

6122 - NYS MANDATED SEXUAL HARASSMENT POLICY

Introduction

Pittsford Central School District (hereafter, "Pittsford Schools") is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This policy is one component of commitment to a discrimination-free work environment. Sexual harassment is against the law, all employees have a legal right to a workplace free from sexual harassment, and employees are urged to report sexual harassment by filing a complaint internally with Pittsford Schools. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. Pittsford School's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with Pittsford Schools. In the remainder of this document, the term "employees" refers to this collective group.

2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action consistent with federal and state law.

3. Retaliation Prohibition: No person covered by this policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. Pittsford Schools will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of Pittsford Schools who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination consistent with federal and state law.

All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to sexual harassment or retaliation should inform their supervisor, manager, or the designated Title IX Coordinator(s). The name and contact information for the designated Title IX Coordinator is displayed on the district website (www.pittfordschools.org) on the front page of the Human Resources Department or can be found by calling the Human Resources office at 585-267-1008.

(Continued)

Personnel

6122 - NYS MANDATED SEXUAL HARASSMENT POLICY (Cont'd.)

All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section of Legal Protections.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject Pittsford Schools to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct consistent with federal and state law.

5. Pittsford Schools will conduct a prompt and thorough investigation, as outlined in the accompanying regulations, that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Pittsford Schools will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

6. All employees are encouraged to report any harassment or behaviors that violate this policy. Pittsford Schools will provide all employees a complaint form for employees to report harassment and file complaints.

7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the designated Title IX Coordinator(s).

8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

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6122 - NYS MANDATED SEXUAL HARASSMENT POLICY (Cont'd.)**What is “Sexual Harassment”?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Title IX makes it illegal to engage in sexually harassing behaviors that would jeopardize a student's equal access to the educational program or create a discriminatory workplace. Sexual harassment, under Title IX includes three types of misconduct on the basis of sex:

- 4) Quid pro quo harassment, which is defined as requiring submission to sexual conduct or communication as a term or condition, either explicitly or implicitly, of an individual's employment or education or the submission to, or rejection of, such conduct or communication is used as a factor in decisions affecting an individual's employment or education;
- 5) Hostile work environment, which is defined as severe, pervasive and objectively offensive and unwelcomed sex based speech or conduct; and
- 6) Any instance of sexual assault (as defined by the Clery Act), dating violence, domestic violence, or stalking as defined by the Violence Against Women Act.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment:

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of sexual nature, such as:
 - Unwanted touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.

(Continued)

Personnel

6122 - NYS MANDATED SEXUAL HARASSMENT POLICY (Cont'd.)

- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the respondent's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

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

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6122 - NYS MANDATED SEXUAL HARASSMENT POLICY (Cont'd.)**Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

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

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

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

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

(Continued)

6122 - NYS MANDATED SEXUAL HARASSMENT POLICY

Reporting Sexual Harassment

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

Reports of sexual harassment may be made verbally or in writing and can be made in person, by telephone, by email or regular mail. Such complaints may be made at any time. The name and address of the Title IX Coordinator is on the front of the Human Resources page on the district website (www.pittsfordschool.org).

A form for submission of a written complaint is attached to this Policy (6122F). Employees who are reporting sexual harassment on behalf of other employees may use the complaint form and note that it is on another employee's behalf.

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

Supervisory Responsibilities

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

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, as required under federal or state law and consistent with the district's policies and regulations, whether that information was reported in verbal or written form.

(Continued)

Personnel

6122 - NYS MANDATED SEXUAL HARASSMENT POLICY (Cont'd.)

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

Legal Protections and External Remedies

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

Aside from the internal process at Pittsford Schools, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In Addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

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

Currently 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 Pittsford Schools 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.

(Continued)

Personnel

6122 - NYS MANDATED SEXUAL HARASSMENT POLICY (Cont'd.)

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 laws 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 currently is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

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

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

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

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

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6122 - NYS MANDATED SEXUAL HARASSMENT POLICY (Cont'd.)**Local Protections**

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

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

The Superintendent of Schools will set forth required procedures to implement this policy in regulation 6121R.

Pittsford Central School District Adopted: 10/9/18, revised 10/2020

Age Discrimination in Employment Act,
29 United States Code (USC) Section 621
Americans With Disabilities Act,
42 United States Code (USC) Section 12101 et seq.
Prohibits discrimination on the basis of disability.
Section 504 of the Rehabilitation Act of 1973,
29 United States Code (USC) Section 794 et seq.
Title VI of the Civil Rights Act of 1964,
42 United States Code (USC) Section 2000-d, et seq.
Prohibits discrimination on the basis of race, color or
national origin.
Title VII of the Civil Rights Act of 1964,
42 United States Code (USC) Section 2000-e et seq.
Prohibits discrimination on the basis of race, color,
religion, sex or national origin.
Title IX of the Education Amendments of 1972,
20 United States Code (USC) Section 1681 et seq.
Prohibits discrimination on the basis of sex.
New York State Civil Rights Law Section 40-c

(Continued)

2020

6122

10 of 10

Personnel

6122 - NYS MANDATED SEXUAL HARASSMENT POLICY

Prohibits discrimination on the basis of race, creed, color, national origin, sex, sexual orientation, marital status or disability.

New York State Executive Law Section 290 et seq.

Prohibits discrimination on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability, military status, or marital status.

New York State Military Law Sections 242 & 243

New York State Labor Law Section 201-g