

## **SEXUAL HARASSMENT REGULATION**

### **Purpose and Goals**

The North Merrick School District (“the district”) and the Board of Education are committed to maintaining a workplace free from harassment and discrimination. Sexual harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), sex, and/or sexual orientation.

This regulation is intended to create and preserve an educational and working environment free from unlawful sexual harassment on the basis of gender, gender identity, gender expression (perceived or actual), sex, and/or sexual orientation in furtherance of the district's commitment to provide a healthy and productive environment for all students, employees (including all staff, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, regardless of immigration status) and “non-employees” (i.e., contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees) that promotes respect, dignity and equality.

Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, religion, citizenship/immigration status, military status, disability, pre-disposing genetic characteristics, familial status (including pregnancy, childbirth, or related medical condition), marital status, criminal history, or status as a victim of domestic violence. While this policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. The purpose of this policy is to teach employees to recognize discrimination, including discrimination due to an individual’s intersecting identities, and provide the tools to take action when it occurs. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This policy is one component of the district’s commitment to a discrimination-free work environment.

### **Sexual Harassment Defined**

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

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the

sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of this policy. Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature when:

1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of an employee's or "non-employee's" employment or a student's education (including any aspect of the student's participation in school-sponsored activities, or any other aspect of the student's education); or
2. submission to or rejection of that conduct or communication by an individual is used as the basis for decisions affecting an employee's or "non-employee's" employment or a student's education; or
3. the conduct or communication has the purpose or effect of substantially or unreasonably interfering with an employee's or "non-employee's" work performance or a student's academic performance or participation in school-sponsored activities, or creating an intimidating, hostile or offensive working or educational environment, even if the complaining individual is not the intended target of the sexual harassment.

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes.

There are two main types of sexual harassment:

1. Behaviors that contribute to a **hostile work environment** include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance.
2. 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.

## Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. This list is just a sample of behaviors and should not be considered exhaustive. Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

1. Physical acts of a sexual nature, such as:
  - a. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or
  - b. Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).
2. Unwanted sexual comments, advances, or propositions, such as:
  - a. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;
    - i. This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially those industries where hospitality and tips are essential to the customer/employee relationship;
  - b. Subtle or obvious pressure for unwelcome sexual activities; or
  - c. Repeated requests for dates or romantic gestures, including gift-giving.
3. Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.
4. Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:
  - a. Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or
  - b. Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
5. Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - a. 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;
  - b. This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.
6. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:

- a. Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
- b. Sabotaging an individual's work;
- c. Bullying, yelling, or name-calling;
- d. Intentional misuse of an individual's preferred pronouns; or
- e. Creating different expectations for individuals based on their perceived identities:
  - i. Dress codes that place more emphasis on women's attire;
  - ii. Leaving parents/caregivers out of meetings.

For purposes of this regulation, action or conduct shall be considered "unwelcome" if the student, employee or non-employee did not request or invite it and regarded the conduct as undesirable or offensive.

### **Location of Workplace Sexual Harassment**

Sexual harassment may occur on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside the district, or outside the school setting if the harassment impacts the individual's education or employment in a way that violates their legal rights, including when employees or "non-employees" travel on district business, or when the harassment is done by electronic means (including social media text, and email).

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

### **Targets of Sexual Harassment**

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

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

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

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

### **Determining if Prohibited Conduct is Sexual Harassment**

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. Complaints of sexual harassment will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the above definition of sexual harassment and should therefore be treated as sexual harassment. If the behavior doesn't rise to the level of sexual harassment, but is found to be objectionable behavior, the individual will be educated and counseled in order to prevent the behavior from continuing.

In evaluating the totality of the circumstances and making a determination of whether conduct constitutes sexual harassment, the individual investigating the complaint should consider:

1. the degree to which the conduct affected the ability of the student to participate in or benefit from his or her education or altered the conditions of the student's learning environment or altered the conditions of the employee's or "non-employee's" working environment;
2. the type, frequency and duration of the conduct;
3. the identity of and relationship between the alleged harasser and the subject of the harassment (e.g., sexually based conduct by an authority figure is more likely to create a hostile environment than similar conduct by another student or a co-worker);
4. the number of individuals involved;
5. the age and sex of the alleged harasser and the subject of the harassment;
6. the location of the incidents and context in which they occurred;
7. other incidents at the school; and
8. incidents of gender-based, but non-sexual harassment.

### **Reporting Sexual Harassment**

Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. Any person who believes he or she has been the target of sexual harassment by a student, district employee or "non-employee" or third party related to the school is encouraged to report complaints as soon as possible after the incident in order to enable the district to promptly and effectively investigate and resolve the complaint. In addition, any person who witnesses or is aware of sexual harassment of a student, employee, or "non-employee" is also encouraged to report the incident or behavior to the district. Reports of sexual harassment may be made verbally or in writing. A written complaint form is

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

Complaints should be filed with the Principal or the Title IX coordinator.

Any school employee who receives a complaint of sexual harassment from a student shall inform the student of the employee's obligation to report the complaint to the school administration, and then shall immediately notify the Principal and/or the Title IX coordinator. School employees receiving complaints of sexual harassment from employees and "non-employees" shall either direct the complainant to the Building Principal, or may report the incident themselves. Supervisory and managerial personnel are required to report complaints of sexual harassment received by staff, and will be subject to discipline for failing to report suspected or reported sexual harassment, knowingly allowing sexual harassment to continue, or engaging in any retaliation.

In order to assist investigators, targets should document the harassment as soon as it occurs and with as much detail as possible including: the nature of the harassment; dates, times, places it has occurred; name of harasser(s); witnesses to the harassment; and the target's response to the harassment.

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

### **Supervisory Responsibilities**

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

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

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

While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for

individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

### **Bystander Intervention**

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

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate.

When confronting harassment, physically assaulting an individual is never an appropriate response. Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it.

### **Confidentiality**

It is district policy to respect the privacy of all parties and witnesses to complaints of sexual harassment. To the extent possible, the district will not release the details of a complaint or the identity of the complainant or the individual(s) against whom the complaint is filed to any third parties who do not need to know such information. However, because an individual's need for confidentiality must be balanced with the district's legal obligation to provide due process to the accused, to conduct a thorough investigation, or to take necessary action to resolve the complaint, the district retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know. The staff member responsible for investigating complaints will discuss confidentiality standards and concerns with all complainants.

If a complainant requests that his/her name not be revealed to the individual(s) against whom a complaint is filed, the staff member responsible for conducting the investigation shall inform the complainant that:

1. the request may limit the district's ability to respond to his/her complaint;
2. district policy and federal law prohibit retaliation against complainants and witnesses;

3. the district will attempt to prevent any retaliation; and
4. the district will take strong responsive action if retaliation occurs.

If the complainant still requests confidentiality after being given the notice above, the investigator will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not preclude the district from responding effectively to the harassment and preventing the harassment of other students or employees.

## **Investigation and Resolution Procedure**

### **A. Initial (Building Level) Procedure**

The Principal or the Title IX coordinator shall conduct a preliminary review when they receive a verbal or written complaint of sexual harassment, or if they observe sexual harassment. Except in the case of severe or criminal conduct, the Principal or the Title IX coordinator should make all reasonable efforts to resolve complaints informally at the school level. The goal of informal investigation and resolution procedures is to end the harassment and obtain a prompt and equitable resolution to a complaint. All persons involved in an investigation (complainants, witnesses and alleged harassers) will be accorded due process to protect their rights to a fair and impartial investigation. This investigation shall be prompt and thorough, and shall be completed as soon as possible.

Immediately, but no later than two working days following receipt of a complaint, the Principal or Title IX coordinator shall begin an investigation of the complaint according to the following steps:

1. Interview the target and document the conversation. Instruct the target to have no contact or communication regarding the complaint with the alleged harasser. Ask the target specifically what action he/she wants taken in order to resolve the complaint. Refer the target, as appropriate, to school social workers, school psychologists, crisis team managers, other school staff, or appropriate outside agencies for counseling services.
2. Review any written documentation of the harassment prepared by the target. If the target has not prepared written documentation, ask the target to do so, providing alternative formats for individuals with disabilities and young children, who have difficulty writing and need accommodation. If the complainant refuses to complete a complaint form or written documentation, the Principal or Title IX coordinator shall complete a complaint form (see exhibit 0110-E) based on the verbal report.
3. Request, review, obtain and preserve relevant evidence of harassment (e.g., documents, emails, phone records, etc.), if any exist.
4. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Document the conversation. Provide the alleged harasser an opportunity to respond to the charges in writing.
5. Instruct the alleged harasser to have no contact or communication regarding the complaint with the target and to not retaliate against the target. Warn the alleged harasser that if he/she makes contact with or retaliates against the target, he/she will be subject to immediate disciplinary action.



6. Interview any witnesses to the complaint. Where appropriate, obtain a written statement from each witness. Caution each witness to keep the complaint and his/her statement confidential. Employees may be required to cooperate as needed in investigations of suspected sexual harassment.
7. Review all documentation and information relevant to the complaint.
8. Where appropriate, suggest mediation as a potential means of resolving the complaint. In addition to mediation, use appropriate informal methods to resolve the complaint, including but not limited to:
  - a. discussion with the accused, informing him or her of the district's policies and indicating that the behavior must stop;
  - b. suggesting counseling and/or sensitivity training;
  - c. conducting training for the department or school in which the behavior occurred, calling attention to the consequences of engaging in such behavior;
  - d. requesting a letter of apology to the complainant;
  - e. writing letters of caution or reprimand; and/or
  - f. separating the parties.
9. Parent/Student/Employee/"Non-Employee" Involvement and Notification
  - a. Parents of student targets and accused students shall be notified within one school day of allegations that are serious or involve repeated conduct.
  - b. The parents of students who file complaints are welcome to participate at each stage of both informal and formal investigation and resolution procedures.
  - c. If either the target or the accused is a disabled student receiving special education services under an IEP or section 504/Americans with Disabilities Act accommodations, the committee on special education will be consulted to determine the degree to which the student's disability either caused or is affected by the discrimination or policy violation. In addition, due process procedures required for persons with disabilities under state and federal law shall be followed.
  - d. The Principal or Title IX Coordinator (i.e., the investigator) shall submit a copy of all investigation and interview documentation to the Superintendent.
  - e. The investigator shall report back to both the target and the accused, notifying them in writing, and also in person as appropriate regarding the outcome of the investigation and the action taken to resolve the complaint. The investigator shall instruct the target to report immediately if the objectionable behavior occurs again or if the alleged harasser retaliates against him/her.
  - f. The investigator shall notify the target that if he/she desires further investigation and action, he/she may request a district level investigation by contacting the Superintendent of Schools. The investigator shall also notify the target of his/her right to contact the U.S. Department of Education's Office for Civil Rights and/or a private attorney. Employees may also contact the U.S. Equal Employment Opportunity Commission or the New York State Division of Human Rights.
10. Create a written documentation of the investigation, kept in a secure and confidential location, containing:
  - a. A list of all documentation and other evidence reviewed, along with a detailed summary;

- b. A list of names of those interviewed along with a detailed summary of their statements;
- c. A timeline of events;
- d. A summary of prior relevant incidents, reported or unreported; and
- e. The final resolution of the complaint, together with any corrective action(s).

If the initial investigation results in a determination that sexual harassment did occur, the investigator will promptly notify the Superintendent, who shall then take prompt disciplinary action in accordance with district policy, the applicable collective bargaining agreement or state law.

If a complaint received by the Principal or the Title IX Coordinator contains evidence or allegations of serious or extreme harassment, such as employee to student harassment, criminal touching, quid pro quo (e.g., offering an academic or employment reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint shall be referred promptly to the Superintendent. In addition, where the Principal or the Title IX coordinator has a reasonable suspicion that the alleged harassment involves criminal activity, he/she should immediately notify the Superintendent, who shall then contact appropriate child protection and law enforcement authorities. Where criminal activity is alleged or suspected by a district employee, the accused employee shall be suspended pending the outcome of the investigation, consistent with all contractual or statutory requirements.

Any party who is not satisfied with the outcome of the initial investigation by the Principal or the Title IX coordinator may request a district-level investigation by submitting a written complaint to the Superintendent within 30 days.

#### B. District-level Procedure

The Superintendent shall promptly investigate and resolve all sexual harassment complaints that are referred to him/her by a Principal or Title IX coordinator, as well as those appealed to the Superintendent following an initial investigation by a Principal or Title IX coordinator. In the event the complaint of sexual harassment involves the Superintendent, the complaint shall be filed with or referred to the Board President, who shall refer the complaint to a trained investigator not employed by the district for investigation.

The district level investigation should begin as soon as possible but not later than three working days following receipt of the complaint by the Superintendent or Board President. In the event the Board must hire a trained investigator to conduct the investigation, the district level investigation shall begin as soon as possible but no later than seven working days following receipt of the complaint by the Superintendent or Board President.

In conducting the formal district level investigation, the district will use investigators who have received formal training in sexual harassment investigation or that have previous experience investigating sexual harassment complaints.

If a district investigation results in a determination that sexual harassment did occur, prompt corrective action will be taken to end the harassment. Where appropriate, district investigators may suggest mediation as a means of exploring options of corrective action and informally resolving the complaint.

No later than 30 days following receipt of the complaint, the Superintendent (or in cases involving the Superintendent, the Board-appointed investigator) will notify the target and alleged harasser, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Superintendent or Board-appointed investigator will provide all parties with a written status report within 30 days following receipt of the complaint.

The target and the alleged harasser have the right to be represented by a person of their choice, at their own expense, during sexual harassment investigations and hearings.

### **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by North Merrick UFSD but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at North Merrick UFSD, targets of sexual harassment 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.

Nothing in these regulations shall be construed to limit the right of the target to file a lawsuit in either state or federal court. No district contract or collective bargaining agreement entered into after July 11, 2018, may include a binding arbitration clause for sexual harassment requiring arbitration before bringing the matter to court.

#### **1. Office for Civil Rights (OCR)**

Targets have the right to register sexual harassment complaints with the U.S. Department of Education's Office for Civil Rights (OCR). The OCR can be contacted at (800) 421-3481, 400 Maryland Avenue SW, Washington, DC 20202-1100, or at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

#### **2. New York State Division of Human Rights**

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 North Merrick UFSD 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](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out,

notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### 3. The United States Equal Employment Opportunity Commission (EEOC)

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. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred by does not file a lawsuit.

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

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with with the New York State Division of Human Rights, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

#### 4. Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

#### 5. 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.

### **Nondisclosure Agreements**

The district may include nondisclosure agreements (to not disclose the underlying facts and circumstances of a sexual harassment complaint) in any sexual harassment settlement agreement or resolution only if it is the complainant’s preference. Any such nondisclosure agreement shall be provided to all parties. Complainants shall have twenty-one days to consider any such nondisclosure provision before it is signed by all parties, and shall have seven days to revoke the agreement after signing. Nondisclosure agreements shall only become effective after this seven-day period has passed.

### **Retaliation Prohibited**

Any act of retaliation against any person who opposes sexually harassing behavior, or who has filed a complaint in good faith, is prohibited and illegal, and therefore subject to disciplinary action. Likewise, retaliation against any person who has, in good faith, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a sexual harassment complaint is prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing phone calls, discipline, discrimination, demotion, denial of privileges, any action that would keep a person from coming forward to make or support a sexual harassment claim, and any other form of harassment. Such actions need not be job- or

education-related, or occur in the workplace or educational environment, to constitute unlawful retaliation. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension or termination.

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.

### **Discipline/Penalties**

Any individual who violates the sexual harassment policy by engaging in prohibited sexual harassment will be subject to appropriate disciplinary action. Disciplinary measures available to school authorities include, but are not limited to the following:

**Students:** Discipline may range from a reprimand up to and including suspension from school, to be imposed consistent with the student conduct and discipline policy and applicable law.

**Employees:** Discipline may range from a warning up to and including termination, to be imposed consistent with all applicable contractual and statutory rights.

**Volunteers:** Penalties may range from a warning up to and including loss of volunteer assignment.

**“Non-employees”** (i.e., contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees): Penalties may range from a warning up to and including loss of district business.

**Other individuals:** Penalties may range from a warning up to and including denial of future access to school property.

### **False Complaints**

False or malicious complaints of sexual harassment may result in corrective or disciplinary action taken against the complainant.

### **Training**

All students and employees shall be informed of this policy in student and employee handbooks, on the district website and student registration materials. A poster summarizing the policy shall also be posted in a prominent location at each school. All secondary school student body officers shall receive district training about the policy at the beginning of each school year. The district shall provide all existing employees with either a paper or electronic copy of the district's sexual harassment policy and regulation, and shall provide the same to new employees before the employee starts his/her job.

In addition, age-appropriate curricular materials will be made available so that it can be incorporated in instruction K-12 to ensure that all students are educated to recognize and report sexual harassment.

All new employees shall receive training on this policy and regulation at new employee orientation or as soon as possible after starting their job, unless he/she can demonstrate that they have received equivalent training within the past year from a previous employer. All other employees shall be provided training at least once a year regarding this policy and the district's commitment to a harassment-free learning and working environment. Principals, Title IX coordinators, and other administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment shall receive yearly training on this policy, regulation and related legal developments.

Annual employee training programs shall be interactive and include: (i) an explanation of sexual harassment consistent with guidance issued by the NYS Department of Labor and the NYS Division of Human Rights; (ii) examples of conduct that is unlawful sexual harassment; (iii) information on federal and state laws about sexual harassment and remedies available to victims of sexual harassment; (iv) information concerning employees' right to make complaints and all available forums for investigating complaints; and (v) address the conduct and responsibilities of supervisors.

Principals in each school and program directors shall be responsible for informing students and staff on a yearly basis of the terms of this policy, including the procedures established for investigation and resolution of complaints, general issues surrounding sexual harassment, the rights and responsibilities of students and employees, and the impact of sexual harassment on the target.

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