

February 2022 Policy - Second Reading Packet

Policy Number	Policy Title	Explanation	Adopted BOCES Update	Revised by SH	Keep Current Policy	Deleted	Date of Vote	Not voted upon
3230	Public Complaints	Suggested revision(s): Revised for clarity and consistency purposes. Recommended as is.						
3310	Public Access to Records	Suggested revision(s): Required policy. Revised to add language reflecting certain actions districts can take in response to Freedom of Information Law (FOIL) requests, as well as to clarify certain responsibilities that districts have with respect to FOIL. Although these revisions do not reflect new changes in law or regulation, Policy Services thought that revising the policy would assist districts in complying with FOIL. In the "Fulfilling FOIL Requests" section, language related to the ability for districts to charge a fee for copies as permitted by law and regulation was added. Further, language was added related to the ability to require individuals requesting lists of names and addresses to provide a written certification that they will not use, sell, give, or otherwise make available the lists of names and addresses for solicitations or fundraising purposes. If an individual requesting this information fails to provide this certification, districts have the authority to deny access to the names and addresses based on an unwarranted invasion of personal privacy. Given the increased focus on data privacy and security, we concluded that it was important to highlight districts' ability to request this certification. A "Notification" section was added to highlight information that districts must post in a conspicuous location and/or publish in a local newspaper of general circulation. An "Additional Provisions" section was added to highlight the need for districts to have documents in place which detail the district's procedures for fulfilling FOIL requests. These procedures should outline the time and places those records are available and information related to fees that may be charged, among other things. Other revisions were made for clarity and consistency purposes. Recommended as is.						
3420	Non-Discrimination & Anti-Harassment in the School District	Suggested revision(s): Required policy. Customization required. Now titled "Non-Discrimination and Anti-Harassment in the District." Revised language throughout the policy in light of changes to non-discrimination and anti-harassment laws and regulations including, specifically, revisions to the implementing regulations for Title IX of the Education Amendments Act of 1972. In revising the policy, we sought to create consistency between it and other non-discrimination and anti-harassment policies and to emphasize the connection that exists between and among them. This policy provides a general approach to addressing complaints of discrimination and/or harassment over which a district would have jurisdiction and applies to the dealings between or among the following parties on school property and at school functions: students; employees; applicants for employment; paid or unpaid interns; anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a contract in the workplace; volunteers; and visitors or other third parties. Recommend with customization to add District Civil Compliance Officer information.						
3520	Extraordinary Circumstances	Note: This policy was previously suggested in the 20-21 Policy Audit. The District did not act on this policy at that time. In the 20-21 Policy Audit, the policy was "Not rec." Per the District's request, this policy is being included in the 21-22 Policy Audit. Suggested revision(s): New suggested policy titled "Extraordinary Circumstances." It indicates that federal, state, or county law, regulation, or executive order will govern when there is a conflict with any existing district policy, procedure, or plan, during an extraordinary circumstance. Recommended as is.						
5640	Smoking/ Tobacco Use	Suggested revision(s): Now titled "Smoking, Tobacco, and Cannabis (Marijuana) Use." Revised in light of senate bill S854A which legalized recreational cannabis (marijuana) use for anyone age 21 and older. Public Health Law prohibits smoking and vaping on school grounds. As part of senate bill S854A, the definition of smoking in Public Health Law was revised to include a reference to cannabis. The senate bill also added Section 222.10 to the Penal Law. This new Section prohibits smoking, vaping, or ingesting cannabis or concentrated cannabis in or upon the grounds of a school or in or on a school bus. However, this prohibition does not apply to acts that are in compliance with article three of the Cannabis Law which relates to medical cannabis use. Other revisions were made for clarity and consistency purposes. Recommended as is.						
5681	School Safety Plans	Suggested revision(s): Education Law Section 2801-a was revised to require that district-wide school safety plans include protocols for responding to a declared state disaster emergency (rather than a public health emergency) involving a communicable disease that are substantially consistent with the provisions in Labor Law Section 27-c. Detailed language related to these protocols removed as unnecessary. Health & Safety Committee will review changes and make a recommendation to the Policy Committee.						

5684	Use of Surveillance Cameras in the District and on School Buses	Note: These revisions were previously suggested in the District's 18-19, 19-20, and 20-21 Policy Audits. The District did not act on these revisions at those times. In the 20-21 Policy Audit, the policy was "Not rec." Per the District's request, these revisions are being included in the 21-22 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. This policy is not recommended.						
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**Sweet Home Central School District
Policy Committee Meeting
January 5, 2022**

Minutes

Present: Mike Ginestre, JoAnn Balazs, Don Feldmann, Scott Johnson, Brian Laible, Sherry McNamara & Lisa Cebulski

1. Discussed Policy 5230 – Acceptance of Gifts. Don will update the policy and create associated form F5230 for review at February Policy Committee meeting.
2. Reviewed the following policies for January first reading:

3230	Public Complaints	Suggested revision(s): Revised for clarity and consistency purposes. Recommended as is.
3310	Public Access to Records	Suggested revision(s): Required policy. Revised to add language reflecting certain actions districts can take in response to Freedom of Information Law (FOIL) requests, as well as to clarify certain responsibilities that districts have with respect to FOIL. Although these revisions do not reflect new changes in law or regulation, Policy Services thought that revising the policy would assist districts in complying with FOIL. In the "Fulfilling FOIL Requests" section, language related to the ability for districts to charge a fee for copies as permitted by law and regulation was added. Further, language was added related to the ability to require individuals requesting lists of names and addresses to provide a written certification that they will not use, sell, give, or otherwise make available the lists of names and addresses for solicitations or fundraising purposes. If an individual requesting this information fails to provide this certification, districts have the authority to deny access to the names and addresses based on an unwarranted invasion of personal privacy. Given the increased focus on data privacy and security, we concluded that it was important to highlight districts' ability to request this certification. A "Notification" section was added to highlight information that districts must post in a conspicuous location and/or publish in a local newspaper of general circulation. An "Additional Provisions" section was added to highlight the need for districts to have documents in place which detail the district's procedures for fulfilling FOIL requests. These procedures should outline the time and places those records are available and information related to fees that may be charged, among other things. Other revisions were made for clarity and consistency purposes. Recommended as is.
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5640	Smoking/Tobacco Use	Suggested revision(s): Now titled "Smoking, Tobacco, and Cannabis (Marijuana) Use." Revised in light of senate bill S854A which legalized recreational cannabis (marijuana) use for anyone age 21 and older. Public Health Law prohibits smoking and vaping on school grounds. As part of senate bill S854A, the definition of smoking in Public Health Law was revised to include a reference to cannabis. The senate bill also added Section 222.10 to the Penal Law. This new Section prohibits smoking, vaping, or ingesting cannabis or concentrated cannabis in or upon the grounds of a school or in or on a school bus. However, this prohibition does not apply to acts that are in compliance with article three of the Cannabis Law which relates to medical cannabis use. Other revisions were made for clarity and consistency purposes. Recommended as is.
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5684	Use of Surveillance Cameras in the District and on School Buses	Note: These revisions were previously suggested in the District's 18-19, 19-20, and 20-21 Policy Audits. The District did not act on these revisions at those times. In the 20-21 Policy Audit, the policy was "Not rec." Per the District's request, these revisions are being included in the 21-22 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 implementing these changes.

Community Relations

SUBJECT: PUBLIC COMPLAINTS

Complaints by citizens regarding any facet of the school operation, including those related to complaints about civil rights violations, often can be handled more satisfactorily by the administrative officer in charge of the unit closest to the source of the complaint. In most instances, therefore, complaints will be made to the building principal or assistant if the matter cannot be resolved by the teacher, coach, or other school employee.

If the complaint and related concerns are not resolved at this level to the satisfaction of the complainant, the complaint may be carried to the Superintendent or one of his or her assistants. Unresolved complaints at the building level must be reported to the Superintendent by the building principal. The Superintendent may require the statement of the complainant in writing.

The Superintendent may not address anonymous complaints. All other complaints and related concerns that are not resolved at the Superintendent level to the satisfaction of the complainant may be carried to the Board. Unresolved complaints at the Superintendent level must be reported to the Board by the Superintendent. The Board reserves the right to require prior written reports from appropriate parties.

NOTE: Refer also to Policies #3420 -- Non-Discrimination and Anti-Harassment in the School District
#8330 -- Objection to Instructional Materials
#8331 -- Controversial Issues
District *Code of Conduct*

Adopted: 5/9/06

Revised: 3/15/16; 1/17/17; 1/15/19

Community Relations

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If the complaint and related concerns are not resolved at this level to the satisfaction of the complainant, the complaint may be carried to the Superintendent or ~~one of his or her~~ **their** assistants. Unresolved complaints at the building level must be reported to the Superintendent by the building principal. The Superintendent may require the statement of the complainant in writing.

The Superintendent may, **but is not required to**, address anonymous complaints. All other complaints and related concerns that are not resolved at the Superintendent level to the satisfaction of the complainant may be carried to the Board. Unresolved complaints at the Superintendent level must be reported to the Board by the Superintendent. The Board reserves the right to require prior written reports from appropriate parties.

NOTE: Refer also to Policies #3420 -- Non-Discrimination and Anti-Harassment in the District
#8330 -- Objection to Instructional Materials
#8331 -- Controversial Issues
District Code of Conduct

Community Relations

SUBJECT: PUBLIC ACCESS TO RECORDS

Access to records of the District shall be consistent with the rules and regulations established by the State Committee on Open Government and shall comply with all the requirements of the New York State Public Officers Law Sections 87 and 89.

A Records Access Officer shall be designated by the Superintendent, subject to the approval of the Board of Education, who shall have the duty of coordinating the School District's response to public request for access to records.

The District shall provide copies of records in the format and on the medium requested by the person filing the Freedom of Information Law (FOIL) request if the District can reasonably do so regardless of burden, volume or cost of the request.

Regulations and procedures pertaining to accessing and providing District records shall be as indicated in the School District Administrative Manual.

Requests for Records via Email

If the District has the capability to retrieve electronic records, it must provide such records electronically upon request. The District shall accept requests for records submitted in the form of electronic mail and respond to such requests by electronic mail using the forms supplied by the District. This information shall be posted on the District website, clearly designating the email address for purposes of receiving requests for records via this format.

When the District maintains requested records electronically, the response shall inform the requester that the records are accessible via the internet and in printed form either on paper or other information storage medium.

Board of Education Meetings and Records

District records subject to release under the FOIL, as well as any proposed rule, regulation, policy or amendment, that are on the Board agenda and scheduled to be discussed at a Board meeting, shall be made available upon request, to the extent practicable, prior to the meeting. Copies of such records may be made available for a reasonable fee. If the District maintains a regularly updated website and utilizes a high speed internet connection, such records shall be posted on the website to the extent practicable, prior to the meeting. The District may, but is not required to expend additional funds to provide such records.

Education Law Section 2116
Public Officers Law Sections 87 and 89
21 NYCRR Parts 1401 and 9760

NOTE: Refer also to Policy #1510 -- Board of Education Meetings

Adopted: 5/9/06
Revised: 10/18/11; 4/8/14

SUBJECT: PUBLIC ACCESS TO RECORDS

Access to ~~records of the~~ District ~~shall~~ records will be consistent with the rules and regulations established by the New York State Committee on Open Government and ~~shall~~ will comply with all the requirements of the New York State ~~Public Officers~~ Freedom of Information Law (FOIL) ~~Sections 87 and 89~~.

Records Access Officer

~~A Records Access Officer shall be designated by t~~The Superintendent, subject to the approval of the Board ~~of Education~~, will designate a Records Access Officer who ~~shall~~ will have the duty of coordinating the ~~School~~ District's response to public requests for access to records.

Fulfilling FOIL Requests

The District ~~shall~~ will provide copies of records in the format and on the medium requested by the person filing the ~~Freedom of Information Law (FOIL)~~ request if the District can reasonably do so regardless of burden, volume, or cost of the request. The District may charge a fee for copies as permitted by law and regulation.

~~Regulations and procedures pertaining to accessing and providing District records shall be as indicated in the School District Administrative Manual.~~

The District may require a person requesting lists of names and addresses to provide a written certification that they will not use the lists of names and addresses for solicitation or fundraising purposes and will not sell, give, or otherwise make available the lists of names and addresses to any other person for the purpose of allowing that person to use the lists of names and addresses for solicitation or fundraising purposes.

Requests for Records via Email

If the District has the capability to retrieve or extract electronic records with reasonable effort, it ~~must~~ will provide ~~such~~ the records electronically upon request. The District ~~shall~~ will accept requests for records submitted in the form of ~~electronic mail~~ email and respond to ~~such~~ those requests by ~~electronic mail~~ email using the forms supplied by the District. This information ~~shall~~ will be posted on the District website, clearly designating the email address for purposes of receiving requests for records via this format.

When the District maintains requested records ~~electronically on the internet~~, the response ~~shall~~ will inform the requester that the records are accessible via the internet and in printed form either on paper or other information storage medium.

(Continued)

SUBJECT: PUBLIC ACCESS TO RECORDS (Cont'd.)**Notification**

The District will post in a conspicuous location wherever records are kept and/or publish in a local newspaper of general circulation a notice which contains: the locations where records will be made available for inspection and copying; the name, title, business address, and business telephone number of the Records Access Officer; and the right to appeal a denial of access to records with the name and business address of the person or body to whom the appeal should be directed.

~~Board of Education Meetings and Records~~

~~— District records subject to release under the FOIL, as well as any proposed rule, regulation, policy or amendment, that are on the Board agenda and scheduled to be discussed at a Board meeting, shall be made available upon request, to the extent practicable, prior to the meeting. Copies of such records may be made available for a reasonable fee. If the District maintains a regularly updated website and utilizes a high speed internet connection, such records shall be posted on the website to the extent practicable, prior to the meeting. The District may, but is not required to expend additional funds to provide such records.~~

Additional Provisions

Regulations and/or procedures governing access to District records in relation to FOIL requests will be developed.

Education Law § 2116
Public Officers Law Article 6
21 NYCRR Part 1401

NOTE: Refer also to Policy #1510 -- Regular Board Meetings and Rules (Quorum and Parliamentary Procedure)

Adopted: 5/9/06
Revised: 10/18/11; 4/8/14;

Community Relations

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

The Board of Education is committed to providing an environment free from discrimination and harassment. Accordingly, the Board prohibits discrimination and harassment on the basis of race, color, religion, national origin, sex, sexual orientation, age, disability or other legally protected category. Such actions and occurrences are prohibited regardless of whether they take place on School District premises or at school sponsored events, programs, or activities held at other locations.

Prohibited Conduct

Determinations as to whether conduct or occurrences constitute discrimination or harassment for the purposes of this Policy and its implementing Administrative Regulations will be made consistent with applicable law. Such determinations may depend upon a number of factors, including but not limited to: the particular conduct or occurrence at issue, the ages of the parties involved, the context in which the conduct or occurrence takes place, the relationship of the parties to one another, the category or characteristic that is alleged to have been the basis for the action or occurrence, and other considerations as are necessary and consistent with law. The characterizations and examples below are intended to serve as a general guide for individuals in determining whether to file a complaint of discrimination or harassment, and should not be construed to add or limit the rights individuals and entities possess as a matter of law.

Discrimination is, generally, the practice of conferring or denying privileges on the basis of 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/her membership in a protected class, denying an individual access to facilities or educational benefits on the basis of his/her membership in a protected class, or impermissibly instituting policies or practices that disproportionately and adversely impact members of a protected class.

Harassment generally consists of subjecting an individual, on the basis of his/her membership in a protected class, to conduct and/or communications that are sufficiently severe, pervasive, or persistent as to have the purpose or effect of: 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.

Harassment can include unwelcome verbal, written, or physical conduct which offends, denigrates, or belittles an individual because of his/her membership in a protected class. Such conduct includes, but is not limited to: derogatory remarks, jokes, 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 SCHOOL DISTRICT (Cont'd.)

Civil Rights Compliance Officer

The District will designate one or more individuals to serve as Civil Rights Compliance Officer. The Civil Rights Compliance Officer will be responsible for coordinating the District's efforts to comply with and carry out its responsibilities regarding non-discrimination and anti-harassment, including investigations of complaints alleging discrimination, harassment, or the failure of the District to comply with its obligations under relevant non-discrimination and anti-harassment laws and regulations (e.g., the Americans with Disabilities Act, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973).

Prior to the beginning of each school year, the District shall issue an appropriate public announcement or publication which advises students, parents/guardians, employees and other relevant individuals of the District's established grievance procedures for resolving complaints of discrimination and harassment. Included in such announcement or publication will be the name, address, telephone number, and email address of the Civil Rights Compliance Officer(s).

The Civil Rights Compliance Officer for the District is the Assistant Superintendent.

Investigation of Complaints and Grievances

The School District will act to promptly, thoroughly, and equitably investigate all complaints, whether verbal or written, of discrimination and/or harassment based on any of the characteristics described above, and will promptly take appropriate action to protect individuals from further discrimination or harassment. In the event an anonymous complaint is filed, the District will respond to the extent possible.

It is essential that any individual who is aware of a possible occurrence of discrimination or harassment immediately report such occurrence. All reports will be directed or forwarded to the District's designated Civil Rights Compliance Officer(s). Such complaints are recommended to be in writing, although verbal complaints of discrimination or harassment will also be promptly investigated in accordance with applicable law and District policy and procedure. In the event the Civil Rights Compliance Officer is the alleged offender, the report will be directed to another Civil Rights Compliance Officer, if the District has designated another individual to serve in such a capacity, or to the Superintendent.

To the extent possible, all complaints will be treated as confidential. Disclosure may, however, be necessary to complete a thorough investigation of the charges and/or notify law enforcement officials.

(Continued)

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

If an investigation reveals that discrimination or harassment has occurred, the District will take immediate corrective action as warranted. Such action will be taken in accordance with applicable laws and regulations, as well as any and all relevant codes of conduct, District policies and administrative regulations, collective bargaining agreements, and/or third-party contracts.

Knowingly Makes False Accusations

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

Prohibition of Retaliatory Behavior

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of discrimination and/or harassment. Complaints of retaliation may be directed to the Civil Rights Compliance Officer. In the event the Civil Rights Compliance Officer is the alleged offender, the report will be directed to another Civil Rights Compliance Officer, if the District has designated another individual to serve in such a capacity, or to the Superintendent.

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

Additional Provisions

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

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

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

This policy should not be read to abrogate other District policies and/or regulations or the District *Code of Conduct* prohibiting other forms of unlawful discrimination, harassment, and/or inappropriate behavior within this District. It is the intention of the District that all such policies and/or regulations be read consistently to provide protection from unlawful discrimination and harassment. However, different treatment of any individual which has a legitimate, legal, and non-discriminatory reason shall not be considered a violation of District policy.

(Continued)

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

Age Discrimination in Employment Act, 29 USC Section 621
Americans with Disabilities Act, 42 USC Section 12101 et seq.
Section 504 of the Rehabilitation Act of 1973, 29 USC Section 794 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 of 1972, 20 USC Section 1681 et seq.
Education Law Section 2801(1)
Executive Law Section 290 et seq.

NOTE: Refer also to Policies #6120 -- Equal Employment Opportunity
#6121 -- Sexual Harassment in the Workplace
#6122 -- Employee Grievances
#7541 -- Sexual Harassment of Students
#7544 -- Dignity for All Students
District *Code of Conduct*

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

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 remediating 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)

Community Relations

**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;

Community Relations

SUBJECT: EXTRAORDINARY CIRCUMSTANCES

The District considers the safety of its students and staff to be of the utmost importance and is acutely aware that extraordinary circumstances such as widespread illness, natural disaster, or other emergency situation may make District premises unsafe or otherwise interrupt the District's ability to effectively operate.

In these circumstances, the District will follow its previously developed policies, procedures, and plans including, but not limited to, the District-wide school safety plan and building-level emergency response plan(s). To the extent that any District policy, procedure, or plan is in any way inconsistent with or conflicts with federal, state, or county law, regulation, or executive order released for the purpose of addressing the extraordinary circumstance, the federal, state, or county law, regulation, or executive order will govern. Additionally, the Board may adopt resolutions or take other actions as needed to respond to changes in federal, state, or county law, regulation, or executive order to provide further direction during an extraordinary circumstance.

Adopted:

SUBJECT: SMOKING/TOBACCO USE (Cont'd.)

- a) On school grounds;
- b) In any vehicles used to transport students or school personnel;
- c) At school-sponsored events or activities, including those that take place off school grounds, including in another state;
- d) In school publications;
- e) On clothing, shoes, accessories, gear, and school supplies in accordance with the District's *Code of Conduct* and applicable collective bargaining agreements.

This prohibition of tobacco promotional items will be enforced in accordance with the District's *Code of Conduct* and applicable collective bargaining agreements.

The District will request, whenever possible, tobacco free editions of periodical publications for school libraries and classroom use.

20 USC §§ 6081-6084 and 7971-7974
Education Law § 409
Public Health Law §§ 1399-n, 1399-o, 1399-p, and 1399-aa
8 NYCRR §§ 155.5 and 156.3

NOTE: Refer also to Policies #3280 -- Use of School Facilities, Materials and Equipment
#6150 -- Alcohol, Tobacco, Drugs, and Other Substances (Staff)
#7320 -- Alcohol, Tobacco, Drugs, and Other Substances (Students)
#8240 -- Instruction in Certain Subjects
District Code of Conduct

Adopted: 5/9/06
Revised: 10/21/08; 6/18/14; 2/12/19

SUBJECT: SMOKING/TOBACCO USE (Cont'd.)

- a) On school grounds;
- b) In any vehicles used to transport students or school personnel;
- c) At school-sponsored events or activities, including those that take place off school grounds, including in another state;
- d) In school publications;
- e) On clothing, shoes, accessories, gear, and school supplies in accordance with the District's *Code of Conduct* and applicable collective bargaining agreements.

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NOTE: Refer also to Policies #3280 -- Use of School Facilities, Materials and Equipment
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#8240 -- Instruction in Certain Subjects
District *Code of Conduct*

Adopted: 5/9/06
Revised: 10/21/08; 6/18/14; 2/12/19

SUBJECT: SMOKING, ~~TOBACCO~~, AND CANNABIS (MARIJUANA) USE

~~The use of tobacco products is~~ The following actions are prohibited on school grounds and at school functions: smoking; vaping; using tobacco products; and/or using or ingesting any form of cannabis.

Smoking and vaping are prohibited ~~on school grounds and~~ within 100 feet of the entrances, exits, or outdoor areas of any of the District's schools. However, this prohibition does not apply to smoking or vaping in a residence, or within the real property boundary lines of residential real property. ~~In addition, the use of tobacco products, smoking, and vaping are prohibited at any school-sponsored event or activity that occurs off school grounds, including those taking place in another state.~~

Exceptions may exist for authorized medical cannabis use.

Definitions

For purposes of this policy, the following definitions apply:

- a) "Electronic cigarette" (or "e-cigarette") means an electronic device delivering vapor inhaled by an individual user, and includes any refill, cartridge, and any other component of such a device.
- ~~a) Tobacco products means one or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, nicotine water, or any other tobacco products.~~
- ~~b) Smoking means the burning of a lighted cigar, cigarette, pipe, or any other matter or substance containing tobacco.~~
- ~~c) Vaping means the use of an electronic cigarette.~~
- ~~d) Electronic cigarette (or e-cigarette) means an electronic device delivering vapor inhaled by an individual user, and includes any refill, cartridge, and any other component of such a device.~~
- 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.
- ec) "School grounds" means any building, structure, and surrounding outdoor grounds, including entrances or exits, contained within the District's preschool, nursery school, elementary, or secondary school's legally defined property boundaries as registered in the County Clerk's Office, as well as any vehicles used to transport children or school personnel.
- d) "Smoking" means the burning of a lighted cigar, cigarette, pipe, or any other matter or substance containing tobacco, cannabis, or cannabinoid hemp.

- e) "Tobacco products" means cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, nicotine water, or any other tobacco products.
- f) "Vaping" means the use of an electronic cigarette.

~~This policy does not apply to smoking or vaping in a residence, or within the real property boundary lines of residential real property.~~

Public Notification of Policy

The District will prominently post signs prohibiting smoking and vaping on school grounds in accordance with applicable law. ~~The District will also designate a school official to tell individuals found~~ Appropriate District officials will inform individuals smoking or vaping in a non-smoking area that they are in violation of law and/or District policy.

(Continued)

SUBJECT: SMOKING, ~~TOBACCO~~, AND CANNABIS (MARIJUANA) USE (Cont'd.)

The District will communicate this policy to staff, students, parents/guardians, volunteers, visitors, contractors, and outside groups through means such as the District's *Code of Conduct*, student handbooks, newsletters, announcements, facilities use forms/agreements, and/or the prominent display of this policy in appropriate locations.

Prohibition of Tobacco Promotional Items/Tobacco Advertising

Tobacco promotional items (e.g., brand names, logos, and other identifiers) are prohibited:

- a) On school grounds;
- b) In any vehicles used to transport students or school personnel;
- c) At ~~school-sponsored events or activities, including those that take place off school grounds, including in another state~~ school functions;
- d) In school publications;
- e) On clothing, shoes, accessories, gear, and school supplies in accordance with the District's *Code of Conduct* and applicable collective bargaining agreements.

This prohibition of tobacco promotional items will be enforced in accordance with the District's *Code of Conduct* and applicable collective bargaining agreements.

The District will request, whenever possible, tobacco free editions of periodical publications for school libraries and classroom use.

20 USC §§ 6081-6084 and 7971-7974

41 USC § 8101 et seq.

Education Law § 409

Penal Law § 222.10

Public Health Law §§ 1399-n, 1399-o, 1399-p, and 1399-aa

8 NYCRR §§ 155.5 and 156.3

NOTE: Refer also to Policies #3280 -- Use of School Facilities, Materials and Equipment
 #6150 -- Alcohol, Tobacco, Drugs, and Other Substances (Staff)
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 #8240 -- Instruction in Certain Subjects
 District *Code of Conduct*

Adopted: 5/9/06

Revised: 10/21/08; 6/18/14; 2/12/19;