

0110 SEXUAL AND OTHER HARASSMENT

The Board of Education affirms its commitment to promoting an environment which is fair, humane and respectful, and which recognizes and rewards individual performance on the basis of relevant considerations such as ability and effort. The School District expects that the members of its community will treat each other equitably, without regard to an individual's membership in any group or category, and in compliance with applicable federal, state and local laws prohibiting discrimination and providing for civil rights. These standards encompass students, faculty, staff, applicants for employment, and all other members of the School District community and are to be observed in all aspects of the School District's operations, including advertising, publications, employment and personnel policies.

The Board of Education is committed to providing an educational and working environment that promotes respect, dignity and equality and that is free from all forms of sexual harassment. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all school-sponsored activities, programs and events including those that take place at locations outside the district.

Any retaliation against an individual who has complained about harassment or unlawful discrimination, or retaliation against individuals for cooperating with an investigation of a complaint of harassment or unlawful discrimination, is similarly unlawful and will not be tolerated.

Persons who violate this policy will be subject to disciplinary action up to and including termination of employment, suspension or expulsion from school and/or termination of any contractual relationship.

DEFINITIONS

Harassment consists of unwelcome statements or actions based on an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, domestic violence victim status, or any other protected status. Harassment also means the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student or staff member's educational performance, opportunities or benefits, or mental, emotional or physical well-being;; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student or staff members to fear for his or her physical safety;; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

Members of the School District community must understand that harassment can be a difficult form of discrimination to identify and define, but it is illegal and will not be tolerated by the School District. The definitions and principles applicable to sexual harassment are instructive as to all forms of harassment involving protected status.

Sexual harassment is a form of sex discrimination that is illegal under both federal and New York State law and is strictly prohibited by the School District. Unwelcome sexual advances, requests for sexual favors and other physical or verbal conduct of a sexual nature constitute sexual harassment when:

- Submission to such advances, requests or conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement or participation in School District programs or activities, or is used as a basis for employment or academic decisions affecting the individual; or
- Rejection of such advances, requests or conduct affects a term or condition of an individual's employment or academic advancement or participation in School District programs or activities, or is used as a basis for employment or academic decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work, academic performance, education, or participation in School District programs or activities, or of creating an intimidating, hostile, work or academic environment. The conduct must be sufficiently severe, persistent or pervasive to constitute harassment and limited, isolated remarks or actions generally will not be sufficient to create a hostile environment.

Principles Applicable to All Forms of Harassment

It is important to note that harassment refers to behavior that is not welcome, and occurs in a variety of situations which share a common element: the inappropriate introduction of activities or comments into the work or academic environment. Sexually harassing conduct need not be motivated by sexual desire in order to constitute unlawful sexual harassment. Similarly, other forms of harassment need not be motivated by personal discriminatory intent in order to be inappropriate and prohibited.

Harassment sometimes involves relationships of unequal power, as between a teacher and a student, or a supervisor and a subordinate. However, harassment may also involve relationships among persons of equal authority or power, such as when repeated unwelcome advances, actions, or demeaning verbal comments by a student towards another student, or by a co-worker towards another co-worker unreasonably interferes with a person's ability to participate in educational, school-related or work activities. Any member of the school community may become a harasser or a victim of harassment.

Harassment can be verbal, nonverbal, visual or physical. It can be overt, as, for example, in the suggestion that an individual can secure an advantage or forestall negative treatment by submission to sexual advances or granting sexual favors. Such overt treatment can be implied from conduct or circumstances and need not be direct or explicit. Harassment can also consist of

unwanted attempts to shift an educational or professional relationship to a personal one.

Depending upon the circumstances and how they impact the workplace or academic environment, examples of harassment include but are not limited to such conduct as the following:

- Verbal abuse, insults, jokes, comments or innuendo of a sexual nature that include lewd, obscene or sexually suggestive displays or remarks;
- Verbal abuse, insults, jokes, comments or innuendo based upon age, race, creed, color, religious practice national origin, sexual orientation, military status, gender, sex, disability, predisposing genetic characteristics, marital status, domestic violence victim status, or any other protected status;
- The display of objects or images which a reasonable person would consider to be offensive due to their connotations with respect to age, race, creed, color, religious practice national origin, sexual orientation, military status, gender, sex, disability, predisposing genetic characteristics, marital status, domestic violence victim status, or any other protected status;
- Physical contact, such as touching, hugging, kissing, patting, or pinching, that is uninvited and unwanted by the other person;
- Physical contact which does not respect the "personal space" of others, whether in class, in meetings, during extracurricular activities, on the playing field, or elsewhere;
- Requests or demands for sexual favors accompanied by implicit or explicit promised rewards or threats concerning an individual's employment status or educational status;
- Repeated unwelcome social invitations, sexual flirtations, advances, propositions or unwanted requests for sexual favors;
- Threatened, attempted, or completed physical sexual assault;
- Indecent exposure.

The School District recognizes that in determining whether harassment has occurred, the perspective of the victim as well as the offender's conduct and/or intention may be considered.

Other Conduct Which May Constitute Unlawful Discrimination

This policy does not limit the additional prohibitions on inappropriate interpersonal interactions which are set forth in the School District's Code of Conduct and Dignity for All Students policies.

Romantic Relationships

Romantic and/or sexual involvement between School District staff and students is absolutely forbidden. It will be presumed in all cases that a student cannot give consent to such a relationship, regardless of the student's age.

It is also essential to understand that consenting romantic and sexual relationships between employees, particularly between senior or supervisory individuals and less-senior or lower-level employees, (but also between co-workers), may lead to unforeseen complications. The respect and trust accorded a more senior/supervisory person by a staff member, as well as the power held by that person in evaluating or otherwise supervising the staff person may diminish the extent to which an employee really feels free to choose or decline involvement. Therefore, each member of the School District should be aware of the possible risk of even an apparently consensual sexual relationship. A supervisor or an employee who enters into a sexual relationship with another employee, where there exists a difference in seniority or power between the individuals involved, should be aware that, if a complaint of sexual harassment is subsequently made, it could be exceedingly difficult for the individual charged with sexual harassment to prove lack of wrongdoing on grounds of mutual consent. Allegations of unprofessional conduct and breach of professional ethics may also be raised regarding such relationships by the individuals involved or by the School District. With this in mind, the School District may decide, to the extent possible, to reassign or rearrange reporting functions or other roles of parties engaged in a consenting relationship to avoid potential problems in this regard. The School District will necessarily review claims of sexual harassment which arise from a relationship that at an earlier time was considered consensual.

Romantic relationships between students are a natural part of growing up. However, it is imperative that relationships between students be informed by mutual respect, and by forbearance from inappropriate or dangerous activities. No student should ever be made to feel that he or she is obligated to engage in or continue any relationship or activity, whether through threats of force, social ostracism, or otherwise.

DEALING WITH SEXUAL HARASSMENT AND OTHER FORMS OF DISCRIMINATION

It is the responsibility of all members of the School District to conduct themselves in such a way as to contribute to an environment not compromised by harassment, and respectful of the individual qualities of others.

- Any student experiencing harassment or discriminatory treatment should promptly consult with a trusted teacher, guidance counselor, building administrator or one of the central administrators identified at the end of this policy.
- Any employee experiencing harassment or discriminatory treatment should promptly consult with a building administrator or

one of the central administrators identified at the end of this policy.

- Anyone witnessing harassment or discriminatory treatment should encourage the person who is the object of the treatment to seek advice and should consider advising the appropriate administrator.

The responsibility to be sensitive to behavior that could be perceived as harassment or discrimination falls especially upon faculty, administrators and supervisors. The responsibility for them is twofold: it involves their stewardship of the school environment, and it also involves an awareness of their own conduct.

First, should an administrator, faculty member or supervisor have knowledge of conduct involving harassment or discrimination, or receive a complaint of such treatment from someone in the School District, immediate steps must be taken to deal with the matter appropriately, whether or not a formal charge or grievance is raised. At a minimum, consultation with one of the central administrators identified at the end of this policy should occur to determine what action is appropriate.

COMPLAINT RESOLUTION PROCEDURE

When the School District receives any complaint of harassment it will promptly investigate the allegation in a fair and expeditious manner. The School District will make every effort to proceed in such a way as to maintain confidentiality to the extent practicable under the circumstances; however, confidentiality cannot be assured in all circumstances. If it is determined that inappropriate conduct has occurred, the School District will act promptly to eliminate the offending conduct, and where appropriate the School District will also impose disciplinary action.

If an individual believes that s/he has been subjected to discrimination or sexual or other harassment prohibited by this policy, whether by a supervisor, a co-worker, a faculty member, a student, a vendor, a contractor or any other person with whom s/he comes in contact in the School District, the individual should report the incident promptly.

As noted above, students are encouraged to bring concerns to a trusted teacher or guidance counselor; but students are also encouraged to bring concerns to a building administrator or one of the central administrators identified at the end of this policy.

In the case of employees, if the particular circumstances make a discussion with or a complaint to the employee's own supervisor inappropriate (for example, the complaint involves the employee's supervisor, or the employee fears retaliation by his/her supervisor), the employee should bring the matter immediately to a building administrator, to the Superintendent of Schools or one of the central administrators identified at the end of this policy.

Any person who receives a complaint of harassment or discrimination from an employee or student, or who otherwise knows or has reason to believe that an employee or student has been subjected to harassment or discrimination, is expected to report the incident promptly to a building administrator, to the Superintendent of Schools or one of the central administrators identified at the end of this policy for investigation.

The following is an outline of the procedure generally followed once a complaint has been brought to the attention of the School District:

- A prompt and impartial investigation of the complaint is conducted by the School District Investigator(s) or by their designee. This investigation will consist of (but will not necessarily be limited to) interviews of the individual who made the complaint, of the person or persons against whom the complaint was made and of other individuals who may have witnessed the reported incident or incidents.
- Upon completion of the investigation, the person who conducted the investigation will meet individually with the individual who made the complaint and the individual or individuals against whom the complaint was made, to report the results of the investigation and, where a remedy is determined to be appropriate, to inform the parties of the steps that will be taken to remedy the situation.

DISCIPLINARY ACTION

In the event that the investigation reveals that harassment, discrimination, or other inappropriate or unprofessional conduct (even if not unlawful) has occurred, further action will be taken, including disciplinary action, such as:

- For staff, penalties including, but not limited, to counseling, reprimand, change in work assignment, loss of privileges, mandatory training, suspension and termination. Penalties will be imposed in accordance with the terms of applicable law, the School District's Code of Conduct, and collective bargaining agreements.
- For students, penalties including, but not limited, to suspension or expulsion from school. Penalties will be imposed in accordance with the terms of applicable law and the School District's Code of Conduct. The School District additionally reserves the right to refer students to counseling or training, as may be appropriate.

CONFIDENTIALITY

All actions taken to investigate and resolve complaints through this procedure shall be conducted with as much privacy, discretion and confidentiality as possible without compromising the thoroughness and fairness of the investigation. All persons involved are to treat the situation with respect. To conduct a thorough investigation, the Investigator(s) may discuss the complaint with witnesses and those persons involved in or affected by the complaint, and those persons necessary to assist in the investigation or to implement appropriate disciplinary actions.

Confidentiality requirements imposed by law with respect to student education records, medical records and other records will be respected at all times.

NO RETALIATION FOR FILING A COMPLAINT OF HARASSMENT OR UNLAWFUL DISCRIMINATION

Retaliation against any individual for making a complaint of harassment or of any unlawful discrimination or for assisting in the investigation of such a complaint is illegal and will not be tolerated. Any acts of retaliation will be subject to appropriate disciplinary action, such as but not limited to reprimand, change in work assignment, loss of privileges, mandatory training or suspension and/or immediate termination.

SCHOOL DISTRICT INVESTIGATORS OF COMPLAINTS OF HARASSMENT AND UNLAWFUL EMPLOYMENT DISCRIMINATION

The following Investigators are designated as those persons who are charged with investigating complaints of sexual harassment and unlawful discrimination for the School District, and may be contacted to initiate an investigation under the policy. The School District also reserves the right to retain an outside investigator to investigate complaints of sexual harassment and/or unlawful discrimination:

Title: Director for Instruction & Human Resources

Address: 230 June Road, North Salem, NY 10560

Telephone: 914-669-5414 x 1065

E-mail: jvazquez@northsalemschools.org

Title: Director for Pupil Personnel Services

Address: 230 June Road, North Salem, NY 10560

Telephone: 914-669-5414 x 1056

E-mail: avanderstuyf@northsalemschools.org

This policy is not intended to limit the options of any persons who feel that s/he has been subjected to harassing treatment. Such a person may also pursue his/her rights at any point with an outside agency, governmental entity or union.

Cross-Ref:

9121: Nepotism & Significant Relationships

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North Salem Central School District
