severance pay if an employee is terminated from employment. A person terminated from employment, however, will receive vacation pay due to him/her up to 30 days, in addition to any pay owed for time worked up to the termination date.

Accrued compensatory time is forfeited upon termination and ineligible for final reconciliation.

Personal time is forfeited upon termination and ineligible for consideration for final reconciliation.

Sick time accruals are non-reimbursable and will not be reimbursed.

Upon leaving the service of The Egg, all Egg property and keys must be surrendered to the Executive Director before final payment can be disbursed. Any Egg property not returned will have a fair and current value assessed to it by the Executive Director against its original cost, and such value will be deducted from the employee's final check.

Continuance of insurance coverage will be in accordance with the plans available at the time that the employee leaves the employ of The Egg.

CONFLICT OF INTEREST

Employees are expected to devote their best efforts to the interests of the organization and the conduct of its affairs. The Empire Center at The Egg recognizes the right of employees to engage in activities outside of their employment which are of a private nature and unrelated to our business.

It is impossible to describe all the circumstances and conditions that might cause a Conflict of Interest. However, the following are set forth to guide employees specifically in the areas of Outside Employment and Financial Interests.

- Employees have an obligation to devote their full employment time to the business of The Empire Center at The Egg and may not engage in any outside professional work without full disclosure to the Executive Director.
- If an employee, spouse or other member of an employee's immediate family is engaged in a business similar in nature to The Empire Center at The Egg's, it must be disclosed in full to the Executive Director.
- No employee may engage in outside work that will interfere with his or her primary job with The Empire Center at The Egg. Nor will any employee engage in any activity of a nature that is in some way hostile or adverse to The Empire Center at The Egg.
- No outside work may be done during regular office hours and no corporate facilities, equipment (e.g. telephones, computers), labor or supplies are to be used to conduct any outside activity.
- An exception can be made when an employee is a volunteer member of an organization in which participation is beneficial to The Empire Center at The Egg, or in which the employee serves as a representative of The Empire Center at The Egg.
- Any employee doing any outside work is under an obligation to advise his or her client that the work is in no way by, for, or in the name of The Empire Center at The Egg.

A Financial Interest, whether through business, investment, or immediate family (spouse, children and parents), is described as one or more of the following:

- An ownership or investment in, or compensation arrangement with, an entity with which The Empire Center at The Egg has a transaction or arrangement, or
- A potential ownership or investment interest in, or compensation arrangement with, any entity with which The Empire Center at The Egg is negotiating a transaction or arrangement, or
- Borrowing money or anything of value from an individual or entity with which The Empire Center at The Egg has a transaction or arrangement. However, borrowing from banks, insurance companies or other recognized institutions that do business with the Center, on terms and conditions that are offered to the general public, is not considered a conflict of interest.
- Directly or indirectly engaging in any substantial financial transaction with a benefactor of The Empire Center at The Egg unless the transaction is in the ordinary course of the business of the benefactor.

- Acceptance of cash gifts in any amount, and any non-cash gifts in excess of \$100 in any calendar year by you or members of your immediate family from an entity with which The Empire Center at The Egg has a transaction or arrangement, or with which the Center is negotiating a transaction or arrangement. This does not include the acceptance of items of nominal or minor value that are clearly tokens of respect or friendship, ordinary business meals and business entertainment or items received at public events.

Determination of Conflict of Interest: A policy of full disclosure must be followed to assess and prevent potential conflicts of interest from arising. Contact your supervisor or The Empire Center at The Egg's Business Manager if you have questions regarding a possible conflict of interest or outside work.

Employees are required to annually disclose any Outside Employment and/or Financial Interest in writing. The Executive Director shall make the determination of whether they create a Conflict of Interest. Such determination shall be provided to the employee in writing.

If it is determined that a Conflict of Interest does exist, the Executive Director shall determine steps to be taken to remedy the situation in order to remove the Conflict of Interest. In the case of the Executive Director, the Chairman of the Board of The Empire Center at The Egg shall make such determinations.

Failure to disclose or discuss information related to any of the above points may lead to corrective action up to and including discharge.

Egg Code of Conduct

The Egg Code of Conduct is important in helping to positively shape the culture of our organization. It is a set of guidelines that assist in linking our daily decision-making, behavior and actions to the vision, goals and standards of the organization. It is intended to supplement your own common sense, integrity and values. Our customers have a right to expect the business of The Egg to be carried out with efficiency, fairness, impartiality and integrity so as to promote confidence and trust. I firmly believe our colleagues also deserve the same courtesies and it is up to all of us to help ensure the highest standards of behavior are maintained at The Egg. It is vital for us all to understand our obligations and rights as employees of The Egg. This Code outlines the most important areas. If you have any questions about the Code, please discuss them with the Executive Director or a member of The Egg Board of Directors. I encourage everyone to consider the positive actions we can take to reinforce this Code and strengthen our passion and commitment to our workplace.

Introduction

The Code of Conduct and its content to everyone engaged by The Egg including the Executive Director, managers, supervisors and staff. While the Code is designed to provide guidance on expected standards and behaviors or help when faced with ethical decisions, all Egg employees have to take individual responsibility for their actions and decisions. A breach of issues outlined in The Egg Code of Conduct is a serious matter and will be managed under disciplinary guidelines.

General principles underlying the Code

The Egg Code of Conduct is based on a number of principles which underpin behaviors expected of The Egg staff:

- Responsive, customer-focused work practices
- Integrity, fairness and professionalism
- Respect for people
- Workplace flexibility & efficiency
- Loyalty to the public interest
- Safety and security

Key Areas of the Code

The Egg Code of Conduct contains guidelines to assist employees in applying the general principles to everyday work practices. The guidelines are based on the following areas:

- Individual performance and accountability
- Commitment to our customers
- Ethical standards
- Using the Egg's resources
- Conflict of interest
- Gifts & benefits
- Corrupt conduct
- Fair and equitable behavior
- A safe and secure work environment
- Records and information
- Making public comment
- Outside employment
- Relevant legislation

Individual performance and accountability

All Egg employees have a responsibility to perform well in their job and develop a culture where they are inspired to achieve outstanding results and where they can realize their potential.

Expectations

- Carry out the responsibilities outlined in the employee's job description or other agreed performance plan
- Follow reasonable direction from managers/supervisors, be flexible and adaptable and expect the same from others
- Actively contribute suggestions or identify opportunities for improved ways of working; participate and communicate within staff members
- Maintain, and seek to improve, the skills and knowledge required for job requirements.
- Display a professional image appropriate to the nature of role and work area
- Act honestly and fairly, in a consistent and impartial manner
- Use the organization's resources responsibly
- Take responsibility to keep informed about, and respond to, the objectives, needs and priorities of the organization
- Raise issues or problems through appropriate channels and contribute to solutions where possible
- Work safely and not be under the influence of alcohol or other drugs that can adversely affect performance or the safety of others
- Managers and supervisors are accountable for work produced by staff reporting to them and for fostering standards of ethical behavior
- Managers and supervisors are responsible for ensuring that staff knows:
 - what their accountabilities are how they should do their job and what the outcomes should be
 - that they will take prompt action if unethical behavior occurs what the process is for staff to discuss
 - development opportunities

Commitment to our customers/patrons

Our commitment to customers is to deliver a professional and consistently high level of service.

Definition

The Egg has a wide range of customers including presenting partners and service providers, audiences, tourists, the general public and our colleagues.

Expectations

To respond to all customers/patrons:

- In a timely and efficient way, listening to their requirements and acting on any feedback
- With professional and respectful communication and behavior
- With accurate and consistent information, or undertaking follow-up action if information is not readily available
- Impartially and without discrimination
- By taking ownership for problems and seeking to provide solutions wherever possible.

Ethical standards

Employee standards and expectations are contained within The Egg Employee Handbook and other documents such as this Code and the Fraud Response Plan.

Definition

Behavior and practices that is lawful and consistent with The Egg's objectives, values and Code of Conduct.

Ethical standards underpin all areas of the Code. Below are guidelines related to some specific areas where ethical decision-making could arise:

The Egg resources

The Egg resources and equipment include computer and telecommunications equipment, money, facilities and work time. All Egg resources are to be used lawfully, ethically and as economically as possible, clarifying with your manager any financial delegation levels, expenditure or guidelines for appropriate levels of use if you are not aware of them. Official approval must be obtained from The Egg Executive Director before you use any Egg property, facilities or equipment for personal or private purposes. All purchases and purchase requests should follow the guidelines in the Egg Procurement Manual

Computer Information

-User IDs and passwords should never be given out to anyone else unless there is an organizational requirement and you have obtained approval from your manager

-Never intentionally transmit, download, communicate or access offensive material, images or text such as pornographic material.

-Never send fraudulent, unlawful or abusive information or messages

-Downloading image files, music files, etc, for work-related purposes is permitted according to The Egg internet and email policies

-Never download software from the internet without proper authorization.

-Failure to heed these policies and guidelines will result in disciplinary action and could lead to dismissal.

Conflict of interest

Sometimes personal interests may conflict with Egg employment or duties. Any actual or possible conflict of interest must be declared and resolved to the satisfaction of The Egg management.

Examples of potential conflicts of interest are:

-Financial interests in a matter dealt with by The Egg or being aware of friends or relatives having such an interest

-Offering a friend or relative a vendor position at The Egg.

Definition

If this situation arises, discuss the matter with the Executive Director, and together decide on an appropriate course of action. Confidentiality will be maintained.

Acceptance of gifts and benefits

Definition Generally, gifts, benefits or hospitality should not be accepted. Token gifts occasionally received in the course of your job or as a thank you, such as flowers, chocolates or other inexpensive items, are usually acceptable

If in doubt, discuss the situation with your supervisor or manager, but the main principles to keep in mind are:

-It must not influence, or appear to influence how we work or make impartial decisions

-It must not be worth a substantial amount of money

-It must be declared to your supervisor, manager or the Executive Director.

Corrupt conduct/Fraudulent Behavior

Definition Corrupt conduct/fraud occurs when a staff member: participates in fraud, theft, bribery, misconduct or violence; misuses confidential information contrary to instructions; uses The Egg resources or materials for a purpose other than their work, without approval from management

Expectations

If you know about, or have good reason to suspect, corrupt or criminal conduct, you must report it immediately. You can report it in confidence to:

- In the first instance your manager or supervisor
- The Egg Executive Director

The above reporting procedure should be followed in all instances

Fair and equitable behavior

All Egg employees must behave fairly, respectfully and without discrimination to other employees or customers at all times. Discriminatory behavior can take the form of comments, harassment, bullying or violence in the workplace. In addition, all Egg employees must not discriminate against people or treat them differently on the basis of their:

- Race, color, ethnicity, nationality
- sex
- Marital status
- Age
- Disability
- Sexual orientation
- Pregnancy
- Religious belief
- Political belief

Decisions and actions should be reasonable, fair and appropriate to the circumstances, based on consideration of all facts and supported by documentation where necessary.

A safe and secure work environment

Safety and security in The Egg working environment are of vital importance.

Expectations

- General awareness & understanding – raise any safety or security issues that you become aware of with management
- Ensure you understand and are able to carry out the safety processes of your area and job role
- Listen for the Emergency Warning system from OGS and follow any evacuation instructions promptly.

Records and information

It is important to collect and store knowledge and information so it is preserved, accessible and can be used appropriately for future decision-making. Therefore, all Egg employees have a responsibility to make and store records that support day-to-day operations, outcomes and decisions. Email is included in the official definition of business records.

Confidential information

Confidential information, especially personal information, must be kept secure to avoid unauthorized access or disclosure. Confidential information or documents should only be collected or disclosed:

- If it is necessary in the course of carrying out your job
- When required by The Egg procedure or law, or
- In exceptional circumstances when authority by your manager or other relevant person has been given or when called to give evidence in court.

Making public comment

There are circumstances in which personal opinion can be interpreted as being an official comment on behalf of, or criticism of, The Egg or the state government. As an individual, you have the right to make public comment and participate in social and political discussion. However, as an Egg employee, before making comment to the public or media, you are required to:

- Obtain prior consent from the Executive Director.
- Be aware that the Executive Director and the Chairman of The Board are designated to make, or advise on the protocol for making official comment on behalf of The Egg.

-Refrain from giving personal opinion on The Egg operations to members of the public, including customers. As a minimum, preface your remarks with a comment that they are made in a private capacity and do not represent the official view of The Egg

-Generally, aim to disclose only official, factual information that is normally given out to members of the public. If we disagree with any of the organization's policies or actions, we should raise concerns with The Egg Executive Director.

Outside employment

In order to undertake any paid work outside of The Egg, permanent (including permanent part-time) and fulltime temporary (including seasonal) staff must liaise with their department manager and obtain written permission from the Executive Director. We need to keep in mind that:

- The work must be done in our own time or during unpaid leave
- The other job should not affect our work at The Egg.
- There cannot be a conflict of interest between our job at The Egg and the outside work.

Sexual Harassment Policy

Nelson A Rockefeller Empire State Plaza Performing Arts Center (a/k/a "The Egg") is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of The Egg commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with The Egg. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. The Egg's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with The Egg. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Egg will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of The Egg who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a supervisor or manager. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject The Egg to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. The Egg will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. The Egg will keep the investigation confidential

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees 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 provided pursuant to a contract with the employer.

to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

6. All employees are encouraged to report any harassment or behaviors that violate this policy. The Egg will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Executive Director.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and 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 includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment includes, but is 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. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’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 who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under 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:

- 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;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual 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 or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person’s sexuality or sexual experience, which create a hostile work environment.

- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- 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.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, 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, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

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

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

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, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; 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.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The Egg cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor or manager. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor or manager.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to management.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue. Supervisors and managers will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Egg will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, management will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).

- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

Sexual harassment is not only prohibited by The Egg but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at The Egg, employees 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 seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal 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 one year** 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 a HRL complaint in state court.

Complaining internally to The Egg does not extend your time to file with DHR or in court. The one year or 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.

Contact DHR at (888) 392-3644 or visit 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 or via email at 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.

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.

Since the quality of the work environment may substantially impact the efficiency and effectiveness of an employee's job performance, the Egg is dedicated to providing each employee with safe and pleasant surroundings. It is Egg policy that harassment in the workplace, whether it is on the basis of race, creed, color, religion, national origin, age, sex, disability, marital status, sexual orientation or veteran's status is *unacceptable* and will be subject to immediate disciplinary action, including dismissal.

As sexual harassment may be the most ambiguous form of harassment, the Federal Equal Employment Opportunity Commission (EEOC) has issued guidelines identifying what constitutes sexual harassment in the workplace. As with other forms of discrimination, sexual harassment is a violation of Section 703 of Title VII of the Civil Rights Act of 1964 and the New York State Human Rights Law.

As defined by the EEOC and New York State Executive Order 19, unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. submission to such conduct by an individual is used as the basis for employment decisions affecting the individual;
2. submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting the individual; or
3. such conduct has the purpose or effect of interfering unreasonably with an individual's work performance or creating an intimidating, hostile or offensive work environment.

The Egg Fraud Response Plan

1. Introduction

1.1 The Egg is committed to the highest possible standards of openness, probity and accountability in all its affairs. It is determined to maintain a culture of honesty and opposition to fraud and corruption.

1.2 In line with that commitment, The Egg's Anti-Fraud Policy outlines the principles we are committed to in relation to preventing, reporting and managing fraud and corruption.

1.3 This Fraud Response Policy reinforces The Egg's approach by setting out the ways in which employees or members of the public can voice their concerns about suspected fraud or corruption. It also outlines how The Egg will deal with such complaints.

2. Implementation

2.1 This plan is to be implemented where suspicions of fraud or corruption have been raised.

Fraud is defined as:

"The intentional distortion of materials, property, monetary, financial information or other records by persons internal or external to The Egg which is carried out to conceal the misappropriation of assets or otherwise for gain".

Corruption is defined as:

"The offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person".

2.2 Fraudulent or corrupt acts may include:

Systems Issues - Where a process/system exists which is prone to abuse by either employees or public.

Financial Issues - Where individuals or companies have fraudulently obtained money from The Egg.

Equipment Issues - Where The Egg's equipment is used for inappropriate personal use.

Resource Issues - Where there is a misuse of resources, (e.g. theft of materials)

Other Issues - Activities undertaken by officers of The Egg which may be: unlawful; against The Egg's policies, falls below established standards or practices; or amounts to improper conduct.

2.3 This is not an exhaustive list. If you are in any doubt about the seriousness of your concern, advice and guidance can be obtained from the Executive Director or an Egg Board Member.

3. Safeguards

3.1 **Harassment or Victimization** - The Egg recognizes that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Egg will not tolerate harassment or victimization and will take action to protect those who raise a concern in good faith.

3.2 **Confidentiality** - The Egg will do its best to protect an individual's identity when he or she raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.

3.3 **Anonymous Allegations** - This policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of The Egg. In exercising this discretion, the factors to be taken into account would include: the seriousness of the issues raised; the credibility of the concern; and the likelihood of confirming the allegation from attributable sources.

3.4 **Untrue Allegations** - If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, individuals make malicious or vexatious allegations, action may be considered against the individual making the allegation.

4. Employee Actions

4.1 Employees are often the first to realize that there is something seriously wrong within The Egg. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to The Egg. They may also fear harassment or victimization. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion.

4.2 The Egg' action plan is intended to encourage and enable staff to raise serious concerns within The Egg rather than overlooking a problem or blowing the whistle to the media or other external bodies.

4.3 In essence, employees should approach The Egg Executive Director, member of the Egg Board of Directors or the Internal Control Officer. If the claim is substantiated, the Executive Director and the Internal Control Officer will be notified and consulted. The nature of the complaint will determine The Egg's course of action.

5. Public Actions

5.1 The Egg encourages members of the public who suspect fraud and corruption to contact The Egg Executive Director, member of the Egg Board of Directors or Internal Control Officer.

5.2 The Internal Control Officer operates independently of all other The Egg processes and departments, and works to establish procedures with the following aims:

- Develop an anti-fraud culture.
- Deter, prevent, detect and investigate fraud and corruption.
- Seek appropriate actions against those who commit or seek to commit some sort of fraud or corruption.
- Obtain compensation in respect of any losses to The Egg.

5.3 The possible courses of action taken by The Egg are outlined below.

6. How Will Allegations of Fraud or Corruption Be Dealt With By The Egg?

6.1 For issues raised by employees or members of the public, the action taken by The Egg will depend on the nature of the concern. The matters raised may:

- be investigated internally
- be referred to the Police

6.2 Within 5 working days of a concern being received, The Egg Executive Director or designated staff member will write to the complainant:

- acknowledging that the concern has been received;
- indicating how it proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling them whether any initial enquiries have been made; and
- Telling them whether any further investigations will take place, and if not, why not.

6.3 Where the loss is substantial, legal advice should be obtained without delay. Legal advice should also be obtained about prospects for recovering losses, where the perpetrator refuses repayment. The Egg would normally expect to recover costs in addition to losses.

The Egg accepts that those people who reported the alleged fraud or corruption need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will receive information about the outcomes of any investigation.

7. Review

7.1 This plan will be reviewed at least annually or after each use. Any need for change will be reported to the board of directors for approval.