

THE **TIME'S UP** GUIDE TO

Working in Entertainment

Your Rights in Auditions

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TIME'S[™]
== UP
FOUNDATION

Staying Safe in Entertainment Workplaces

TIME'S UP was born in Hollywood, when actresses, producers, directors, and screen professionals from across the industry started calling out the rampant sexism, violence, and double standards that workers in entertainment endure.

By speaking up, speaking out and speaking together, we regain [our] power. And we hopefully ensure that this kind of rampant predatory behavior as an accepted feature of our industry dies here and now.

— *Lupita Nyong'o*

In response, TIME'S UP Entertainment created this guide, a resource for those in the entertainment industry who find themselves experiencing or witnessing workplace misconduct. This includes harassment, discrimination, unwanted touching, sexual assault, and rape. *The TIME'S UP Guide to Working in Entertainment* covers auditions, nude and simulated sex scenes, information about reporting misconduct, and more.

No matter your situation, you have options. We're here to help by connecting you with resources and information so you can determine your best path forward. In the meantime, trust yourself. If something doesn't feel right, it probably isn't. If it seems like a red flag, it probably is. It's okay to say "no", to speak up, and to leave situations that make you uncomfortable. No role, job, or relationship is worth compromising your physical or emotional safety.

And if something happened to you, we believe you. You are not alone and we are here to help.

If you have feedback to help us improve this guide, we welcome it. Please contact us at hello@timesupnow.org. If you need to reference these guides on the go, text SAFESSETS to 306-44.

In solidarity,

TIME'S UP

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Resources at a Glance

U.S. Equal Employment Opportunity Commission (EEOC)

202-663-4900

202-663-4494 TTY

[Harassment webpage](#)

[Field office locator](#)

To find more information about the laws where you live, contact your [local or state Civil Rights agency](#).

Rape, Abuse & Incest National Network (RAINN)

800-656-HOPE (4673)

Live-chat option on [the RAINN's website](#).

TIME'S UP Legal Defense Fund

202-319-3053

Online intake form is available [on the TIME'S UP website](#).

The Actors Fund

New York City: 800-221-7303

Chicago: 312-372-0989

Los Angeles: 888-825-0911

More information on their [website](#).

Women In Film Sexual Harassment Helpline

323-545-0333

More information [on their website](#).

Auditioning Overview

Historically, the “casting couch” has been a terrible reality in the entertainment industry. Sexual predators have used auditions as an opportunity to exercise their power over auditioning actors. Many performers have had their personal and physical boundaries compromised because the wrong person was in charge of casting (or worse, wasn’t casting a legitimate project at all).

Whether you’re taking part in an audition, accompanying someone else to an audition, or part of the audition process, our guide will help you understand:

- ▶ Your rights when auditioning, including your rights around sexual harassment and discrimination during auditions;
- ▶ How to prepare for requests for physical intimacy between auditioning actors and nudity during auditions; and
- ▶ How to address potentially dangerous situations you might encounter while auditioning.

If you are in imminent danger now or at any time, call 911 immediately.

Your rights under the law

In general, employees (including actors participating in casting meetings and auditions) are protected from sexual harassment and discrimination under federal and state employment laws. However, these laws do not apply in all employment contexts. For example, the Civil Rights Act of 1964, the federal law that prohibits discrimination in employment on the basis of sex, race, color, national origin, and religion, only applies to businesses with more than 15 employees and does not apply to independent contractors. Yet certain states provide more robust protections, including California and New York. We’ve provided more detail on those protections below.

If something happened to you during an audition and you are trying to understand your options, please refer to the federal and state law section of our guide, [Your Right to Report Sexual Misconduct and Harassment](#). It can help you educate yourself about your rights and the options available to you if you’d like to take action or seek support.

If you are a SAG-AFTRA member

If you are a member of SAG-AFTRA and the production is covered by a SAG-AFTRA collective bargaining agreement, its rules regarding sexual harassment and discrimination generally apply to auditions and any type of casting meeting or other professional meeting.

- ▶ View [SAG-AFTRA's Code of Conduct](#)
- ▶ Learn more about [SAG-AFTRA's guidelines for auditions](#)

SAG-AFTRA members also have certain rights related to payment for auditions. They must be paid for auditions as follows:

- ▶ **First and Second Auditions:** No payment is due for the first hour from the call time or arrival time, whichever is later. For each additional half-hour, a performer is entitled to \$42.
- ▶ **Third Audition:** No payment is due for the first two hours as long as three or fewer performers are called back per role, and none of those performers is on their first audition. Otherwise, a performer is entitled to \$167.94 for the first two hours. For each additional half-hour over two hours, \$42 is due.
- ▶ **Fourth Audition and thereafter:** No payment is due for the first two hours as long as three or fewer performers are called back per role, and none of those performers is on their first audition. Otherwise, a performer is entitled to \$335.87 for the first four hours. For each additional half-hour, \$42 is due.
- ▶ If you do not put down your SAG-AFTRA ID #, you may not be paid. Always put down your ID # on audition sign-in sheets, rather than stating your ID # is "on file."
- ▶ Pension and Health contributions are made on audition payments.

Pre-Audition Considerations

Audition location

No matter your union status, you can say “no” to a casting if the location makes you uncomfortable.

SAG-AFTRA opposes auditions, interviews, and similar professional meetings from taking place in private hotel rooms or at private residences. These are high-risk locations, and you don’t have to agree to meet in them. If you are a SAG-AFTRA member, you can file a complaint with SAG-AFTRA if employers are hosting casting meetings in these locations by calling 855-SAG-AFTRA / 855-724-2387 and press 1.

The casting director wants to meet in a hotel room. What can I do?

Propose a neutral location that won’t compromise your safety, such as a space at a workplace, during work hours. Regardless of the location you agree upon, take a friend with you to the audition.

[SAG-AFTRA’s Code of Conduct](#) recommends that you have a “support peer” with you during an audition in a private home or hotel room. This person should be able to see and get to you at all times during the audition.

Even if you are not a union member, use this strategy.

“Come back sexier”

If a casting director asks you come back for a second audition looking “sexier,” consider asking why. If the request is related to the role, it is not necessarily inappropriate or unlawful. However, you do not have to comply with the request if it makes you uneasy.

Depending on the reason for the request, it may indicate that inappropriate behavior will be tolerated on set. If you feel that the culture of a production won’t comport with your values or support your creativity, you do not have to place yourself in that environment.

Chemistry reads, kissing, and nudity

A “chemistry read” is when a performer is asked to interact with another performer being considered for the role opposite them. Sometimes during chemistry reads, performers are asked to perform intimate acts, such as kissing or nudity. (Note that our advice below is also relevant for film, TV, and photo shoots.)

If you have been asked to do a chemistry read or be involved in any situation that involves physical touch or nudity, know that you have rights. Also, there are ways in which you can prepare.

Before you arrive at the audition:

- 1 Confirm the extent of intimacy the casting director would like to see (including costume) and that it is relevant to the role;
- 2 Evaluate your boundaries; and
- 3 Communicate those boundaries in writing, such as through an email.

Have an honest conversation with yourself about what you feel comfortable doing:

- ▶ Kissing? French kissing?
- ▶ Semi-nudity? Wearing a swimsuit?
- ▶ Are you comfortable being touched? What touching crosses a line for you?

Also, consider the extrapersonal boundaries:

- ▶ Who do you want in the room?
- ▶ If the audition is being recorded, who do you want to have access to the tape?

Then, communicate your boundaries with the casting director. You can also write a written agreement that states:

- ▶ That any recording of a nude or semi-nude audition will be confidential, with a list of the people who will have or be allowed access to the recording.
- ▶ All recorded material must be protected and destroyed once the role has been cast.
- ▶ If you are asked to audition in specific clothing (e.g. swimwear), you will be informed in advance.
- ▶ If you are nude or semi-nude, you may bring a support person to accompany you throughout the shoot. The only other people allowed to be present in the audition room will be the casting director and/or director/producer, and the performer.

You can create this agreement yourself and send it in advance.

Next, make sure the casting director has agreed to your terms about what you will and won't do before you arrive at the chemistry read. If you have representation, and/or if you take a person with you for support, tell them your boundaries so they can advocate for you, if necessary.

Many performers have had their boundaries compromised in the moment, due to unexpected pressure from a director or photographer. You have the right to stick to your boundaries, no matter what excuses or reasons they present.

Before the scene starts, have a frank conversation with your acting partner and the casting director. Share your boundaries and ask your acting partner about their boundaries. Everyone should be clear about what will and will not happen in the read, and what will happen with any recording of the scene.

The following SAG-AFTRA contract term (Section 43(A) of the SAG-AFTRA Basic Agreement) applies to intimacy during auditions, such as chemistry reads.

- ▶ The Producer’s representative will notify the performer (or their representative) of any nudity or sex acts expected in the role (if known by management at the time) prior to the first interview or audition.
- ▶ The performer shall also have prior notification of any interview or audition requiring nudity and shall have the absolute right to have a person of the performer’s choice present at that audition.
- ▶ Total nudity shall not be required at such auditions or interviews; the performer shall be permitted to wear “pasties” and a G-string or its equivalent.

You have the right to report any violation of these rules to SAG-AFTRA.

Remember that just like in life, you have the right to refuse to participate in, or back out of, any nudity or sex act. You can change your mind at *any* time.

Your Body is Your Own

You have the right to determine what nudity and intimate acts, if any, you will engage in during a chemistry read. Be upfront, proactive, and advocate for yourself. Never assume others will take care of your boundaries. Create and communicate them, and, if they are compromised, you can stop immediately.

If you are pressured to compromise your own boundaries (i.e., take off your top when you’ve made it clear you aren’t comfortable doing so), you can:

- ▶ Repeatedly state “No”
- ▶ Alert your accompanying friend or representative, if present
- ▶ Call a friend or representative
- ▶ Leave the situation

If the company or studio financing the film or project has a human resources department, you can report the inappropriate conduct, even if it doesn’t qualify as illegal harassment. You can also report the behavior to SAG-AFTRA if you are a member. If it is illegal harassment, you have additional options. You can view more information in our guide, [Your Right to Report Sexual Misconduct and Harassment](#).

Discrimination during casting

Under federal law, employers with 15 or more employees may not discriminate against applicants or employees on the basis of:

- ▶ Race
- ▶ Color
- ▶ Religion
- ▶ Sex (including pregnancy status)
- ▶ National origin
- ▶ Age (40+)
- ▶ Disability
- ▶ Genetic information

Casting directors are prohibited from asking you about your status within these categories during the hiring process (unless there is a legal basis for their doing so, which is extremely rare) and acting on that information.

Yet, simply asking the question is not enough: discrimination requires the employer to make an employment decision. They would have to ask this question and then not hire you for the role due to your response to violate federal law.

However, casting directors *can* make audition and casting choices based on what would otherwise be protected classifications, such as age and sex, if necessary, for the purposes of genuineness or authenticity of the role, under the *Bona Fide Occupational Qualification* exception in the Equal Employment Opportunity Commission's Regulations. Casting directors should make clear they are seeking actors who can play a role of a certain age, sex, or race (rather than saying that the actor must be that age, sex, or race).

Okay, but sometimes they ask anyway. So how do I respond and still get considered for the role?

You can answer a question about your age, pregnancy status, race etc in a way that does not actually answer the question. Here are some ideas:

- ▶ "Here is a list of the various roles I've been cast in..."
- ▶ "I'm capable and open to playing a wide variety of roles."
- ▶ "I feel best cast in the following types of roles..."
- ▶ "I don't feel comfortable answering that question."
- ▶ "That question is too personal for me."
- ▶ "That's a question for my agent/manager."

Minors and auditions

Minors are generally children under the age of 18. The extra age can vary by state and by legal status, such as emancipation or marriage. Under the SAG-AFTRA contract,

the term “minor” means any performer under the age of 18 unless that person:

- ▶ Has satisfied the compulsory education laws of the state governing the performer’s employment;
- ▶ Is married;
- ▶ Is a member of the armed forces; or
- ▶ Is legally emancipated, in which case both the producer and the minor must comply fully with the legal terms of the minor’s emancipation.

State and federal protections for minors

Minors and their parents have rights under federal and state employment laws. For example, under California labor laws, a parent or guardian must be present at all times while a minor is working, including during wardrobe, hair, and makeup, and shall have the right to be within sight and sound of the minor at all times, including during casting. The only exception is when the child is attending on-set school during production.

In New York, employers who engage child performers must obtain a certificate to employ the minor, and the parents or guardians must obtain a Child Performer Permit before the minor is eligible to work. A “Responsible Person,” such as a parent or guardian, must be designated to monitor the activity and safety of each child performer under the age of 16 in the workplace. The employer must allow the Responsible Person to be within sight or sound of the minor at all times during the workday.

SAG-AFTRA protections for minors

SAG-AFTRA does not provide separate guidelines or requirements for auditions of minors. However, SAG-AFTRA, under Section 50 of the SAG-AFTRA Basic Agreement, provides guidance for the employment of minors in the entertainment industry, which includes supervisory requirements, such as having a parent or guardian present at all times when a minor is working and when the minor is in wardrobe, hair, or makeup.

Auditions are considered work. During the audition, a minor’s parent or guardian must be present in the audition room with the minor and be with the minor at all times throughout the audition. The person managing casting must allow this.

Additional information for child actors and their parents:

- ▶ Visit [Children In Film’s website](#) for detailed descriptions of labor laws and work permit requirements for the state your child is working in
- ▶ The [U.S. Department of Labor Wage and Hour Division survey](#) of child labor laws by state
- ▶ The [State of California](#) has regulations governing the employment of minors in the entertainment industry
- ▶ The [State of New York](#) has laws regarding the employment of child performers:
- ▶ The [State of New York](#) also has regulations governing the employment of child performers

Sexual Harassment During Auditions and Casting

Sexual harassment can occur in many situations: while networking, on a film set, and during or after meetings. Here, we've focused on sexual harassment during the casting process.

How do I know if I was illegally sexually harassed during an audition?

Whether sexual harassment qualifies as illegal depends on several factors, including the type of behavior. For example, petty slights, annoyances, and isolated incidents (i.e., a hand on your thigh, a comment about your clothing) may be inappropriate but are not necessarily illegal.

Harassment must be on the basis of one or more of the following factors to be illegal:

- ▶ Race
- ▶ Color
- ▶ Religion
- ▶ Sex (including pregnancy status)
- ▶ National origin
- ▶ Age (40+)
- ▶ Disability
- ▶ Genetic information

In addition, the conduct must satisfy the legal definition of harassment under federal and/or state law. There are two main forms of harassment in the workplace: *quid pro quo harassment* and *hostile work environment harassment*.

- ▶ *Quid pro quo harassment* occurs when a supervisor (or other person in a position of authority) requires an applicant or employee to submit to sexual advances as a condition of employment or career advancement.
- ▶ *Hostile work environment harassment* involves unwelcome conduct that is "severe or pervasive" in nature and has the effect of interfering with a person's work performance or of creating an intimidating, hostile,

or offensive working environment. For this type of harassment, the harasser can be a supervisor, a coworker, an agent of the employer, or a non-employee.

For more information about unlawful harassment under federal law, visit the U.S. Equal Employment Opportunity Commission (EEOC)'s [website](#).

To find more information about the laws where you live, contact your [local or state Civil Rights agency](#).

Finally, if the company running the audition has a harassment or discrimination policy or an employee handbook, they may provide further information regarding behavior that is prohibited in their workplaces. **Behavior does not have to be illegal to violate company policy.** If the company or studio financing the film or project has a human resources department, you can report the inappropriate conduct, even if it doesn't qualify as illegal harassment. If it is illegal harassment, you have additional options. You can view more information in our guide, [Your Right to Report Sexual Misconduct and Harassment](#).

The casting director made it clear that if I wanted the job I had to engage in sex or sexual acts. Is this harassment?

Yes, this could be what is known as “quid pro quo harassment.” This is when the person in a position of power, such as a casting director, promises a performer an advantage, such as a role or higher pay, if the performer yields to their sexual advances.

If the person in the position of power makes a threat – such as no role, a lesser role, or blacklisting – if the performer refuses the advances, this is also quid pro quo harassment and you may have an actionable legal claim. You can view more information in our guide, [Your Right to Report Sexual Misconduct and Harassment](#).

What if I agreed to do the sexual acts to get the job? Is it still harassment?

Yes. Even if you engaged in the sexual acts, it would still be considered harassment if the sexual acts were a requirement for getting the job and you didn't want to engage in those acts.

If the sexual acts were something you wanted to do, it probably isn't harassment.

Agreeing to do something and wanting to do it can be very different things.

What if the harassment wasn't explicit? It was pretty clear that if I wanted the job, I had to engage in sexual acts, but the casting director did not say it outright.

Given the amount of power the casting director typically has, it may be illegal harassment, depending on the specific statements or acts.

What if the casting director or someone else at the audition did or said something to me that doesn't seem like quid pro quo harassment but was unwelcome. Is that harassment?

Depending on what happened, the behavior could be "hostile work environment harassment."

This is conduct that is "severe or pervasive" in nature, and has the effect of interfering with your work performance or of creating an intimidating, hostile, or offensive working environment.

For this type of harassment, the harasser can be a supervisor, a coworker, an agent of the employer, or a non-employee.

Where can I find more information on the different types of harassment?

The [EEOC website](#) provides additional information about workplace sexual harassment.

If you need help evaluating your specific situation, you can contact the TIME'S UP Legal Defense Fund. If your complaint involves sexual harassment at work, you may qualify for a free legal consultation.

TIME'S UP Legal Defense Fund

202-319-3053

Online intake form is available [on the TIME'S UP website](#).

Retaliation Overview

When an employer, supervisor, or someone in a position of power takes negative employment action against an employee who engaged in a lawful activity, such as making a complaint or opposing an unlawful practice, it's called retaliation. Retaliation is illegal under federal and state law, and is not permitted under [SAG-AFTRA's Code of Conduct](#).

Retaliation can include:

- ▶ Denial of work assignments or less favorable assignments
- ▶ A decrease in pay
- ▶ Being reprimanded for making the complaint
- ▶ Getting a negative performance evaluation that's not accurate
- ▶ Verbal or physical abuse
- ▶ Threatening to make, or actually making reports to authorities (such as reporting immigration status or contacting the police)
- ▶ Spreading false rumors
- ▶ Knowingly changing the employee's schedule to conflict with personal or family commitments

What can I do about retaliation?

Keep a paper trail and record all instances of retaliation. Refer to our guide [Your Right to Report Sexual Misconduct and Harassment](#). To learn more about federally-prohibited retaliation, visit the [EEOC's website](#).

Reporting Sexual Assault

If you have experienced sexual assault, you are not alone. You can view our guide [Your Right to Report Sexual Misconduct and Harassment](#) for reporting resources and a list of support hotlines and organizations. In addition, consider telling a trusted friend or family member who can provide personal support. If you are in imminent danger, call 911.

Our Gratitude to Our Collaborators

Thank you to the silence breakers who bravely, and often at great personal expense, speak publicly about the abuses inflicted upon you at work. We dedicate this guide to you and others like you who are willing to sacrifice privacy and, in some cases, security for justice and progress.

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If you identify any inaccuracies in this guide or additional entertainment industry workplace issues you would like to see addressed in it, please send your comments to hello@timesupnow.org.



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