December 2023 Policy - First Reading Packet

Policy Number	Policy Title	Explanation	Adopted BOCES Update	Revised by SH	Keep Current Policy	Deleted	Date of Vote
3420	Non-Discrimination and Anti-Harassment in the District	Suggested revision(s): Required policy. Revised in response to New York State (NYS) issuing an updated model sexual harassment prevention policy for employers in NYS. Although it focuses on addressing sexual harassment in the workplace, the updated model sexual harassment prevention policy also provides that the methods for reporting and investigating also apply to other protected classes. Since policy 3420 provides a general approach for addressing complaints of discrimination and/or harassment over which a district would have jurisdiction, revisions were suggested throughout policy 3420 to reflect the methods for reporting and investigating described in the updated model sexual harassment prevention policy. Not only do these revisions to policy 3420 assist districts in meeting the requirements described in the updated model sexual harassment prevention policy, but they create consistency between the policies which should make the policies easier for districts to follow. **Policy Committee recommends as is.**					
5140	Administration of the Budget	Suggested revision(s): Revised to reflect the expiration of Education Law Section 3614, Statement of the Total Funding Allocation. Education Law Section 3614 required that districts annually submit to the Commissioner of Education and the Director of the Budget a detailed statement of the total funding allocation for each school in the district for the upcoming school budget year. In response to the expiration of the law, the section titled "Statement of the Total Funding Allocation" has been suggested for deletion. **Policy Committee recommends as is.**					
5684	Use of Surveillance Cameras in the District and on School Buses	Note: These revisions were previously suggested in the 18-19, 19-20, 20-21, 21-22, and 22-23 Policy Audits. The District did not act on these revisions at those times. Per the District's request, these revisions are being included in the 23-24 Policy Audit. Suggested revision(s): In the "Disciplinary Proceedings" section, added language to clarify that video recordings or footage from District surveillance cameras may be used in employee disciplinary proceedings as permitted by any applicable collective bargaining agreement. **Policy Committee does not recommend adopting this update.**					

6121	Sexual Harassment in the Workplace	Suggested revision(s): Required Policy. Revised in response to the release of an updated model sexual harassment prevention policy for employers in New York State (NYS). The updated NYS model sexual harassment prevention policy significantly differs from the initial version released by NYS in 2018. Revisions to the NYS model policy include, but are not limited to: An increased emphasis on gender diversity including more references to gender expression, the status of being transgender, gender identity, and sexual orientation. An expanded definition of sexual harassment which states that sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender. The updated model policy references remote work by stating that sexual harassment can occur when employees are working remotely and provides examples of how sexual harassment might occur in a remote environment. For example, the updated model policy indicates that sexual harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones. The updated model policy also adds a section on bystander intervention that encourages any employee witnessing harassment to report it and provides five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help. The updated model policy includes examples of retaliation. Some of these examples come from recent changes in law. For example, the updated model policy indicates that publicly releasing personnel files is an example of retaliation. This example comes directly from recently revised Executive Law Section 296(7). The updated model policy includes language indicating that the methods for reporting and investigating discrimination also apply to other protected classes. **Policy Committee recommends as is.**					
6550	Leaves of Absence	Suggested revision(s): Revised in light of amendments to Labor Law Section 206-c which expanded the rights of nursing employees to express breast milk in the workplace. It requires employers to ensure that pumping spaces are, among other things, in close proximity to the work area, well lit, shielded from view, and free from workplace or public intrusion. It also requires that these spaces contain a chair, working surface, nearby access to clean running water, and an electrical outlet. The space cannot be a restroom or toilet stall. The amended law also requires the Commissioner of Labor to develop and implement a written policy regarding the rights of nursing employees to express breast milk in the workplace. Employers are subsequently expected to provide this written notification to each employee upon hire and annually thereafter, as well as to employees upon returning to work following the birth of a child. This notification will inform employees of their rights and how to submit a request for a space to express breast milk, as well as require the employer to respond to written requests within a reasonable time frame which is not to exceed five business days. **Policy Committee recommends as is.**					
6580	Remote Working	Note: This policy was previously suggested in the 20-21, 21-22, and 22-23 Policy Audits. The District did not act on this policy at those times. Per the District's request, this policy is being included in the 23-24 Policy Audit. Suggested revision(s): Customization required. New suggested policy titled "Remote Working." It discusses in what circumstances a district may allow or require employees to work remotely. It also includes a discussion of general expectations for employees that work remotely. **Policy Committee is not recommending adoption of this policy.**					

Sweet Home Central School District
Policy Committee Meeting
December 5, 2023

Minutes

Present: Mike Ginestre, JoAnn Balazs, Don Feldmann, Toyia Wilson, Scott Johnson, Brian Laible, Sherry McNamara

1. Reviewed the following policies for December first reading:

3420	Non-Discrimination and Anti-Harassment in the District	**Suggested revision(s):** Required policy. Revised in response to New York State (NYS) issuing an updated model sexual harassment prevention policy for employers in NYS. Although it focuses on addressing sexual harassment in the workplace, the updated model sexual harassment prevention policy also provides that the methods for reporting and investigating also apply to other protected classes. Since policy 3420 provides a general approach for addressing complaints of discrimination and/or harassment over which a district would have jurisdiction, revisions were suggested throughout policy 3420 to reflect the methods for reporting and investigating described in the updated model sexual harassment prevention policy. Not only do these revisions to policy 3420 assist districts in meeting the requirements described in the updated model sexual harassment prevention policy, but they create consistency between the policies which should make the policies easier for districts to follow. **Policy Committee recommends adopting as is.**
5140	Administration of the Budget	**Suggested revision(s):** Revised to reflect the expiration of Education Law Section 3614, Statement of the Total Funding Allocation. Education Law Section 3614 required that districts annually submit to the Commissioner of Education and the Director of the Budget a detailed statement of the total funding allocation for each school in the district for the upcoming school budget year. In response to the expiration of the law, the section titled "Statement of the Total Funding Allocation" has been suggested for deletion. **Policy Committee recommends adopting as is.**
5630	Facilities, Inspection, Operation, and Maintenance	**Suggested revision(s):** Revised in light of amendments to various laws and regulations. In the "Construction and Remodeling of School Facilities" section, language related to the "State Energy Conservation Construction Code" was added in response to amendments to 8 NYCRR Section 155.2. The "Carbon Monoxide Detection" section was significantly revised because the rules governing carbon monoxide detection and alarms are generally found in the 2020 Existing Building Code and Section 915 of the 2020 Fire Code Section rather than regulation. The "Lead Testing" section was revised to indicate that districts are now responsible for testing potable water for lead contamination on a triennial basis (formerly on a periodic basis) following amendments to Public Health Law Section 1110. A section titled "Comprehensive Long-Range Plan" was added to clarify what that plan will include at a minimum. The "Comprehensive Public School Building Safety Program" section was revised to clarify the requirements of the program and reflect changes in requirements related to building condition surveys and visual inspection. Other revisions were made for clarity and consistency purposes. **Policy Committee recommends putting this on hold pending further clarification.**

5684	Use of Surveillance Cameras in the District and on School Buses	**Note:** These revisions were previously suggested in the 18-19, 19-20, 20-21, 21-22, and 22-23 Policy Audits. The District did not act on these revisions at those times. Per the District's request, these revisions are being included in the 23-24 Policy Audit. **Suggested revision(s):** In the "Disciplinary Proceedings" section, added language to clarify that video recordings or footage from District surveillance cameras may be used in employee disciplinary proceedings as permitted by any applicable collective bargaining agreement. **Policy Committee does not recommend adopting this revision.**
6121	Sexual Harassment in the Workplace	**Suggested revision(s):** Required Policy. Revised in response to the release of an updated model sexual harassment prevention policy for employers in New York State (NYS). The updated NYS model sexual harassment prevention policy significantly differs from the initial version released by NYS in 2018. Revisions to the NYS model policy include, but are not limited to: An increased emphasis on gender diversity including more references to gender expression, the status of being transgender, gender identity, and sexual orientation. An expanded definition of sexual harassment which states that sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender. The updated model policy references remote work by stating that sexual harassment can occur when employees are working remotely and provides examples of how sexual harassment might occur in a remote environment. For example, the updated model policy indicates that sexual harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones. The updated model policy also adds a section on bystander intervention that encourages any employee witnessing harassment to report it and provides five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help. The updated model policy includes examples of retaliation. Some of these examples come from recent changes in law. For example, the updated model policy indicates that publicly releasing personnel files is an example of retaliation. This example comes directly from recently revised Executive Law Section 296(7). The updated model policy includes language indicating that the methods for reporting and investigating discrimination also apply to other protected classes. **Policy Committee recommends adopting as is.**
6550	Leaves of Absence	**Suggested revision(s):** Revised in light of amendments to Labor Law Section 206-c which expanded the rights of nursing employees to express breast milk in the workplace. It requires employers to ensure that pumping spaces are, among other things, in close proximity to the work area, well lit, shielded from view, and free from workplace or public intrusion. It also requires that these spaces contain a chair, working surface, nearby access to clean running water, and an electrical outlet. The space cannot be a restroom or toilet stall. The amended law also requires the Commissioner of Labor to develop and implement a written policy regarding the rights of nursing employees to express breast milk in the workplace. Employers are subsequently expected to provide this written notification to each employee upon hire and annually thereafter, as well as to employees upon returning to work following the birth of a child. This notification will inform employees of their rights and how to submit a request for a space to express breast milk, as well as require the employer to respond to written requests within a reasonable time frame which is not to exceed five business days. **Policy Committee recommends adopting as is.**

6580	Remote Working	**Note:** This policy was previously suggested in the 20-21, 21-22, and 22-23 Policy Audits. The District did not act on this policy at those times. Per the District's request, this policy is being included in the 23-24 Policy Audit. **Suggested revision(s):** Customization required. New suggested policy titled "Remote Working." It discusses in what circumstances a district may allow or require employees to work remotely. It also includes a discussion of general expectations for employees that work remotely. **Policy Committee does not recommend adopting this policy.**

- Next meeting: January 2, 2024 @ 3:30 pm

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT

Overview

The District is committed to creating and maintaining an environment which is free from discrimination and harassment. This policy addresses complaints of discrimination and/or harassment made under applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, or other document such as the District's *Code of Conduct*. It is just one component of the District's overall commitment to maintaining a discrimination and harassment-free educational and work environment.

In accordance with applicable federal and state laws and regulations, the District does not discriminate on the basis of any legally protected class or category in its education programs and activities or when making employment decisions. Further, the District prohibits discrimination and harassment on school property and at school functions on the basis of any legally protected class including, but not limited to:

a) Race;

b) Color;

c) Religion;

d) Disability;

e) National origin;

f) Sexual orientation;

g) Gender identity or expression;

h) Military status;

i) Sex;

j) Age; and

k) Marital status.

The District adopts this policy as part of its effort to provide for the prompt and equitable resolution of complaints of discrimination and/or harassment. The District will promptly respond to reports of discrimination and/or harassment, ensure that all investigations are conducted within a reasonably prompt time frame and under a predictable fair grievance process that provides due process protections, and impose disciplinary measures and implement remedies when warranted.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Inquiries about this policy may be directed to the District's Civil Rights Compliance Officer(s) (CRCO(s)).

Scope and Application

This policy outlines the District's general approach to addressing complaints of discrimination and/or harassment. This policy applies to the dealings between or among the following parties on school property and at school functions:

a) Students;

b) Employees;

c) Applicants for employment;

d) Paid or unpaid interns;

e) Anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a contract in the workplace;

f) Volunteers; and

g) Visitors or other third parties.

Further, discrimination and/or harassment that occurs off school property and somewhere other than a school function can disrupt the District's educational and work environment. This conduct can occur in-person or through phone calls, texts, emails, or social media. Accordingly, conduct or incidents of discrimination and/or harassment that create or foreseeably create a disruption within the District may be subject to this policy in certain circumstances.

Other District policies and documents such as regulations, procedures, collective bargaining agreements, and the District's *Code of Conduct* may address misconduct related to discrimination and/or harassment and may provide for additional, different, or more specific grievance procedures depending on a number of factors including, but not limited to, who is involved, where the alleged discrimination and/or harassment occurred, and the basis of the alleged discrimination and/or harassment. These documents must be read in conjunction with this policy.

The dismissal of a complaint under one policy or document does not preclude action under another related District policy or document.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Definitions

For purposes of this policy, the following definitions apply:

a) "School property" means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of any District elementary or secondary school, or in or on a school bus or District vehicle.

b) "School function" means a school-sponsored or school-authorized extracurricular event or activity regardless of where the event or activity takes place, including any event or activity that may take place virtually or in another state.

What Constitutes Discrimination and Harassment

Determinations as to whether conduct or an incident constitutes discrimination and/or harassment will be made consistent with applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, or other document such as the District's *Code of Conduct*. These determinations may depend upon a number of factors, including, but not limited to: the particular conduct or incident at issue; the ages of the parties involved; the context in which the conduct or incident took place; the relationship of the parties to one another; the relationship of the parties to the District; and the protected class or characteristic that is alleged to have been the basis for the conduct or incident. The examples below are intended to serve as a general guide for individuals in determining what may constitute discrimination and/or harassment. These examples should not be construed to add or limit the rights that individuals and entities possess as a matter of law.

Generally stated, discrimination consists of the differential treatment of a person or group of people on the basis of their membership in a legally protected class. Discriminatory actions may include, but are not limited to: refusing to promote or hire an individual on the basis of his or her membership in a protected class; denying an individual access to facilities or educational benefits on the basis of his or her membership in a protected class; or impermissibly instituting policies or practices that disproportionately and adversely impact members of a protected class.

Generally stated, harassment consists of subjecting an individual, on the basis of his or her membership in a legally protected class, to unwelcome verbal, written, or physical conduct which may include, but is not limited to: derogatory remarks, signs, jokes, or pranks; demeaning comments or behavior; slurs; mimicking; name calling; graffiti; innuendo; gestures; physical contact; stalking; threatening; bullying; extorting; or the display or circulation of written materials or pictures.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

This conduct may, among other things, have the purpose or effect of: subjecting the individual to inferior terms, conditions, or privileges of employment; creating an intimidating, hostile, or offensive environment; substantially or unreasonably interfering with an individual's work or a student's educational performance, opportunities, benefits, or well-being; or otherwise adversely affecting an individual's employment or educational opportunities. Petty slights or trivial inconveniences generally do not constitute harassing conduct.

Civil Rights Compliance Officer

The District has designated the following District employee(s) to serve as its CRCO(s):

JoAnn Balazs; Assistant Superintendent; District Office; 1901 Sweet Home Rd.; Amherst, NY 14228; (716)-250-1417; jbalazs@sweethomeschools.org.

Donald Feldmann; Director of Finance & Plant Services; District Office; 1901 Sweet Home Rd. Amherst; NY 14228; (716) 250-1406; dfeldmann@sweethomeschools.org.

The CRCO(s) will coordinate the District's efforts to comply with its responsibilities under applicable non-discrimination and anti-harassment laws and regulations including, but not limited to: the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and the Age Discrimination Act of 1975.

Where appropriate, the CRCO(s) may seek the assistance of other District employees, such as the District's Title IX Coordinator(s) or Dignity Act Coordinator(s) (DAC(s)), or third parties in investigating, responding to, and remedying complaints of discrimination and/or harassment.

Reporting Allegations of Discrimination and/or Harassment

Any person may report discrimination and/or harassment regardless of whether they are the alleged victim or not. Reports may be made in person, by using the contact information for the CRCO, or by any other means that results in the CRCO receiving the person's oral or written report. This report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the CRCO.

Reports of discrimination and/or harassment may also be made to any other District employee including a supervisor or building principal. All reports of discrimination and/or harassment will be immediately forwarded to the CRCO. Reports may also be forwarded to other District employees depending on the allegations.

All District employees who witness or receive an oral or written report of discrimination and/or harassment must immediately inform the CRCO. Failure to immediately inform the CRCO may subject the employee to discipline up to and including termination.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

In addition to complying with this policy, District employees must comply with any other applicable District policy, regulation, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*. Applicable documents include, but are not limited to, the District's policies, regulations, and procedures related to Title IX, sexual harassment in the workplace, and the Dignity for All Students Act (DASA).

If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

Grievance Process for Complaints of Discrimination and/or Harassment

The District will act to promptly, thoroughly, and equitably investigate all complaints, whether oral or written, of discrimination and/or harassment based on any legally protected class and will promptly take appropriate action to protect individuals from further discrimination and/or harassment. The CRCO will oversee the District's investigation of all complaints of discrimination and/or harassment. In the event an anonymous complaint is filed, the District will respond to the extent possible.

If an investigation reveals that discrimination and/or harassment based on a legally protected class has occurred, the District will take immediate corrective action as warranted. This action will be taken in accordance with applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, collective bargaining agreement, third-party contract, or other document such as the District's *Code of Conduct*.

Knowingly Makes False Accusations

Any employee or student who knowingly makes false accusations against another individual as to allegations of discrimination and/or harassment will face appropriate disciplinary action.

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

The District prohibits retaliation against any individual because the individual made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing related to a complaint of discrimination and/or harassment.

Complaints of retaliation may be directed to the CRCO. If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Where appropriate, follow-up inquiries will be made to ensure that the discrimination and/or harassment has not resumed and that those involved in the investigation have not suffered retaliation.

Confidentiality

To the extent possible, all complaints will be treated as confidential. Disclosure may be necessary in certain circumstances such as to complete a thorough investigation and/or notify law enforcement officials. All disclosures will be in accordance with law and regulation.

Training

In order to promote familiarity with issues pertaining to discrimination and harassment in the District, and to help reduce incidents of prohibited conduct, the District will provide appropriate information and/or training to employees and students. As may be necessary, special training will be provided for individuals involved in the handling of discrimination and/or harassment complaints.

Notification

Prior to the beginning of each school year, the District will issue an appropriate public announcement or publication which advises students, parents or legal guardians, employees, and other relevant individuals of the District's established grievance process for resolving complaints of discrimination and/or harassment. This announcement or publication will include the name, office address, telephone number, and email address of the CRCO(s). The District's website will reflect current and complete contact information for the CRCO(s).

A copy of this policy and its corresponding regulations and/or procedures will be available upon request and will be posted and/or published in appropriate locations and/or District publications.

Additional Provisions

Regulations and/or procedures will be developed for reporting, investigating, and remedying allegations of discrimination and/or harassment.

8 USC § 1324b
29 USC § 206
42 USC § 1981
Age Discrimination Act of 1975, 42 USC § 6101 et seq.
Age Discrimination in Employment Act of 1967 (ADEA), 29 USC § 621 et seq.
Americans with Disabilities Act (ADA), 42 USC § 12101 et seq.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Equal Educational Opportunities Act of 1974, 20 USC § 1701 et seq.
Genetic Information Non-Discrimination Act (GINA), 42 USC § 2000ff et seq.
National Labor Relations Act (NLRA), 29 USC § 151 et seq.
Section 504 of the Rehabilitation Act of 1973, 29 USC § 790 et seq.
Title IV of the Civil Rights Act of 1964, 42 USC § 2000c et seq.
Title VI of the Civil Rights Act of 1964, 42 USC § 2000d et seq.
Title VII of the Civil Rights Act of 1964, 42 USC § 2000e et seq.
Title IX of the Education Amendments Act of 1972, 20 USC § 1681 et seq.
Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC § 4301 et seq.
28 CFR Part 35
29 CFR Chapter I – National Labor Relations Board
29 CFR Chapter XIV – Equal Employment Opportunity Commission
34 CFR Parts 100, 104, 106, 110, and 270
45 CFR Part 86
Civil Rights Law §§ 40, 40-a, 40-c, 47-a, 47-b, and 48-a
Civil Service Law §§ 75-b and 115
Correction Law § 752
Education Law §§ 10-18, 313, 313-a, 2801, 3201, and 3201-a
Labor Law §§ 194-a, 201-d, 201-g, 203-e, 206-c, and 215
New York State Human Rights Law, Executive Law § 290 et seq.
Military Law §§ 242, 243, and 318
8 NYCRR § 100.2
9 NYCRR § 466 et seq.

NOTE: Refer also to Policies #3421 -- Sex Discrimination and Sexual Harassment Prohibited by Title IX of the Education Amendments of 1972
#6120 -- Equal Employment Opportunity
#6121 -- Sexual Harassment in the Workplace
#6122 -- Employee Grievances
#7541 -- Sexual Harassment of Students
#7544 -- Dignity for All Students
#8130 -- Equal Educational Opportunities
#8220 -- Career and Technical (Occupational) Education
District *Code of Conduct*

Adopted: 5/9/06
Revised: 11/18/08; 10/19/10; 4/8/14; 3/15/16; 2/15/22

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT

Overview

The District is committed to creating and maintaining an environment which is free from discrimination and harassment. This policy addresses complaints of discrimination and/or harassment made under applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, or other document such as the District's *Code of Conduct*. It is just one component of the District's overall commitment to maintaining a discrimination and harassment-free educational and work environment.

In accordance with applicable federal and state laws and regulations, the District does not discriminate on the basis of any legally protected class or category in its education programs and activities or when making employment decisions. Further, the District prohibits discrimination and harassment on school property and at school functions on the basis of any legally protected class or category including, but not limited to:

a) Age;

~~a~~b) Race;

c) Creed;

d) Religion;

~~b~~e) Color;

~~c) Religion;~~

~~d) Disability;~~

~~e~~f) National origin;

g) Citizenship or immigration status;

~~f~~h) Sexual orientation;

~~g~~i) Gender identity or expression;

~~h~~j) Military status;

~~i~~k) Sex;

~~j) Age; and~~

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

~~k)~~ ~~Marital status.~~

l) Disability;

m) Predisposing genetic characteristics;

n) Familial status;

o) Marital status; and

p) Status as a victim of domestic violence.

The District adopts this policy as part of its effort to provide for the prompt and equitable resolution of complaints of discrimination and/or harassment. The District will promptly respond to reports of discrimination and/or harassment, ensure that all investigations are conducted within a reasonably prompt time frame and under a predictable fair grievance process that provides due process protections, and impose disciplinary measures and implement remedies when warranted.

Inquiries about this policy may be directed to the District's Civil Rights Compliance Officer(s) (CRCO(s)).

Scope and Application

This policy outlines the District's general approach to addressing complaints of discrimination and/or harassment. This policy applies to the dealings between or among the following parties on school property and at school functions:

a) Students;

b) Employees;

c) Applicants for employment;

d) Paid or unpaid interns;

e) Anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a contract in the workplace;

f) Volunteers; and

g) Visitors or other third parties.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Further, discrimination and/or harassment that occurs off school property and somewhere other than a school function can disrupt the District's educational and work environment. This conduct can occur in-person or through phone calls, texts, emails, or social media. Accordingly, conduct or incidents of discrimination and/or harassment that create or foreseeably create a disruption within the District may be subject to this policy in certain circumstances.

Other District policies and documents such as regulations, procedures, collective bargaining agreements, and the District's *Code of Conduct* may address misconduct related to discrimination and/or harassment and may provide for additional, different, or more specific grievance procedures depending on a number of factors including, but not limited to, who is involved, where the alleged discrimination and/or harassment occurred, and the basis of the alleged discrimination and/or harassment. These documents must be read in conjunction with this policy.

The dismissal of a complaint under one policy or document does not preclude action under another related District policy or document.

Definitions

For purposes of this policy, the following definitions apply:

a) "School property" means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of any District elementary or secondary school, or in or on a school bus or District vehicle.

b) "School function" means a school-sponsored or school-authorized extracurricular event or activity regardless of where the event or activity takes place, including any event or activity that may take place virtually or in another state.

What Constitutes Discrimination and Harassment

Determinations as to whether conduct or an incident constitutes discrimination and/or harassment will be made consistent with applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, or other document such as the District's *Code of Conduct*. These determinations may depend upon a number of factors, including, but not limited to: the particular conduct or incident at issue; the ages of the parties involved; the context in which the conduct or incident took place; the relationship of the parties to one another; the relationship of the parties to the District; and the protected class or characteristic that is alleged to have been the basis for the conduct or incident. The examples below are intended to serve as a general guide for individuals in determining what may constitute discrimination and/or harassment. These examples should not be construed to add or limit the rights that individuals and entities possess as a matter of law.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Generally stated, discrimination consists of the differential treatment of a person or group of people on the basis of their membership in a legally protected class. Discriminatory actions may include, but are not limited to: refusing to promote or hire an individual on the basis of ~~his or her~~ their membership in a protected class; denying an individual access to facilities or educational benefits on the basis of ~~his or her~~ their membership in a protected class; or impermissibly instituting policies or practices that disproportionately and adversely impact members of a protected class.

Generally stated, harassment consists of subjecting an individual, on the basis of ~~his or her~~ their membership in a legally protected class, to unwelcome verbal, written, or physical conduct which may include, but is not limited to: derogatory remarks, signs, jokes, or pranks; demeaning comments or behavior; slurs; mimicking; name calling; graffiti; innuendo; gestures; physical contact; stalking; threatening; bullying; extorting; or the display or circulation of written materials or pictures.

This conduct may, among other things, have the purpose or effect of: subjecting the individual to inferior terms, conditions, or privileges of employment; creating an intimidating, hostile, or offensive environment; substantially or unreasonably interfering with an individual's work or a student's educational performance, opportunities, benefits, or well-being; or otherwise adversely affecting an individual's employment or educational opportunities. ~~Petty slights or trivial inconveniences generally do not constitute harassing conduct.~~

Under New York State Human Rights Law (NYSHRL), discrimination or harassment does not need to be severe or pervasive to be illegal. It can be any discriminatory or harassing behavior that rises above petty slights or trivial inconveniences. Every instance of discrimination or harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, NYSHRL specifies that whether discriminatory or harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics.

Civil Rights Compliance Officer

The District has designated the following District employee(s) to serve as its CRCO(s):

JoAnn Balazs; Assistant Superintendent; District Office; 1901 Sweet Home Rd.; Amherst, NY 14228; (716)-250-1417; jbalazs@sweethomeschools.org.

Donald Feldmann; Director of Finance & Plant Services; District Office; 1901 Sweet Home Rd. Amherst; NY 14228; (716) 250-1406; dfeldmann@sweethomeschools.org.

The CRCO(s) will coordinate the District's efforts to comply with its responsibilities under applicable non-discrimination and anti-harassment laws and regulations including, but not limited to: the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and the Age Discrimination Act of 1975.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Where appropriate, the CRCO(s) may seek the assistance of other District employees, such as the District's Title IX Coordinator(s) or Dignity Act Coordinator(s) (DAC(s)), or third parties in investigating, responding to, and remedying complaints of discrimination and/or harassment.

Reporting Allegations of Discrimination and/or Harassment

~~Any person may report discrimination and/or harassment regardless of whether they are the alleged victim or not.~~ Anyone who experiences, witnesses, or becomes aware of potential instances of discrimination or harassment is encouraged to report the behavior to a supervisor, building principal, other administrator, or the CRCO. Individuals should not feel discouraged from reporting discrimination or harassment because they do not believe it is bad enough or conversely because they do not want to see someone punished for less severe behavior.

Reports of discrimination and/or harassment may be made verbally or in writing. A written complaint form is posted on the District's website if an individual would like to use it, but the complaint form is not required. Individuals who are reporting discrimination and/or harassment on behalf of another individual may use the complaint form and note that it is being submitted on another individual's behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another individual is also acceptable.

Reports may be made to a CRCO in person, by using the contact information for ~~the~~ a CRCO, or by any other means that results in ~~the~~ a CRCO receiving the person's ~~oral~~ verbal or written report. This report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for ~~the~~ a CRCO.

Reports of discrimination and/or harassment may also be made to any other District employee including a supervisor or building principal. All reports of discrimination and/or harassment ~~will~~ must be immediately forwarded to the CRCO. Reports may also be forwarded to other District employees depending on the allegations.

~~All District employees who witness or receive an oral or written report of discrimination and/or harassment must immediately inform the CRCO.~~ Failure to immediately inform the CRCO may subject the employee to discipline up to and including termination.

~~In addition to complying with this policy, District employees must comply with any other applicable District policy, regulation, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*. Applicable documents include, but are not limited to, the District's policies, regulations, and procedures related to Title IX, sexual harassment in the workplace, and the Dignity for All Students Act (DASA).~~

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

In addition to complying with the reporting requirements in this policy, District employees must comply with any other applicable reporting requirements contained in District policy, regulation, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*. Applicable documents include, but are not limited to, the District's policies, regulations, and procedures related to Title IX, sexual harassment in the workplace, and the Dignity for All Students Act (DASA).

Supervisory Responsibilities

Supervisors, building principals, other administrators, and the CRCOs are responsible for helping to maintain a discrimination and harassment-free educational and work environment.

All supervisors, building principals, and other administrators who receive a complaint or information about suspected discrimination or harassment, observe what may be discriminatory or harassing behavior, or for any reason suspect that discrimination or harassment is occurring, are required to report the suspected discrimination or harassment to the CRCO. If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

Supervisors, building principals, and other administrators should not be passive and wait for an individual to make a claim of discrimination or harassment. If they observe such behavior, they must act.

Supervisors, building principals, and other administrators can be disciplined if they engage in discriminatory or harassing behavior themselves. Supervisors, building principals, and other administrators, can also be disciplined for failing to report suspected discrimination or harassment or allowing discrimination or harassment to continue after they know about it.

While supervisors, building principals, and other administrators have a responsibility to report discrimination and harassment, they must be mindful of the impact that discrimination and/or harassment and a subsequent investigation has on victims. Being identified as a possible victim of discrimination or harassment and questioned about discrimination or harassment can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors, building principals, and other administrators must accommodate the needs of individuals who have experienced discrimination or harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Grievance Process for Complaints of Discrimination and/or Harassment

All complaints or information about discrimination or harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected discrimination or harassment will be prompt, thorough, equitable, and started and completed as soon as possible. Investigations will be kept confidential to the extent possible. Disclosure may, however, be necessary to complete a thorough investigation of the charges and/or notify law enforcement officials. All individuals involved, including those making a discrimination or harassment claim, witnesses, and alleged harassers deserve a fair and impartial investigation.

~~The District will act to promptly, thoroughly, and equitably investigate all complaints, whether oral or written, of discrimination and/or harassment based on any legally protected class and will promptly take appropriate action to protect individuals from further discrimination and/or harassment.~~

The CRCO will generally oversee the District's investigation of all complaints of discrimination and/or harassment. In the event an anonymous complaint is filed, the District will respond to the extent possible.

District employees may be required to cooperate as needed in an investigation of suspected discrimination or harassment. The District recognizes that participating in a discrimination or harassment investigation can be uncomfortable and has the potential to retraumatize an individual. Individuals receiving claims and leading investigations will handle complaints and questions with sensitivity toward participants.

Various District policies and documents address discrimination and harassment. All complaints will be handled in accordance with the applicable District policies and/or documents.

The determination as to which District policies and/or documents are applicable is fact specific, and the CRCO may work with other District staff such as the District's Dignity Act Coordinators (DACs) or Title IX Coordinator(s) to determine which District policies and/or documents are applicable to the specific facts of the complaint.

If an investigation reveals that discrimination and/or harassment based on a legally protected class has occurred, the District will take immediate corrective action as warranted. This action will be taken in accordance with applicable ~~federal and state~~ law~~s~~ and regulation~~s~~, as well as any applicable District policy, regulation, procedure, collective bargaining agreement, third-party contract, or other document such as the District's *Code of Conduct*.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Knowingly Makes False Accusations

Any employee or student who knowingly makes false accusations against another individual as to allegations of discrimination and/or harassment will face appropriate disciplinary action.

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

~~The District prohibits retaliation against any individual because the individual made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing related to a complaint of discrimination and/or harassment.~~

The District prohibits all retaliation. Any individual that reports an incident of discrimination or harassment, provides information, or otherwise assists in any investigation of a discrimination or harassment complaint is protected from retaliation. No one should fear reporting discrimination or harassment if they believe it has occurred. Even if the alleged discrimination or 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 discrimination or harassment.

Any District employee who retaliates against anyone involved in a discrimination or harassment investigation will face disciplinary action, up to and including termination.

Complaints of retaliation may be directed to the CRCO. If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

Where appropriate, follow-up inquiries will be made to ensure that the discrimination and/or harassment has not resumed and that those involved in the investigation have not suffered retaliation.

Confidentiality

To the extent possible, all complaints will be treated as confidential. Disclosure may be necessary in certain circumstances such as to complete a thorough investigation and/or notify law enforcement officials. All disclosures will be in accordance with law and regulation.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

Training

In order to promote familiarity with issues pertaining to discrimination and harassment in the District, and to help reduce incidents of prohibited conduct, the District will provide appropriate information and/or training to employees and students. As may be necessary, special training will be provided for individuals involved in the handling of discrimination and/or harassment complaints.

Notification

Prior to the beginning of each school year, the District will issue an appropriate public announcement or publication which advises students, parents or legal guardians, employees, and other relevant individuals of the District's established grievance process for resolving complaints of discrimination and/or harassment. This announcement or publication will include the name, office address, telephone number, and email address of the CRCO(s). The District's website will reflect current and complete contact information for the CRCO(s).

A copy of this policy and its corresponding regulations and/or procedures will be available upon request and will be posted and/or published in appropriate locations and/or District publications.

Additional Provisions

Regulations and/or procedures will be developed for reporting, investigating, and remedying allegations of discrimination and/or harassment.

8 USC Section 1324b
29 USC Section 206
42 USC Section 1981
Age Discrimination Act of 1975, 42 USC Section 6101 et seq.
Age Discrimination in Employment Act of 1967 (ADEA), 29 USC Section 621 et seq.
Americans with Disabilities Act (ADA), 42 USC Section 12101 et seq.
Equal Educational Opportunities Act of 1974, 20 USC Section 1701 et seq.
Genetic Information Non-Discrimination Act (GINA), 42 USC Section 2000ff et seq.
Section 504 of the Rehabilitation Act of 1973, 29 USC Section 790 et seq.
Title IV of the Civil Rights Act of 1964, 42 USC Section 2000c et seq.
Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d et seq.
Title VII of the Civil Rights Act of 1964, 42 USC Section 2000e et seq.
Title IX of the Education Amendments Act of 1972, 20 USC Section 1681 et seq.
Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC Section 4301 et seq.

(Continued)

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT (Cont'd.)

28 CFR Part 35
29 CFR Chapter I – National Labor Relations Board
29 CFR Chapter XIV – Equal Employment Opportunity Commission
34 CFR Parts 100, 104, 106, 110, and 270
45 CFR Part 86
Civil Rights Law Sections 40, 40-a, 40-c, 47-a, 47-b, and 48-a
Civil Service Law Sections 75-b and 115
Correction Law Section 752
Education Law Sections 10-18, 313, 313-a, 2801, 3201, and 3201-a
Labor Law Sections 194-a, 201-d, 201-g, 203-e, 206-c, 215, and 740
New York State Human Rights Law, Executive Law Section 290 et seq.
Military Law Sections 242, 243, and 318
8 NYCRR Section 100.2
9 NYCRR Section 466 et seq.

NOTE: Refer also to Policies #3421 -- Sex Discrimination and Sexual Harassment Prohibited by Title IX of the Education Amendments of 1972
#6120 -- Equal Employment Opportunity
#6121 -- Sexual Harassment in the Workplace
#6122 -- Employee Grievances
#7541 -- Sexual Harassment of Students
#7544 -- Dignity for All Students
#8130 -- Equal Educational Opportunities
#8220 -- Career and Technical (Occupational) Education
District *Code of Conduct*

Adopted: 5/9/06
Revised: 11/18/08; 10/19/10; 4/8/14; 3/15/16; 2/15/22;

SUBJECT: ADMINISTRATION OF THE BUDGET

The Superintendent, working in conjunction with the administrative staff, is responsible to the Board for the administration of the budget. This includes, but is not limited to:

a) Acquainting District employees with the final provisions of the program budget and guiding them in planning to operate efficiently and economically within these provisions.

b) Providing direction to the District in maintaining those records of accounting control as are required by the New York State Uniform System of Accounts for School Districts, the Board, and other procedures as are deemed necessary.

c) Keeping the various operational units informed through periodic reports as to the status of their individual budgets.

Unless otherwise provided by law, no claim against the District will be paid unless such claims have been audited and approved by the Claims Auditor.

Budget Transfers

Within monetary limits as established by the Board, the Superintendent is authorized to transfer funds between and within functional unit appropriations for teachers' salaries and ordinary contingent expenses.

Transfer Amount	Authorization
Up to $25,000	Director of Finance and Plant Services
$25,001 - $50,000	Superintendent of Schools
$50,001 or higher	Board of Education

Statement of the Total Funding Allocation

When required by law, the District will annually submit to the Commissioner of Education and the Director of the Budget a detailed statement of the total funding allocation for each school in the District for the upcoming school budget year. This statement will be in a form developed by the Director of the Budget, in consultation with the Commissioner of Education. This statement will be made publicly available and posted on the District website.

Education Law Sections 1604(35), 1709(20-a), 1711, 1718, 1724, 1950(4)(k), 2508, 2523-2526, 2554(2-a), and 3614
8 NYCRR Sections 170.12(c) and 170.2(l)

Adopted: 5/9/06
Revised: 2/11/20

SUBJECT: ADMINISTRATION OF THE BUDGET

The Superintendent, working in conjunction with the administrative staff, is responsible to the Board for the administration of the budget. This includes, but is not limited to:

a) Acquainting District employees with the final provisions of the program budget and guiding them in planning to operate efficiently and economically within these provisions.

b) Providing direction to the District in maintaining those records of accounting control as are required by the New York State Uniform System of Accounts for School Districts, the Board, and other procedures as are deemed necessary.

c) Keeping the various operational units informed through periodic reports as to the status of their individual budgets.

Unless otherwise provided by law, no claim against the District will be paid unless such claims have been audited and approved by the Claims Auditor.

Budget Transfers

Within monetary limits as established by the Board, the Superintendent is authorized to transfer funds between and within functional unit appropriations for teachers' salaries and ordinary contingent expenses.

Transfer Amount	Authorization
Up to $25,000	Director of Finance and Plant Services
$25,001 - $50,000	Superintendent of Schools
$50,001 or higher	Board of Education

~~**Statement of the Total Funding Allocation**~~

~~When required by law, the District will annually submit to the Commissioner of Education and the Director of the Budget a detailed statement of the total funding allocation for each school in the District for the upcoming school budget year. This statement will be in a form developed by the Director of the Budget, in consultation with the Commissioner of Education. This statement will be made publicly available and posted on the District website.~~

Education Law Sections 1604(35), 1709(20-a), 1711, 1718, 1724, 1950(4)(k), 2508, 2523-2526, and 2554(2-a)
8 NYCRR Sections 170.12(c) and 170.2(l)

Adopted: 5/9/06
Revised: 2/11/20;

Non-Instructional/Business Operations

SUBJECT: USE OF SURVEILLANCE CAMERAS IN THE DISTRICT AND ON SCHOOL BUSES

It is the Board's responsibility to ensure the safety of the District's students, staff, facilities, and property. While the Board recognizes the importance of privacy, it has authorized the use of surveillance cameras on District property including in school buildings, school facilities, as well as on school buses, when necessary. These surveillance cameras will help to assist the Board in maintaining the overall safety and welfare of the District's students, staff, property, and visitors, as well as to deter theft, violence, and other criminal activities.

Further, surveillance cameras will only be placed in public or common areas, such as stairwells, hallways, cafeterias, parking lots, playgrounds, computer labs, and instructional areas as deemed necessary by the Superintendent and not in private areas such as locker rooms, bathrooms, or other areas in which individuals have a reasonable expectation of privacy. Audio recordings will not be utilized by the District officials, however, this prohibition may not preclude the use of audio recordings by law enforcement officials in accordance with their official duties or District officials as otherwise authorized by law.

Disciplinary Proceedings

Video recordings or footage from District surveillance cameras may be used in student or employee disciplinary proceedings, as appropriate.

Notification

Students and staff will also receive additional notification, as deemed appropriate by the Superintendent, regarding the use of its surveillance cameras through means such as publication in the District calendar, employee handbook, and/or the student handbook.

Maintenance of Video Recordings

Any video surveillance recording in the schools, on school buses, or on school property, on tape, CD, or digitally, will be the sole property of the District and stored in its original form and in a secure location to avoid tampering and also to ensure its confidentiality in accordance with relevant law and regulations.

In addition, to the extent that any video images create student or personnel records, the District will comply with all applicable state and federal laws related to record retention, record maintenance, and record disclosure, including the Family Educational Rights and Privacy Act ("FERPA").

Adopted: 11/21/17

Non-Instructional/Business Operations

SUBJECT: EXPOSURE CONTROL PROGRAM

The District shall establish an exposure control program designed to prevent and control exposure to bloodborne pathogens. According to the New York State Department of Labor's Division of Safety and Health and Occupational Safety and Health Administration (OSHA) standards, the program shall consist of:

a) Guidelines for maintaining a safe, healthy school environment to be followed by staff and students alike.

b) Written standard operating procedures for blood/body fluid clean-up.

c) Appropriate staff education/training.

d) Evaluation of training objectives.

e) Documentation of training and any incident of exposure to blood/body fluids.

f) A program of medical management to prevent or reduce the risk of pathogens, specifically hepatitis B and HIV.

g) Written procedures for the disposal of medical waste.

h) Provision of protective materials and equipment for all employees who perform job-related tasks involving exposure or potential exposure to blood, body fluids or tissues.

29 CFR 1910.1030

Adopted: 5/9/06

Non-Instructional/Business Operations

SUBJECT: USE OF SURVEILLANCE CAMERAS IN THE DISTRICT AND ON SCHOOL BUSES

It is the Board's responsibility to ensure the safety of the District's students, staff, facilities, and property. While the Board recognizes the importance of privacy, it has authorized the use of surveillance cameras on District property including in school buildings, school facilities, as well as on school buses, when necessary. These surveillance cameras will help to assist the Board in maintaining the overall safety and welfare of the District's students, staff, property, and visitors, as well as to deter theft, violence, and other criminal activities.

Further, surveillance cameras will only be placed in public or common areas, such as stairwells, hallways, cafeterias, parking lots, playgrounds, computer labs, and instructional areas as deemed necessary by the Superintendent and not in private areas such as locker rooms, bathrooms, or other areas in which individuals have a reasonable expectation of privacy. Audio recordings will not be utilized by the District officials, however, this prohibition may not preclude the use of audio recordings by law enforcement officials in accordance with their official duties or District officials as otherwise authorized by law.

Disciplinary Proceedings

Video recordings or footage from District surveillance cameras may be used in student or employee (as permitted by any applicable collective bargaining agreement) disciplinary proceedings, as appropriate.

Notification

Students and staff will also receive additional notification, as deemed appropriate by the Superintendent, regarding the use of its surveillance cameras through means such as publication in the District calendar, employee handbook, and/or the student handbook.

Maintenance of Video Recordings

Any video surveillance recording in the schools, on school buses, or on school property, on tape, CD, or digitally, will be the sole property of the District and stored in its original form and in a secure location to avoid tampering and also to ensure its confidentiality in accordance with relevant law and regulations.

In addition, to the extent that any video images create student or personnel records, the District will comply with all applicable state and federal laws related to record retention, record maintenance, and record disclosure, including the Family Educational Rights and Privacy Act ("FERPA").

Adopted: 11/21/17
Revised:

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

Overview

The District is committed to creating and maintaining an environment which is free from discrimination and harassment. Sexual harassment is one form of workplace discrimination. This policy addresses sexual harassment in the workplace. It is just one component of the District's overall commitment to maintaining a discrimination and harassment-free educational and work environment.

Sexual harassment is a form of employee misconduct, a violation of District policy, and unlawful. Employees of every level who engage in sexual harassment, including supervisory personnel who engage in sexual harassment, who knowingly allow such behavior to continue, or fail to report suspected sexual harassment will be subject to remedial and/or disciplinary action by the District. Sexual harassment may also subject the District to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability.

The District adopts this policy as part of its effort to provide for the prompt and equitable resolution of complaints of sexual harassment in the workplace. The District will promptly respond to reports of sexual harassment in the workplace, ensure that all investigations are conducted within a reasonably prompt time frame and under a predictable fair grievance process that provides due process protections, and impose disciplinary measures and implement remedies when warranted.

Inquiries about this policy may be directed to the District's Civil Rights Compliance Officer(s) (CRCO(s)) and/or Title IX Coordinator(s).

Scope and Application

This policy applies to all instances of sexual harassment perpetrated against a "covered person," regardless of immigration status, by anyone in the workplace, including a co-worker, supervisor, or third-party such as a non-employee, paid or unpaid intern, vendor, building security, visitor, volunteer, parent, or student. For purposes of this policy, a "covered person" includes:

a) Employees;

b) Applicants for employment;

c) Paid or unpaid interns; and

d) Non-employees, which include anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a contract in the workplace.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

Sexual harassment in the workplace can occur between any individuals, regardless of their sex or gender. Unlawful sexual harassment is not limited to the physical workplace itself. Sexual harassment can occur on school property and at school functions which, for purposes of this policy, means a school-sponsored or school-authorized extracurricular event or activity regardless of where the event or activity takes place, including any event or activity that may take place virtually or in another state. It can also occur while employees are traveling for District business. Calls, texts, emails, and social media usage can constitute unlawful workplace harassment, even if they occur away from school property, on personal devices, or during non-work hours. Accordingly, conduct or incidents of sexual harassment that create or foreseeably create a disruption within the District may be subject to this policy in certain circumstances.

Other District policies and documents such as regulations, procedures, collective bargaining agreements, and the District's *Code of Conduct* may address misconduct related to sexual harassment and may provide for additional, different, or more specific grievance procedures depending on a number of factors including, but not limited to, who is involved and where the alleged sexual harassment occurred. These documents must be read in conjunction with this policy.

The dismissal of a complaint under one policy or document does not preclude action under another related District policy or document.

What Constitutes 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.

Under New York State Human Rights Law, sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful, and can be any harassing conduct that consists of more than petty slights or trivial inconveniences.

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

a) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;

b) Such conduct is made either explicitly or implicitly a term or condition of employment; or

c) Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called "quid pro quo" harassment.

Any covered person who feels harassed should report the conduct 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 actions that may constitute unlawful sexual harassment and that are strictly prohibited:

a) Physical acts of a sexual nature, such as:

   1. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body; and

   2. Rape, sexual battery, molestation or attempts to commit these assaults.

b) Unwanted sexual advances or propositions, such as:

   1. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments; and

   2. Subtle or obvious pressure for unwelcome sexual activities.

c) Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.

d) Sex stereotyping, which 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.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

e) Sexual or discriminatory displays or publications anywhere in the workplace, such as 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.

f) Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, and the status of being transgender, such as:

1. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;

2. Sabotaging an individual's work; and

3. Bullying, yelling, or name-calling.

Prohibition of Retaliatory Behavior (Whistle-Blower Protection)

Unlawful retaliation can be any action that could discourage a covered person 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).

The District prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participate in the investigation of a complaint of sexual harassment. 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:

a) Made a complaint of sexual harassment, either internally or with any anti-discrimination agency;

b) Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;

c) Opposed sexual harassment by making an oral or informal complaint of harassment to a supervisor, building principal, other administrator, or the CRCO;

d) Reported that another employee has been sexually harassed; or

e) Encouraged a fellow employee to report harassment.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

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

Reporting Allegations of Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The District cannot prevent or remedy sexual harassment unless it knows about it. Any covered person who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, building principal, other administrator, or the CRCO. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior.

Reports of sexual harassment may be made orally or in writing. A form for submission of a written complaint is posted on the District website, and all covered persons are encouraged to use this complaint form. Persons who are reporting sexual harassment on behalf of another person should use the complaint form and note that it is being submitted on another person's behalf.

District employees must comply with reporting requirements in any other applicable District policy or document.

Any person who believes they have been a target of sexual harassment may also seek assistance in other available forums, as explained in this policy.

Supervisory Responsibilities

All supervisors, building principals, and other administrators who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the CRCO. If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors, building principals, and other administrators will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors, building principals, and other administrators will also be subject to discipline for engaging in any retaliation.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

Investigating Complaints of Sexual Harassment

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

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. Disclosure may, however, be necessary to complete a thorough investigation of the charges and/or notify law enforcement officials. All persons involved, including complainants, witnesses, and alleged harassers will be accorded due process, as outlined below, and in accordance with any applicable collective bargaining agreements to protect their rights to a fair and impartial investigation.

The District will not tolerate retaliation against anyone who files complaints, supports another's complaint, or participates in an investigation regarding a violation of this policy.

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

a) Upon receipt of a complaint, the CRCO will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate.

   If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

b) All complaints of sexual harassment will be investigated regardless of the form in which those complaints are made. For oral complaints, the individual will be encouraged to complete the complaint form, which is available on the District website, in writing. If he or she refuses, a complaint form based on the oral report will be prepared. The complainant will be provided a copy of the completed complaint form.

c) If documents, emails, or phone records are relevant to the investigation, take steps to obtain and preserve them.

d) Request and review all relevant documents, including all electronic communications.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

e) Interview all parties involved, including any relevant witnesses. If a student is involved, the District will follow all applicable District policies and procedures regarding questioning students.

f) Create written documentation of the investigation (such as a letter, memo, or email), which contains the following:

1. A list of all documents reviewed, along with a detailed summary of relevant documents;
2. A list of names of those interviewed, along with a detailed summary of their statements;
3. A timeline of events;
4. A summary of prior relevant incidents, reported or unreported; and
5. The basis for the decision and final resolution of the complaint, together with any corrective action(s).

g) Keep the written documentation and associated documents in a secure and confidential location.

h) Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.

i) Inform the individual who reported of the right to file a complaint or charge externally as outlined in this policy.

Additionally, other District policies and documents address sexual harassment. All complaints will be handled in accordance with the applicable District policies and/or documents.

The determination as to which District policies and/or documents are applicable is fact specific, and the CRCO may work with other District staff such as the District's Title IX Coordinator(s) to determine which District policies and/or documents are applicable to the specific facts of the complaint.

If an investigation reveals that sexual harassment has occurred, the District will take immediate corrective action as warranted. This action will be taken in accordance with applicable law and regulation, as well as any applicable District policy, regulation, procedure, collective bargaining agreement, third-party contract, or other document such as the District's *Code of Conduct*.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

Annual Training

The District will provide a sexual harassment prevention training program to all employees on an annual basis. The training will be interactive and will include:

a) An explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;

b) Examples of conduct that would constitute unlawful sexual harassment;

c) Information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment;

d) Information concerning employees' rights of redress and all available forums for adjudicating complaints; and

e) Information addressing conduct by supervisors and any additional responsibilities for such supervisors.

Notification

The District will provide this policy to all employees in writing. The District will post this policy prominently throughout the District to the extent practicable.

At the time of hiring and at every annual sexual harassment prevention training program, the District will provide each employee a notice containing this policy and the information presented at the District's sexual harassment prevention training program.

This notice will be provided in English and in the language identified by the employee as his or her primary language, provided that the New York State Department of Labor Commissioner has published a template of the model materials in that language.

The notice will be delivered in writing, either in print or digitally. The notice will either link to or include, as an attachment or printed copy, the policy and training materials.

Legal Protections and External Remedies

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

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

Aside from the District's internal process, individuals 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, an individual may seek the legal advice of an attorney. Individuals may also call the New York State Division of Human Rights' (NYSDHR's) toll free confidential hotline at 1-800-HARASS-3 (1-800-427-2773) Monday through Friday, 9 AM to 5 PM, for counsel and assistance regarding complaints of workplace sexual harassment. The hotline connects individuals with attorneys who have experience in responding to issues relating to sexual harassment and can provide pro bono assistance.

In addition to those outlined below, individuals may have other legal protections.

State Human Rights Law (HRL)

The HRL, codified as N.Y. Executive Law, art. 15, Section 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects covered persons, regardless of immigration status. A complaint alleging violation of the HRL may be filed either with the NYSDHR or in New York State Supreme Court.

Complaints with NYSDHR may be filed any time within one year (three years beginning August 12, 2020) of the harassment. If an individual did not file with NYSDHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with NYSDHR if they have already filed a HRL complaint in state court.

Complaining internally to the District does not extend the time to file with NYSDHR or in court. The one year or three years is counted from the date of the most recent incident of harassment.

Individuals do not need an attorney to file a complaint with NYSDHR, and there is no cost to file with NYSDHR.

NYSDHR will investigate the 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, NYSDHR has the power to award relief, which varies but may include requiring the District to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees, and civil fines.

NYSDHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. Individuals may call (718) 741-8400 or visit: www.dhr.ny.gov.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

Contact NYSDHR 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 NYSDHR. The website also contains contact information for NYSDHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 USC Section 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 individual 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 NYSDHR, then NYSDHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Title IX

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in any federally funded education program or activity. The U.S. Department of Education's Office for Civil Rights (OCR) enforces Title IX of the Education Amendments Act of 1972.

For more information about how to file a complaint, contact OCR at 800-421-3481 (TDD 800-877-8339) or visit: https://www2.ed.gov/about/offices/list/ocr/docs/howto.html. The website contains information about filing the complaint online, by mail, or by email.

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.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

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.

Title VII of the Civil Rights Act of 1964, 42 USC § 2000e et seq.
Title IX of the Education Amendments Act of 1972, 20 USC § 1681 et seq.
29 CFR § 1604.11(a)
34 CFR Subtitle B, Chapter I
Civil Service Law § 75-b
New York State Human Rights Law, Executive Law § 290 et seq.
Labor Law §§ 201-g and 740

NOTE: Refer also to Policies #3420 -- Non-Discrimination and Anti-Harassment in the District
#3421 -- Sex Discrimination and Sexual Harassment Prohibited by Title IX of the Education Amendments of 1972
#6122 -- Employee Grievances
#7541 -- Sexual Harassment of Students

Adopted: 5/9/06
Revised: 11/18/08; 7/8/14; 5/10/16; 10/16/18; 1/19/21; 3/15/22; 4/18/23

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

Overview

The District is committed to creating and maintaining an environment which is free from harassment and discrimination. This policy addresses sexual harassment and gender discrimination in the workplace. It is intended to inform covered individuals of: their right to work in an environment that is free from sexual harassment and discrimination; what sexual harassment and discrimination look like; how they can prevent and report sexual harassment and discrimination; how they are protected from retaliation after taking action; and the general process for investigating a claim of sexual harassment and discrimination that falls under this policy. This policy is just one component of the District's overall commitment to maintaining a harassment and discrimination-free educational and work environment.

Under New York State Human Rights Law (NYSHRL), it is illegal for an employer to discriminate based on age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, status as a victim of domestic violence, or criminal history. These different identities impact an individual's perception and understanding of the world. For example, an individual's race, ability, or immigration status may impact their experience with gender discrimination in the workplace. While this policy is focused on sexual harassment and gender discrimination, the process for reporting and investigating discrimination based on other protected classes is generally the same. However, the exact process may vary depending on a number of factors including, but not limited to, who is involved. Other District policies and documents such as regulations, procedures, collective bargaining agreements, and the District's *Code of Conduct* detail the specific process for reporting and investigating discrimination based on other protected identities.

Sexual harassment is a form of workplace discrimination that subjects individuals to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but the District recognizes that discrimination can be related to or affected by other identities beyond gender.

Discrimination of any kind, including sexual harassment, is unlawful, a violation of District policy, and may subject the District to liability for the harm experienced by targets of discrimination. All individuals are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace.

Harassers may also be individually subject to liability and supervisors who fail to report or act on harassment may be liable for aiding and abetting sexual harassment and discrimination. Employees at every level who engage in harassment or discrimination, including supervisory personnel who engage in harassment or discrimination or who allow such behavior to continue, will be subject to remedial and/or disciplinary action by the District.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

The District adopts this policy as part of its effort to provide for the prompt and equitable resolution of complaints of sexual harassment in the workplace. The District will promptly respond to reports of sexual harassment in the workplace, ensure that all investigations are conducted within a reasonably prompt time frame and under a predictable fair grievance process that provides due process protections, and impose disciplinary measures and implement remedies when warranted.

Inquiries about this policy may be directed to the District's Civil Rights Compliance Officer(s) (CRCO(s)) and/or Title IX Coordinator(s).

Scope and Application

This policy applies to all instances of sexual harassment and gender discrimination perpetrated against a "covered individual" by anyone in the workplace, including a co-worker, supervisor, or third-party such as a non-employee, paid or unpaid intern, vendor, building security, visitor, volunteer, parent, or student. For purposes of this policy, a "covered individual" includes:

a) Employees;

b) Applicants for employment;

c) Paid or unpaid interns; and

d) Non-employees, which include anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a contract in the workplace. These non-employees include persons commonly referred to as independent contractors, gig workers, and temporary workers. Also included are non-employees providing equipment repair, cleaning services, or any other service through a contract with the District.

Other District policies and documents such as regulations, procedures, collective bargaining agreements, and the District's *Code of Conduct* may address misconduct related to sexual harassment and may provide for additional, different, or more specific grievance procedures depending on a number of factors including, but not limited to, who is involved and where the alleged sexual harassment occurred. These documents must be read in conjunction with this policy.

The dismissal of a complaint under one policy or document does not preclude action under another related District policy or document.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

What Constitutes Sexual Harassment

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 individuals 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.

Under NYSHRL, 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. However, NYSHRL specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which a covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of District policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts.

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:

a) The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment. The impacted individual does not need to be the intended target of the sexual harassment;

b) Employment depends implicitly or explicitly on accepting such unwelcome behavior; or

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

c) Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of the behavior. These decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

a) Hostile work environment which includes, but is not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, 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.

b) Quid pro quo harassment which 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.

Any covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

Examples of Sexual Harassment

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

a) Physical acts of a sexual nature, such as:

1. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another individual's body, or poking another individual's body; or

2. Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy.

b) Unwanted sexual comments, advances, or propositions, such as:

1. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

2. Subtle or obvious pressure for unwelcome sexual activities; or

3. Repeated requests for dates or romantic gestures, including gift-giving.

c) 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.

d) 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:

1. Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or

2. 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.

e) Sexual or discriminatory displays or publications anywhere in the workplace, such as:

1. 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;

2. 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.

f) Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:

1. Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;

2. Sabotaging an individual's work;

3. Bullying, yelling, or name-calling;

4. Intentional misuse of an individual's preferred pronouns; or

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

5. Creating different expectations for individuals based on their perceived identities:

   (a) Dress codes that place more emphasis on women's attire;

   (b) Leaving parents/caregivers out of meetings.

Who Can be a Target 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. This policy applies to all instances of sexual harassment perpetrated against a "covered individual" by anyone in the workplace, including a co-worker, supervisor, or third-party such as a non-employee, paid or unpaid intern, vendor, building security, visitor, volunteer, parent, or student.

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

a) Placing different demands or expectations on black women employees than white women employees can be both racial and gender discrimination;

b) An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or

c) 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.

Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. Sexual harassment can occur on school property and at school functions which, for purposes of this policy, means a school-sponsored or school-authorized extracurricular event or activity regardless of where the event or activity takes place, including any event or activity that may take place virtually or in another state. It can occur while covered individuals are traveling for District business or at District or industry-sponsored events or parties. Calls, texts, emails, and social media usage by covered individuals can constitute unlawful workplace harassment, even if they occur away from school property, on personal devices, or during non-work hours. Accordingly, conduct or incidents of sexual harassment that create or foreseeably create a disruption within the District may be subject to this policy in certain circumstances.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

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

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

Retaliation is unlawful and is any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. Adverse actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Examples of retaliation may include, but are not limited to:

a) Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;

b) Publicly releasing personnel files;

c) Refusing to provide a reference or providing an unwarranted negative reference;

d) Labeling an employee as "difficult" and excluding them from projects to avoid "drama";

e) Undermining an individual's immigration status; or

f) Reducing work responsibilities, passing over for a promotion, or moving an individual's desk to a less desirable office location.

Retaliation is unlawful under federal, state, and (where applicable) local law. The NYSHRL protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

a) Made a complaint of sexual harassment or discrimination, either internally or with any government agency;

b) Testified or assisted in a proceeding involving sexual harassment or discrimination under the NYSHRL or any other anti-discrimination law;

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

c) Opposed sexual harassment or discrimination by making a verbal or informal complaint, or by simply informing a supervisor, building principal, other administrator, or the CRCO of suspected harassment;

d) Reported that a covered individual has been sexually harassed or discriminated against; or

e) Encouraged a covered individual to report harassment.

The District prohibits all retaliation. Any individual that reports an incident of sexual harassment or discrimination, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint is protected from retaliation. No one should fear reporting sexual harassment or discrimination if they believe it has occurred. 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 sexual harassment or discrimination.

Any District employee who retaliates against anyone involved in a sexual harassment or discrimination investigation will face disciplinary action, up to and including termination. All covered individuals who believe they have been subject to retaliation should inform a supervisor, building principal, other administrator, or the CRCO.

All employees and covered individuals who believe they have been a target of retaliation may also seek relief from government agencies, as explained in this policy.

Reporting Allegations of Sexual Harassment

Anyone who experiences, witnesses, or becomes aware of potential instances of sexual harassment is encouraged to report the behavior to a supervisor, building principal, other administrator, or the CRCO. Covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough or conversely because they do not want to see someone fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and could include education counseling, suspension, or termination.

Reports of sexual harassment may be made verbally or in writing. A written complaint form is posted on the District's website if a covered individual would like to use it, but the complaint form is not required. Individuals who are reporting sexual harassment on behalf of another individual may use the complaint form and note that it is being submitted on another individual's behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another individual is also acceptable.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

Reports may be made to a CRCO in person, by using the contact information for a CRCO, or by any other means that results in a CRCO receiving the person's verbal or written report. This report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for a CRCO.

Reports of sexual harassment may also be made to any other District employee including a supervisor or building principal. All reports of discrimination and/or harassment must be immediately forwarded to the CRCO. Reports may also be forwarded to other District employees depending on the allegations.

District employees must comply with reporting requirements in any other applicable District policy or document.

Covered individuals who believe they have been a target of sexual harassment may at any time seek assistance in additional available forums, as explained in this policy.

Supervisory Responsibilities

Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors, building principals, other administrators, and the CRCOs have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. All supervisors, building principals, and other 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 the suspected sexual harassment to the CRCO. If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

Supervisors, building principals, and other administrators should not be passive and wait for a covered individual to make a claim of harassment. If they observe such behavior, they must act.

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

While supervisors, building principals, and other administrators have a responsibility to report harassment and discrimination, they 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

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors, building principals, and other administrators 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 individual witnessing harassment as a bystander is encouraged to report it. A supervisor, building principal, or other administrator 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.

a) A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;

b) A bystander who feels unsafe interrupting on their own can ask a third-party to help intervene in the harassment;

c) A bystander can record or take notes on the harassment incident to benefit a future investigation;

d) 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

e) 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.

Grievance Process for Complaints of Sexual Harassment in the Workplace

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt, thorough, equitable, and started and completed as soon as possible. Investigations will be kept confidential to the extent possible. Disclosure may, however, be necessary to complete a thorough investigation of the charges and/or notify law enforcement officials. All individuals involved, including those making a harassment claim, witnesses, and alleged harassers deserve a fair and impartial investigation.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

The CRCO will generally oversee the District's investigation of all complaints of discrimination and/or harassment. In the event an anonymous complaint is filed, the District will respond to the extent possible.

District employees may be required to cooperate as needed in an investigation of suspected sexual harassment. The District recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize a covered individual. Individuals receiving claims and leading investigations will handle complaints and questions with sensitivity toward participants.

While the process may vary from case to case, investigations will be done in accordance with the following steps. Upon receipt of a complaint, the CRCO:

a) Will conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate.

   If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

b) Will investigate all complaints of sexual harassment regardless of how those complaints are reported and treat all complaints with equal priority. For verbal complaints, the individual will be encouraged to complete, in writing, the complaint form. If the individual reporting prefers not to fill out the complaint form, a complaint form or equivalent documentation based on the verbal reporting will be prepared. The individual reporting the harassment will be provided a copy of the completed complaint form.

c) Will take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, emails, or phone records that may be relevant to the investigation. The CRCO will consider and implement appropriate document request, review, and preservation measures, including for electronic communications.

d) Will seek to interview all parties involved, including any relevant witnesses. If a student is involved, the District will follow all applicable District policies and procedures regarding questioning students.

e) Will create written documentation of the investigation (such as a letter, memo, or email), which contains the following:

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

1. A list of all documents reviewed, along with a detailed summary of relevant documents;

2. A list of names of those interviewed, along with a detailed summary of their statements;

3. A timeline of events;

4. A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and

5. The basis for the decision and final resolution of the complaint, together with any corrective action(s).

f) Will keep the written documentation and associated documents in a secure and confidential location.

g) Will promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document. Any corrective action taken will be in accordance with applicable law and regulation, as well as any applicable District policy, regulation, procedure, collective bargaining agreement, third-party contract, or other document such as the District's *Code of Conduct*.

h) Will inform the individual(s) who reported the harassment of the right to file a complaint or charge externally as outlined in this policy.

Other District policies and documents address sexual harassment. All complaints will be handled in accordance with the applicable District policies and/or documents.

The determination as to which District policies and/or documents are applicable is fact specific, and the CRCO may work with other District staff such as the District's Title IX Coordinator(s) to determine which District policies and/or documents are applicable to the specific facts of the complaint.

Annual Training

The District will provide a sexual harassment prevention training program to all employees on an annual basis. The training will be interactive and will include:

a) An explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;

b) Examples of conduct that would constitute unlawful sexual harassment;

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

c) Information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment;

d) Information concerning employees' rights of redress and all available forums for adjudicating complaints; and

e) Information addressing conduct by supervisors and any additional responsibilities for such supervisors.

Notification

The District will provide this policy to all employees in-person or digitally through email upon hiring and will be posted prominently in all work locations. In addition to sending the policy through email, this policy will also be available on the District's website.

At the time of hiring and at every annual sexual harassment prevention training program, the District will provide each employee a notice containing this policy and the information presented at the District's sexual harassment prevention training program.

This notice will be provided in English and in the language identified by the employee as their primary language, provided that the New York State Department of Labor Commissioner has published a template of the model materials in that language.

The notice will be delivered in writing, either in print or digitally. The notice will either link to or include, as an attachment or printed copy, the policy and training materials.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by the District, but it is also prohibited by state, federal, and, where applicable, local law.

The District's internal process outlined in the policy above is one way for covered individuals to report sexual harassment. Covered individuals 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, covered individuals may also seek the legal advice of an attorney.

In addition to those outlined below, individuals may have other legal protections.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

New York State Division of Human Rights (NYSDHR)

The NYSHRL, NY Executive Law, Art. 15, Section 290 et seq., applies to all employers in New York State and protects covered individuals, regardless of immigration status. A complaint alleging violation of the NYSHRL may be filed either with the NYSDHR or in New York State Supreme Court.

Complaints of sexual harassment filed with NYSDHR may be submitted any time **within three years** of the harassment. If an individual does not file a complaint with NYSDHR, they can bring a lawsuit directly in state court under the NYSHRL, **within three years** of the alleged sexual harassment. An individual may not file with NYSDHR if they have already filed a NYSHRL complaint in state court.

Complaining internally to the District does not extend the time to file with NYSDHR or in court. The three years are counted from the date of the most recent incident of harassment.

Individuals do not need an attorney to file a complaint with NYSDHR, and there is no cost to file with NYSDHR.

NYSDHR will investigate the complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases receive a public hearing before an administrative law judge. If sexual harassment is found at the hearing, NYSDHR has the power to award relief. Relief varies, but it may include requiring the employer to take action to stop the harassment, or repair the damage caused by the harassment, including paying of monetary damages, punitive damages, attorney's fees, and civil fines.

NYSDHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. Individuals may call (718) 741-8400 or visit: www.dhr.ny.gov.

Go to dhr.ny.gov/complaint for more information about filing a complaint with NYSDHR. The website has a digital complaint process that can be completed on a computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to NYSDHR. The website also contains contact information for NYSDHR's regional offices across New York State.

Call the NYSDHR sexual harassment hotline at **1-800-HARASS-3 (1-800-427-2773)** for more information about filing a sexual harassment complaint. This hotline can also provide a referral to a volunteer attorney experienced in sexual harassment matters who can provide limited free assistance and counsel over the phone.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

The United States Equal Employment Opportunity Commission

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 USC Section 2000e et seq. An individual can file a complaint with the EEOC anytime within 300 calendar days from the most recent incident of 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 but 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 individual 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. To file a complaint with the United States Equal Employment Opportunity Commission, please visit https://www.eeoc.gov/filing-charge-discrimination.

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

Title IX

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in education programs and activities that receive federal financial assistance. The United States Department of Education's Office for Civil Rights (OCR) enforces Title IX of the Education Amendments Act of 1972.

For more information about how to file a complaint, contact OCR at 800-421-3481 (TDD 800-877-8339) or visit: https://www2.ed.gov/about/offices/list/ocr/docs/howto.html. The website contains information about filing the complaint online, by mail, or by email.

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 a law exists.

(Continued)

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

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. Those wishing to pursue criminal charges are encouraged to contact their local police department.

Title VII of the Civil Rights Act of 1964, 42 USC Section 2000e et seq.
Title IX of the Education Amendments Act of 1972, 20 USC Section 1681 et seq.
29 CFR Section 1604.11(a)
34 CFR Subtitle B, Chapter I
Civil Service Law Section 75-b
New York State Human Rights Law, Executive Law Section 290 et seq.
Labor Law Sections 201-g and 740

NOTE: Refer also to Policies #3420 -- Non-Discrimination and Anti-Harassment in the District
#3421 -- Sex Discrimination and Sexual Harassment Prohibited by Title IX of the Education Amendments of 1972
#6122 -- Employee Grievances
#7541 -- Sexual Harassment of Students

Adopted: 5/9/06
Revised: 11/18/08; 7/8/14; 5/10/16; 10/16/18; 1/19/21; 3/15/22; 4/18/23;

SUBJECT: LEAVES OF ABSENCE

In general, leaves of absence will be administered by the Superintendent. The Board reserves the right to grant leaves of absence for purposes or under conditions not contemplated or considered in the policy statement. Where a leave of absence is falsely requested or improperly used, the Board may undertake appropriate disciplinary action. The purpose or conditions of a leave of absence may not be altered except by permission of the Superintendent, as expressed in writing.

Leaves of Absence, Contractual, Et Al.

a) Employees who are members of a negotiating unit:

Authorization is granted to approve requests for leaves of absence submitted in accordance with provisions of contracts in effect between the District and each bargaining unit.

b) Employees who are not members of a negotiating unit:

Authorization is granted to approve requests for leaves of absence submitted by these employees where the requests are consistent with provisions of contracts in effect between the District and the bargaining unit most compatible with the employment status of the employee.

c) Employees who are under contract to the District:

Authorization is granted to implement provisions for leaves of absence contained in each contract.

Leaves of Absence, Unpaid, Not Covered Above

a) Subject to limitations enumerated in this policy statement, authorization is granted for the following unpaid leaves of absence:

1. For a period of time not to exceed one school year for approved graduate study, this leave to include any required internship experience.

2. At the expiration of a paid sick leave of absence, this leave may be extended for a period of time not longer than the end of the school year after the school year in which the paid leave of absence began.

b) Unpaid leaves of absence cannot be used to extend vacation periods, to take vacations, to engage in other occupations, or to provide additional personal leaves, except that the Superintendent will have discretion, where circumstances warrant, to approve leaves of absence for those purposes.

c) Unpaid leaves of absence will not be granted unless the services of a substitute employee, satisfactory in the discretion of the Superintendent, can be secured.

(Continued)

SUBJECT: LEAVES OF ABSENCE (Cont'd.)

d) Except where it interferes with an employee's legal or contractual rights, the timing of unpaid leaves of absence will be granted at the convenience of the District.

Other Leaves Of Absence

Other leaves of absence include, but are not limited to, the following:

a) Emergency Service Volunteer Leave

Upon presentation of a written request from the American Red Cross and with the approval of the Superintendent, employees certified by the American Red Cross as disaster volunteers will be granted leave from work with pay for up to 20 days in any calendar year to participate in specialized disaster relief operations. This leave will be provided without loss of seniority, compensation, sick leave, vacation leave, or other overtime compensation to which the volunteer is otherwise entitled.

b) Screenings for Cancer

Employees will be granted up to four hours of paid leave on an annual basis to undertake a screening for cancer. This leave will be excused leave and will not be charged against any other leave to which the employee is entitled.

c) Blood Donation

The District must either, at its option:

1. Grant three hours of unpaid leave of absence in any 12-month period to an employee who seeks to donate blood off-premises. The leave may not exceed three hours unless agreed to by the Superintendent or designee; or

2. Allow its employees without use of accumulated leave time to donate blood during work hours at least two times per year at a convenient time and place set by the Superintendent or designee, including allowing an employee to participate in a blood drive at the District.

Leave taken by employees at a District-designated donation alternative (such as a District-sponsored blood drive at the workplace) must be paid leave that is provided without requiring the employee to use accumulated vacation, personal, sick, or other leave time.

The District will not retaliate against an employee for requesting or obtaining a leave of absence under this section. Additional leaves for the purpose of blood donation under any other provision of law will not be prevented.

(Continued)

SUBJECT: LEAVES OF ABSENCE (Cont'd.)

d) Bone Marrow Donation

Employees seeking to undergo a medical procedure to donate bone marrow will be granted leaves to do so, the combined length of the leaves to be determined by the physician, but may not exceed 24 work hours unless agreed to by the Superintendent or designee. The District will require verification for the purpose and length of each leave requested by the employee for this purpose.

The District will not retaliate against an employee for requesting or obtaining a leave of absence under this section. Additional leaves for the purpose of bone marrow donation under any other provision of law will not be prevented.

e) Nursing Mothers (Breastfeeding/Lactation)

The District will provide reasonable unpaid break time or permit the use of paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three years following childbirth. The District will make reasonable efforts to provide a room or other location in close proximity to the work area where the employee can express milk in privacy. The District will not discriminate against an employee who chooses to express breast milk in the workplace.

Reasonable unpaid break time is generally no less than 20 minutes and no more than 30 minutes dependent upon the proximity of the designated location for expressing breast milk. In most situations, the District is required to provide unpaid break time at least once every three hours if requested by the employee. At the employee's option, the District will allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid break time(s) so long as the additional time requested falls within the District's normal work hours.

The District will provide written notice to employees who are returning to work following the birth of a child of their right to take unpaid leave for the purpose of expressing breast milk. This notice may either be provided individually to affected employees or to all employees generally through publication of the notice in the employee handbook or posting of the notice in a central location.

Any employee wishing to avail herself of this benefit is required to give the District advance notice, preferably prior to her return to work, to allow the District an opportunity to establish a location and schedule leave time to accommodate employees as needed.

(Continued)

SUBJECT: LEAVES OF ABSENCE (Cont'd.)

f) Witnesses or Victims of Crimes

The District will grant an unpaid leave of absence to an employee, who is a victim of or a witness to a criminal offense, that is required or chooses to appear as a witness, consult with the district attorney, or exercise his or her rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law.

To use this leave, the employee must provide notice of the need for leave at any time prior to the actual day of leave. The District is permitted to ask the party who sought the attendance or testimony of the employee to provide verification of the employee's service. Employees will not be penalized or discharged for absences by reason of a required appearance as a witness in a criminal proceeding, or consultation with the district attorney, or exercising his or her rights as provided under the law.

g) Victims of Domestic Violence

Unless the absence would cause an undue hardship to the District, the District will provide reasonable accommodations to employees who are victims of domestic violence who must be absent from work for a reasonable time in accordance with law.

An employee availing themselves of this leave must provide the District with reasonable advance notice, unless providing this notice is not feasible. An employee unable to provide reasonable advance notice must, within a reasonable time after the absence, provide a certification to the District when requested.

To the extent allowed by law, the District will maintain the confidentiality of any information related to an employee's status as a victim of domestic violence.

h) Military Leave

The District will comply with state and federal laws regarding military leave and re-employment.

Leaves of absence for military spouses are granted in accordance with law and regulation.

i) Jury Duty

As provided by law, any employee who is summoned to serve as a juror and who notifies the District to that effect prior to his or her term of service will not, on account of absence by reason of jury service, be subject to discharge or penalty. The District will ensure that all absences for this purpose are granted in accordance with law and the terms of any applicable collective bargaining agreement.

(Continued)

SUBJECT: LEAVES OF ABSENCE (Cont'd.)

j) Voting

Employees who are registered voters and have four consecutive hours either between the opening of the polls and the beginning of their working shift, or between the end of their working shift and the closing of the polls, will be deemed to have sufficient time to vote and will therefore not be eligible for paid leave to vote in any election.

Employees who are registered voters, and do not have sufficient time outside of their working hours to vote in any election, may without loss of pay for up to two hours, take so much time off as will, when added to their voting time outside of their working hours, enable them to vote. The employee will be allowed time off for voting only at the beginning or the end of his or her working shift, as the District may designate, unless otherwise mutually agreed.

Employees requiring working time off to vote must notify the District not more than ten or less than two working days before the day of the election.

The District must post a notice informing employees of their right to leave in order to vote not less than ten working days before an election and until polls close on election day. This notice will be conspicuously posted in a place where it can be seen by employees as they come and go to their place of work.

29 USC § 207(r)
Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 USC §§ 4301-4333
Civil Service Law §§ 71-73 and 159-b
Education Law §§ 1709(16), 2509(6), 2573(12), 3005, 3005-a and 3005-b
Election Law § 3-110
Executive Law § 296(22)
General Municipal Law §§ 92, 92-c, and 92-d
Judiciary Law §§ 519 and 521
Labor Law §§ 202-a, 202-i, 202-j, 202-l and 206-c
Military Law §§ 242 and 243
Penal Law § 215.14

Adopted: 5/9/06
Revised: 1/17/12; 5/10/16; 4/16/19; 2/9/21

SUBJECT: LEAVES OF ABSENCE

In general, leaves of absence will be administered by the Superintendent. The Board reserves the right to grant leaves of absence for purposes or under conditions not contemplated or considered in the policy statement. Where a leave of absence is falsely requested or improperly used, the Board may undertake appropriate disciplinary action. The purpose or conditions of a leave of absence may not be altered except by permission of the Superintendent, as expressed in writing.

Leaves of Absence, Contractual, Et Al.

a) Employees who are members of a negotiating unit:

Authorization is granted to approve requests for leaves of absence submitted in accordance with provisions of contracts in effect between the District and each bargaining unit.

b) Employees who are not members of a negotiating unit:

Authorization is granted to approve requests for leaves of absence submitted by these employees where the requests are consistent with provisions of contracts in effect between the District and the bargaining unit most compatible with the employment status of the employee.

c) Employees who are under contract to the District:

Authorization is granted to implement provisions for leaves of absence contained in each contract.

Leaves of Absence, Unpaid, Not Covered Above

a) Subject to limitations enumerated in this policy statement, authorization is granted for the following unpaid leaves of absence:

1. For a period of time not to exceed one school year for approved graduate study, this leave to include any required internship experience.

2. At the expiration of a paid sick leave of absence, this leave may be extended for a period of time not longer than the end of the school year after the school year in which the paid leave of absence began.

b) Unpaid leaves of absence cannot be used to extend vacation periods, to take vacations, to engage in other occupations, or to provide additional personal leaves, except that the Superintendent will have discretion, where circumstances warrant, to approve leaves of absence for those purposes.

c) Unpaid leaves of absence will not be granted unless the services of a substitute employee, satisfactory in the discretion of the Superintendent, can be secured.

(Continued)

SUBJECT: LEAVES OF ABSENCE (Cont'd.)

d) Except where it interferes with an employee's legal or contractual rights, the timing of unpaid leaves of absence will be granted at the convenience of the District.

Other Leaves of Absence

Other leaves of absence include, but are not limited to, the following:

a) Emergency Service Volunteer Leave

Upon presentation of a written request from the American Red Cross and with the approval of the Superintendent, employees certified by the American Red Cross as disaster volunteers will be granted leave from work with pay for up to 20 days in any calendar year to participate in specialized disaster relief operations. This leave will be provided without loss of seniority, compensation, sick leave, vacation leave, or other overtime compensation to which the volunteer is otherwise entitled.

b) Screenings for Cancer

Employees will be granted up to four hours of paid leave on an annual basis to undertake a screening for cancer. This leave will be excused leave and will not be charged against any other leave to which the employee is entitled.

c) Blood Donation

The District must either, at its option:

1. Grant three hours of unpaid leave of absence in any 12-month period to an employee who seeks to donate blood off-premises. The leave may not exceed three hours unless agreed to by the Superintendent or designee; or

2. Allow its employees without use of accumulated leave time to donate blood during work hours at least two times per year at a convenient time and place set by the Superintendent or designee, including allowing an employee to participate in a blood drive at the District.

   Leave taken by employees at a District-designated donation alternative (such as a District-sponsored blood drive at the workplace) must be paid leave that is provided without requiring the employee to use accumulated vacation, personal, sick, or other leave time.

The District will not retaliate against an employee for requesting or obtaining a leave of absence under this section. Additional leaves for the purpose of blood donation under any other provision of law will not be prevented.

(Continued)

SUBJECT: LEAVES OF ABSENCE (Cont'd.)

d) Bone Marrow Donation

Employees seeking to undergo a medical procedure to donate bone marrow will be granted leaves to do so, the combined length of the leaves to be determined by the physician, but may not exceed 24 work hours unless agreed to by the Superintendent or designee. The District will require verification for the purpose and length of each leave requested by the employee for this purpose.

The District will not retaliate against an employee for requesting or obtaining a leave of absence under this section. Additional leaves for the purpose of bone marrow donation under any other provision of law will not be prevented.

e) Nursing Mothers (Breastfeeding/Lactation)

The District will provide reasonable unpaid break time or permit the use of paid break time or meal time ~~each day~~ to allow an employee to express breast milk for ~~her~~ their nursing child each time the employee has reasonable need to express breast milk for up to three years following childbirth. ~~The District will make reasonable efforts to provide a room or other location in close proximity to the work area where the employee can express milk in privacy. The District will not discriminate against an employee who chooses to express breast milk in the workplace.~~

Upon employee request, the District will designate a room or other location to be used by the employee to express breast milk which will be in close proximity to the work area, well lit, shielded from view, and free from workplace or public intrusion. The location will, at a minimum, contain a chair, a working surface, nearby access to clean running water, and an electrical outlet. The location will not be a restroom or toilet stall. The District will provide access to refrigeration for the purposes of storing expressed milk.

If the sole purpose of the location is not dedicated for use by employees to express breast milk, the location will be made available to employees when needed and will not be used for any other purpose while in use. The District will provide notice to all employees as soon as practicable when the location has been designated for use by employees to express breast milk.

~~Reasonable unpaid break time is generally no less than 20 minutes and no more than 30 minutes dependent upon the proximity of the designated location for expressing breast milk. In most situations, the District is required to provide unpaid break time at least once every three hours if requested by the employee.~~

(Continued)

SUBJECT: LEAVES OF ABSENCE (Cont'd.)

At the employee's option, the District will allow the employee to work before or after ~~her~~ their normal shift to make up the amount of time used during the unpaid break time(s) so long as the additional time requested falls within the District's normal work hours.

~~The District will provide written notice to employees who are returning to work following the birth of a child of their right to take unpaid leave for the purpose of expressing breast milk. This notice may either be provided individually to affected employees or to all employees generally through publication of the notice in the employee handbook or posting of the notice in a central location.~~

~~Any employee wishing to avail herself of this benefit is required to give the District advance notice, preferably prior to her return to work, to allow the District an opportunity to establish a location and schedule leave time to accommodate employees as needed.~~

The District will provide a written notification regarding the rights of nursing employees to express breast milk in the workplace to each employee upon hire, annually thereafter, and to employees returning to work following the birth of a child. This notice will be based on a written policy developed by the Commissioner of Labor and will at a minimum:

1. Inform employees of their rights pursuant to law;

2. Specify how a request may be submitted to the District for a room or other location for use by an employee to express breast milk;

3. Require the District to respond to requests within a reasonable time frame that is not to exceed five business days.

The District will not discriminate or retaliate against an employee who chooses to express breast milk in the workplace.

f) Witnesses or Victims of Crimes

The District will grant an unpaid leave of absence to an employee, who is a victim of or a witness to a criminal offense, that is required or chooses to appear as a witness, consult with the district attorney, or exercise ~~his or her~~ their rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law.

To use this leave, the employee must provide notice of the need for leave at any time prior to the actual day of leave. The District is permitted to ask the party who sought the attendance or testimony of the employee to provide verification of the employee's service. Employees will not be penalized or discharged for absences by reason of a required appearance as a

(Continued)

SUBJECT: LEAVES OF ABSENCE (Cont'd.)

witness in a criminal proceeding, or consultation with the district attorney, or exercising ~~his or her~~ their rights as provided under the law.

g) Victims of Domestic Violence

Unless the absence would cause an undue hardship to the District, the District will provide reasonable accommodations to employees who are victims of domestic violence who must be absent from work for a reasonable time in accordance with law.

An employee availing themselves of this leave must provide the District with reasonable advance notice, unless providing this notice is not feasible. An employee unable to provide reasonable advance notice must, within a reasonable time after the absence, provide a certification to the District when requested.

To the extent allowed by law, the District will maintain the confidentiality of any information related to an employee's status as a victim of domestic violence.

h) Military Leave

The District will comply with state and federal laws regarding military leave and re-employment.

Leaves of absence for military spouses are granted in accordance with law and regulation.

i) Jury Duty

As provided by law, any employee who is summoned to serve as a juror and who notifies the District to that effect prior to ~~his or her~~ their term of service will not, on account of absence by reason of jury service, be subject to discharge or penalty. The District will ensure that all absences for this purpose are granted in accordance with law and the terms of any applicable collective bargaining agreement.

j) Voting

Employees who are registered voters and have four consecutive hours either between the opening of the polls and the beginning of their working shift, or between the end of their working shift and the closing of the polls, will be deemed to have sufficient time to vote and will therefore not be eligible for paid leave to vote in any election.

Employees who are registered voters, and do not have sufficient time outside of their working hours to vote in any election, may without loss of pay for up to two hours, take so much time off as will, when added to their voting time outside of their working hours, enable them to vote. The employee will be allowed time off for voting only at the beginning or the end of

(Continued)

SUBJECT: LEAVES OF ABSENCE (Cont'd.)

~~his or her~~ their working shift, as the District may designate, unless otherwise mutually agreed.

Employees requiring working time off to vote must notify the District not more than ten or less than two working days before the day of the election.

The District must post a notice informing employees of their right to leave in order to vote not less than ten working days before an election and until polls close on election day. This notice will be conspicuously posted in a place where it can be seen by employees as they come and go to their place of work.

29 USC Section 218d
Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 USC Sections 4301-4333
Civil Service Law Sections 71-73 and 159-b
Education Law Sections 1709(16), 2509(6), 2573(12), 3005, 3005-a and 3005-b
Election Law Section 3-110
Executive Law Section 296(22)
General Municipal Law Sections 92, 92-c, and 92-d
Judiciary Law Sections 519 and 521
Labor Law Sections 202-a, 202-i, 202-j, 202-l, and 206-c
Military Law Sections 242 and 243
Penal Law Section 215.14

Adopted: 5/9/06
Revised: 1/17/12; 5/10/16; 4/16/19; 2/9/21;

SUBJECT: REMOTE WORKING*

Generally, the District believes that its goals and objectives are best served when employees work in-person on District premises. However, the District recognizes that, in certain circumstances, remote working or telecommuting may be advantageous to both the employee and the District. It may also be necessary in the event of an extraordinary circumstance such as widespread illness, natural disaster, or other emergency situation.

When making decisions about remote working, the District will take into consideration any applicable laws, regulations, collective bargaining agreements, or existing policies and procedures. This policy will be superseded by any conflicting law, regulation, or collective bargaining agreement.

Remote Working Arrangements

Remote working is not an entitlement or a District-wide benefit. The ability to work remotely is completely at the discretion of the District. Except where specifically provided by an applicable collective bargaining agreement, employees will not be permitted to file a grievance as a result of a denial of their request to work remotely.

Upon request, an employee's supervisor, in conjunction with the Superintendent or designee, may grant an employee a full-time, part-time, or short-term remote work arrangement provided that the employee's work is able to be performed remotely and the employee has consistently demonstrated the ability to effectively work independently.

Extraordinary Circumstances

In the event of an extraordinary circumstance such as widespread illness, natural disaster, or other emergency situation, it may be necessary to establish remote working arrangements for some or all employees. In these circumstances, the District will notify employees of whether they are expected to work at home full-time, part-time, or not at all. The District retains the right to change the remote working arrangement for any employee at any time.

Continuity of Work

Unless specifically agreed upon, working remotely will not alter an employee's work schedule, job duties, compensation, benefits, or any other term and condition of employment. Further, while working remotely, employees will be required to remain available during their normal workhours via email, phone, or other means. Failure to respond in a reasonable time frame may result in discipline and/or termination of the remote work arrangement.

Compliance with District Policies and Procedures

District employees who are working remotely are required to comply with any and all applicable District policies, procedures, and other related documents as they normally would if they were working

(Continued)

SUBJECT: REMOTE WORKING* (Cont'd.)

on District premises. Examples include, but are not limited to, the District's policies and procedures on non-discrimination and anti-harassment, protecting the personal information of District employees and students, acceptable use, and copyright. Engaging in prohibited conduct may result in disciplinary action as warranted.

**Customize to District -- This sample language is provided as an example of how a district might address remote working in policy. It should be revised to reflect the District's specific circumstances and practices and it should be consistent with any other applicable documents such as collective bargaining agreements or employee handbooks. It is recommended that districts keep the language in this policy high-level to account for the fact that the District's stance on remote working will likely evolve as circumstances change. Details about the implementation of remote working can be placed in procedural documents which are more easily revised.*

Adopted: