

## **Harassment Statement and Complaint Procedure (Sexual and Other Unlawful Harassment)**

### *Statement of Principle*

Delbarton School is aware of and takes seriously its obligation to provide its employees with a workplace free of unlawful harassment, including but not limited to, sexual harassment. This Statement is designed to reiterate Delbarton School's opposition to, and prohibition of, all forms of unlawful harassment, and explain Delbarton School's unlawful harassment complaint procedure. In sum, this Statement will help you recognize what the law views as unlawful harassment and advise you how to report it.

### *Definitions*

Harassment violates the law when it is directed at an employee because of his or her race, color, national origin, citizenship status, religion, sex, gender identity and/or expression, sexual orientation, marital status, disability, age, citizenship, military or veteran status, or any other characteristic protected under applicable law. Harassment is a form of unlawful discrimination.

All employees must understand that: (1) no one is allowed to engage in unlawful harassment; (2) Delbarton School will not tolerate anyone unlawfully harassing anyone else; and (3) Delbarton School will not force you to put up with such harassment from anyone here, including people who are not Delbarton School employees, but who you have to deal with in the course of your work. No one is required to endure unlawful harassment to work at Delbarton School.

### *What is unlawful harassment?*

Harassment takes many forms, but all of it is offensive. Unlawful harassment may involve, but is not limited to:

- making submission by an individual to the offensive conduct either an explicit or implicit term or condition of employment;
- making submission to, or rejection of, such conduct the basis of employment decisions affecting the individual or;
- creating an intimidating, hostile or offensive working environment by such conduct.

Unlawful harassment is behavior that is not welcome, is directed against the person because of his or her sex, race or other legally protected category, and that is severe or pervasive enough to make the person reasonably believe that the conditions of his/her employment are altered, and the working environment is hostile or abusive.

**Forms of harassment include, but are not limited to:**

Spoken: Racial or ethnic slurs, including mocking, ridiculing or mimicking another's culture, accent, appearance or customs; other offensive comments or jokes about one's membership in a legally protected classification; sexual innuendos, sexually suggestive comments, jokes of a sexual nature, sexual propositions or threats.

Non-Spoken: Offensive objects or pictures (for example, ridiculing someone based on race, etc.), sexually suggestive objects or pictures, graphic commentaries, inappropriate computer graphics, suggestive or insulting sounds, posters, cartoons, drawings, graffiti, leering, whistling, or obscene gestures.

Physical: Unwanted physical contact, including touching, pinching, patting, brushing the body, or pushing, assault, blocking normal movement, or interference with work directed at you because of your sex, race or other protected characteristic.

Use of Computers & Other Electronic Devices, including inappropriate use of Delbarton School computers via the Internet or Delbarton School's email system, to transmit or otherwise communicate sexually-suggestive, pornographic or sexually explicit pictures, messages or material, or other inappropriate/offensive material. In addition, use of an employee's personal electronic equipment is covered by this Statement.

Threats and Demands to submit to sexual requests to keep your job or avoid some other loss and offers of job benefits in return for sexual favors.

Sexual Harassment: Sexual harassment of any kind is specifically prohibited. Sexual harassment of employees in the workplace is illegal, unacceptable and will NOT be tolerated.

Under state and federal law, unlawful sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature where: (a) submission to such conduct is made a condition of employment, either explicitly or implicitly; (b) submission to or rejection of such conduct by an individual is used as the basis for

employment decisions affecting that individual; or (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

***Examples of Sexual Harassment Cases: Possible types of sexual harassment complaints include:***

- An employee is fired or denied a job or an employment benefit because he/she refused to grant sexual favors.
- An employee is exposed to an offensive work environment. Exposure to various kinds of behavior or to unwanted sexual advances alone may constitute harassment.

In addition to the examples set forth above, examples of sexual harassment could include, but are not limited to, the following: unwelcome sexual propositions or marriage proposals; unwelcome touching, kissing or other offensive physical contact of a sexual nature; unwelcome lewd gestures, remarks or innuendos; unwelcome discussions of sexual practices or anatomy; and unwelcome sexually offensive posters, photographs, drawings, cartoons, jokes, stories, nicknames or comments about appearance.

### ***Application of Unlawful Harassment Statement***

This Statement applies to everyone. It covers all Delbarton School employees, management and non-management alike, male and female, full and part-time, monastic and lay, as well as applicants for employment and temporary employees, as well as any other persons at the workplace. All Delbarton School personnel are expected to avoid any conduct that could be construed as unlawful harassment by any employee. This Statement also prohibits unlawful harassment by non-employees, such as customers, contractors and vendors.

This Statement applies to harassment whether it occurs on our premises or in some other location where a Delbarton School activity occurs, such as on a business trip or at a Delbarton School social event.

### ***Penalties for Violation***

Whatever form it takes, unlawful harassment is insulting and demeaning to the recipient and will not be tolerated. All personnel must comply with this Statement and the law against unlawful harassment and take appropriate measures to ensure that such conduct does not occur. Any employee who violates this Statement is subject to immediate termination, or such other disciplinary action as Delbarton School deems appropriate under the circumstances, including but not limited to a verbal or written warning, suspension, demotion, transfer, cut in pay, leave of absence, and/or required anti-harassment training.

### ***Complaint Procedure***

If you feel that you have been subjected to conduct which violates this policy, you should immediately report the matter to your supervisor or, if the employee prefers, to the School's Business Manager. If you are unable for any reason to contact these persons, or if you have not received a satisfactory response within five (5) business days after reporting any incident of what you perceive to be harassment, please contact any member of management. If the person toward whom the complaint is directed is one of the individuals indicated above, you should contact any higher-level manager in your reporting hierarchy.

If you see another employee being harassed, tell him or her about Delbarton School's policy against harassment, that he or she can demand that the other stop such behavior, and that he or she can contact his or her supervisor or other members of management for help.

If another employee tells you he or she finds your behavior offensive, do not get angry or insulted. People have different values and standards and may be offended by behavior you think is proper. Tell the employee you did not realize he or she would be offended by your behavior and stop the complained-of conduct immediately.

If you are harassed by a non-employee, contact your supervisor for help. Delbarton School cannot control the offensive behavior of all non-employees, but it will take appropriate action to protect its employees from harassment by non-employees.

The key is that if management does not know about the harassment, Delbarton School cannot help you. Again, therefore, if you believe that you have been the subject of unlawful harassment, or have any other complaint involving any matter addressed in this Statement, you should bring the matter immediately to the attention of your supervisor, the School's Business Manager, or any member of management, and provide a full and accurate report of the underlying facts.

Also, anyone having knowledge that unlawful harassment involving Delbarton School employees may have occurred is required to report the incident or behavior to your supervisor immediately. If you prefer not to discuss the matter with your supervisor, you should contact the School's Business Manager, or any member of management.

Any supervisor or other member of management who receives a complaint of unlawful harassment or observes what may be a violation of this Statement, must report such to the Business Manager.

To help Delbarton School investigate, employees are encouraged (but not required) to present their complaints in writing, and in any event should provide as much detail as possible and identify any witnesses as well as any relevant documents or other evidence.

Delbarton School will conduct a prompt and impartial investigation of any complaint that alleges a violation of this policy (unless the matter is resolved prior to the institution of an investigation),

and will draw conclusions as to what conduct occurred and in what circumstances. If any violation of this policy is found to have occurred, Delbarton School will take appropriate corrective action against the individual(s) involved.

**NOTE:** Please note that Delbarton School also is opposed to unlawful discrimination of all types (whether called "harassment" or not), and employees should promptly come forward if they have any concerns in that regard.

### ***Cooperation***

All employees are required to cooperate truthfully and in good faith with Delbarton School in any investigation under this policy.

### ***Confidentiality***

Delbarton School will attempt to keep complaints and investigations under this policy confidential to the greatest extent possible, but some disclosure may be necessary to conduct a proper investigation. Delbarton School prefers that employees not discuss complaints or investigations under this policy with others because unnecessary disclosure may prevent a fair investigation and is unfair to the parties involved in the matter.

### ***No Retaliation***

Retaliation in any form against any person because he or she complains in good faith of unlawful harassment, or assists in the investigation of such complaints, is unlawful and will not be tolerated.

Any individual engaging in retaliation may be subject to discipline, up to and including immediate discharge.

Employees who believe they have been retaliated against in violation of this policy are urged to utilize the same complaint procedure described above.

A complaint of unlawful harassment may arise out of a misunderstanding, or a mistaken belief of the facts, yet obviously still be brought in good faith. However, the complaint system is not intended to be used to pursue personal vendettas having no basis in fact, or to shield oneself from discipline for poor performance or conduct.

### ***All Forms of Unlawful Harassment Are Forbidden***

This policy is not limited to “sexual” harassment. This policy also applies to unlawful harassment based on any other illegal criteria, including because of an individual’s race, color, national origin, citizenship status, religion, sex, marital status, disability, age, citizenship, military or veteran status, or any other characteristic protected under applicable law.

### ***Questions***

Questions about this Sexual and Other Unlawful Harassment Statement and Complaint Procedure should be directed to the School’s Business Manager. For example, if you think you may be involved in an unlawful harassment situation but are not sure, just ask.

### ***Purpose of this Statement***

This Sexual and Other Unlawful Harassment Statement and Complaint Procedure is intended to describe the current state of the law against unlawful harassment, and to make certain that all personnel are aware of the law, and of Delbarton School’s procedures for reporting and remedying unlawful harassment in accordance with the law.

*While Delbarton School is firmly committed to the principles established in the state and federal laws to combat unlawful harassment and discrimination, nothing in this policy (or any other policy) is intended to impose upon Delbarton School any obligations beyond what those laws that are applicable to Delbarton School impose, nor to extend any deadlines provided by any of those laws.*

### **Personal Information**

Delbarton School works hard to maintain accurate records on every employee to address issues such as emergencies, payroll deductions, and benefits. Any change in name, address, telephone number, emergency contact, beneficiary, marital status, or exemptions for your W-4 form should be reported promptly to human resources.

### **Personnel Files**

Personnel files are the property of Delbarton School, and access to the information contained therein is restricted. No employee can replace, remove, and/or change any items in his/her personnel file. Employees will not be granted direct access to any personnel file, including their own. However, requests for specific documents in an employee’s own file will be considered on an individual basis, providing the request is made in writing to the Business Office.

### **Reasonable Accommodations for Disabilities**

Delbarton School will endeavor to make a reasonable accommodation to the known physical or mental limitations of qualified employees with disabilities unless the accommodation would impose an undue hardship on the operation of our business. In considering requests for a reasonable accommodation, Delbarton School will consider the physical and other requirements needed to perform the essential duties of the position at issue. If you need assistance to perform your job duties because of a physical or mental condition, please let the School’s Business Manager or the Headmaster know.

You may be asked to provide your input on the type of accommodation you believe may be necessary or as to the functional limitations caused by your disability. In addition, when appropriate, we may need your permission to obtain additional information from your physician or other medical/rehabilitation professionals.

## **Bullying, Hazing, Child Abuse, and Abuse Reporting**

Delbarton is committed to providing a working/learning environment that is free of insult, ridicule, intimidation, and abuse. No one at St. Mary's Abbey or Delbarton School involved in the operations of the School, whether monk or lay person, is exempt from full compliance with abuse prevention and reporting policies.

### ***Bullying***

Bullying is a physical, verbal, or other intimidating act or pattern of behavior that causes physical or emotional harm to an individual or group. Online or cyberbullying is defined as an intentional electronic written or graphic act or series of acts by an individual directed at others that is severe, persistent, or pervasive. Bullying creates a threatening school environment, may interfere with a student's education, and in general disrupts the orderly operations of the School. In compliance with New Jersey's "Anti-Bullying Bill of Rights Act (C.18A:37-13 et seq.), employees are instructed to report acts of bullying to a supervisor. Upon learning of an act of bullying, the faculty member/adult staff will meet with the Assistant Headmaster to discuss a plan of response. All complaints will be investigated, and no reprisal will be taken against those who report such acts. For more information regarding bullying, see the Student Handbook, Bullying.

### ***Hazing***

Delbarton School prohibits hazing. Hazing is defined as an action or situation that recklessly or intentionally endangers the mental or physical health or safety of another person for membership, advancement, or continued good standing in any organization recognized by the School. In addition, any requirement by a member that compels another member to participate in any activity that is against the Delbarton School Code of Conduct or New Jersey State Law is defined as hazing.

Hazing behaviors include but are not limited to the following:

- Forcing or requiring an individual to drink alcohol or use other substances or consume unreasonable amounts of food.
- Participating in morally degrading or humiliating games and activities.
- Participating in or creating situations that cause physical harm or emotional strain, such as causing a member or non-member to be the object of malicious amusement or ridicule.
- Using brutality or force.

Any of these activities, if a condition, either directly or indirectly, of membership, advancement, or good standing in a School recognized organization, shall be presumed to be a forced activity, the willingness of an individual to participate in such activity notwithstanding. The School may treat the action of even one member of a group as constituting hazing by the entire group. Executive leaders of an organization found responsible for hazing are also subject to disciplinary action.

Hazing is a violation of the New Jersey State Law when such action by a group or organization recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for initiation or affiliation with any organization. Any individual, group, or organization found responsible for hazing will be subject to disciplinary action, which may result in probation, suspension, or separation from the School.

### ***Abuse***

Child abuse, particularly child sexual abuse, is a grave and far-reaching problem. New Jersey Law requires all persons, whether teachers, administrators, staff, or clergy, to report known or suspected incidents of child abuse to the Division of Child Protection and Permanency (DCP&P) of the State of New Jersey.

For purpose of state law and this policy, "child abuse" is defined very broadly to include any physical, mental, or emotional injury or neglect of a person under the age of 18 caused by a person who has assumed responsibility for the care, custody, or control of such child. Obviously, this definition includes parents and other guardians. It also includes every person employed by Delbarton School, in any capacity.

*What to do if you suspect child abuse: see “Reporting of Problems” that follows:*

Any person who makes a report of suspected child abuse, and does so in “good faith”, is immune from any liability, criminal or civil, regardless of whether the allegation was deemed substantiated or unfounded.

With respect to Delbarton School employees, reporters of suspected child abuse who do so in “good faith” will not be disciplined or discriminated against for reporting said abuse. Any person who has a reasonable cause to believe that a child has been subjected to abuse and fails to report it is in violation of the law (“disorderly person”) and subject to criminal penalties and discipline by Delbarton School, up to and including termination of employment. Discipline for making malicious reports or reports known to be false may also be subject to penalties by the School.

## **Reporting of Problems**

### ***Reporting Suspected Abuse by an Adult***

#### Faculty/Staff Response

All reports of child abuse and neglect, including those occurring in institutional settings such as a school, must be reported to the State Central Registry (SCR) via New Jersey’s Child Abuse/Neglect Hotline at **1-877-NJABUSE (877-652-2873)**. This is a toll-free, 24-hour, seven-days-a-week hotline. Faculty or Staff must report any suspected abuse or neglect of a youth whether on or off Delbarton property or whether perpetrated by a Delbarton employee or others.

If you have reasonable cause to believe that a student has been subjected to abuse (e.g., a student reports abuse and/or there are signs of abuse), notify the Headmaster, the Assistant Headmaster and the Dean of Guidance. Do not wait to obtain corroborative evidence. Trust your instincts and report the suspected abuse immediately. It is recommended that you be present when the information is reported to the SCR.

If this is an emergency (i.e., risk of harm or further abuse appears imminent) and it is not feasible to first contact the Assistant Headmaster or Dean of Guidance, contact the police (911) before you contact School authorities. If you are not able to report suspected abuse to the Assistant Headmaster or Dean of Guidance before contacting state authorities, you must do so as soon as possible so that immediate and proper steps may be taken to ensure the safety of alleged victim(s) and others who may be at risk.

If after reporting up, you do not hear back from the Administration and/or you are not satisfied that the allegations have been taken seriously, as a mandatory reporter in the State of New Jersey, you may report to the next level of administration and/or call New Jersey’s Child Abuse/Neglect Hotline. Reporting up does not discharge your duty to report.

#### Additional Guidelines for Faculty/Staff Response to Incidents or Allegations of Abuse

- If you witness abuse, interrupt the abuse immediately.
- If abuse is disclosed to you, tell the individual disclosing that he or she was correct to disclose to you. Remain calm.
- Document the incident, disclosure, or circumstances causing your suspicion of abuse.
- It is not your job to investigate the incident.
- If you have a reasonable suspicion of child abuse, do not allow that young person or other individuals to return to a potentially dangerous environment (e.g., the custody of a parent or guardian alleged to have abused the child) until School administrators and the proper authorities have been notified and advised of the situation.

## Administrator Response

In addition to the above response procedures, administrators should ensure the following documenting each step when appropriate:

- The immediate needs of the alleged victim are determined.
- The accused is suspended and removed from access to students. The accused will be suspended with pay during the investigation.
- As much information as possible is collected regarding the incident or allegation. Among the determinations that must be made:
  - Are the allegations credible?
  - Is there evidence to support the allegations?
  - Did the alleged action occur?
  - Did the employee violate any of the School's policies or procedures?
  - If there was misconduct or inappropriate behavior, what is the appropriate remedial action?

Administrators contact the authorities. At this time, it is advisable that the employee who originally reported the abuse be present. Authorities may advise that the School perform an internal investigation or authorities may perform their own investigation. The School will decide how the internal investigation should be completed.

If authorities request that the School take no action, the School will proceed in accordance with their request, making sure to document their request. If authorities do not require that the School take no action, the School will proceed with an internal investigation.

- Administrators continue to communicate with authorities.
- If abuse of a student is substantiated, the employee will be subject to termination.
- Legal counsel is sought throughout the process.
- A media response is prepared. All faculty and staff should be reminded of media contact policies.
- immediate needs of the alleged victim are determined.

The Headmaster will determine what is communicated to students, student families, and faculty/staff.

The Administration of St. Mary's Abbey, the Abbey Council of Seniors, and the Lay Board of Trustees will be informed of reports of sexual abuse against School personnel.

### ***Reporting Faculty or Staff Inappropriate Behavior with Students***

If faculty or staff observes any suspicious or inappropriate behaviors on the part of other employees, it is their personal responsibility to immediately report their observations. Examples of suspicious or inappropriate behaviors could include policy violations, neglectful supervision, poor role modeling, excessive swearing, or making suggestive comments to students. All reports of suspicions or inappropriate behavior with students will be taken seriously. Delbarton procedures will be carefully followed to ensure that the rights of all those involved are protected.

### Faculty/Staff Response

If an employee witnesses suspicious or inappropriate behaviors or policy violations from a co-worker, the employee is instructed to do the following:

- Interrupt the interaction and remind the co-worker of the correct policy or procedure for interacting with students.
- Report the behavior to the Dean of Faculty (or an immediate supervisor who will in turn report up to the Dean of Faculty or the appropriate supervisor).

Administration Response After gathering information regarding an accusation of misconduct with a student, the designated Administrator will:

- Determine disciplinary action to be taken if a policy violation against a student is substantiated.
- Notify authorities if after gathering information there is a possibility abuse.
- Advise the person who reported the behavior that the report is being taken seriously.

Closure Following the resolution of reported incidents, the School will determine what can be done to prevent like events in the future, including:

- Review the supervision process involved in the incident.
- Review policies and procedures.
- Review the need for additional training.

### **Whistleblower Policy**

Delbarton School requires its employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities.

Delbarton School complies with the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq. ("CEPA"). CEPA protects employees by making it unlawful for employers to take adverse employment action against an employee who discloses, objects to or refuses to participate in certain actions that the employee reasonably believes are unlawful or in violation of a clear mandate of public policy. CEPA specifically prohibits an employer from taking adverse or retaliatory action against an employee because the employee does any of the following:

a. Discloses, or threatens to disclose, to a manager or to a public body, an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes:

- (1) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care; or
- (2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity;

b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer, or another employer, with whom there is a business relationship, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into the quality of patient care; or

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:

(1) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;

(2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity; or

(3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

If an employee intends to disclose information regarding an illegal activity, policy or practice or violation of public policy to a public body, to be protected by the law the employee must first provide written notice to Delbarton School and afford Delbarton School reasonable opportunity to correct the alleged violation. That advance written disclosure (and opportunity to correct) shall not be required only where the employee is reasonably certain that the activity, policy or practice is known to one or more managers of Delbarton School or where the employee reasonably fears physical harm because of the disclosure, provided, however, that the situation is emergency in nature.

Delbarton School has designated the following contact person to answer your questions and/or provide additional information regarding your rights and responsibilities under CEPA, as well as to receive written notice of any improper activity, policy or practice that you reasonably believe has been committed: The Headmaster.

Delbarton School will not tolerate any violations of CEPA or any other law. Employees who believe that Delbarton School is in violation of any law or clear mandate of public policy should direct their concerns to the Headmaster, who will promptly address the matter.

Retaliation in any form against any person because he or she complains in good faith of a perceived violation of a law or clear mandate of public policy, or a CEPA violation, or assists in the investigation of such complaints, is unlawful and will not be tolerated. Any individual engaging in retaliation may be subject to discipline, up to and including immediate discharge.

Employees who believe they have been retaliated against in violation of this policy are urged to report such to the Headmaster, or to the School's Business Manager.

A complaint or other concern brought under this policy may arise out of a misunderstanding, or a mistaken belief of the facts, yet obviously still be brought in good faith. However, the complaint system is not intended to be used to pursue personal vendettas having no basis in fact, or to shield oneself from discipline for poor performance or conduct.