**(X) Required**
**( ) Local**
**( ) Notice**

# SEXUAL HARASSMENT

The Board of Education recognizes that harassment of the following covered individuals including students, staff and certain "non-employees" (which includes contractors, subcontractors, vendors, consultants and other persons providing services pursuant to a contract, or their employees) on the basis of sex, gender, gender identity, gender expression and/or sexual orientation is abusive and illegal behavior that harms victims and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board of Education further recognizes that preventing and remedying such harassment in schools is essential to ensure a healthy, nondiscriminatory environment in which students can learn and employees and "non-employees" can work productively.

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 of Education 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 School District. Since sexual violence is a form of sexual harassment, the term "sexual harassment" in this policy will implicitly include sexual violence, even if not explicitly stated, or outside the school setting, if the harassment impacts the individual's education or employment in a way that violates their legal rights.

## Sexual Harassment Prevention Team

The School District shall annually appoint the following members to its Sexual Harassment Team:

- Title IX Coordinator: This person shall be responsible for coordinating compliance efforts.
- Investigator/Compliance Officer: This person investigates formal complaints and may also serve as the Title IX Coordinator.
- Decision-Maker: This person makes a determination after the investigation is completed and the entire record has been reviewed.
- Appellate Decision-Maker: This person is authorized to make a determination upon an appeal.

## Sexual Harassment Defined

"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 perceived or self-identified sex, sexual orientation, gender identity, gender expression, and transgender status.

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

Sexual harassment occurs when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of an employee's or "non-employee's" employment or a student's education (including any aspect of the student's participation in school-sponsored activities, or any other aspect of the student's education); or
2. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting an employee's or "non-employees" employment or a student's education; or
3. the conduct or communication has the purpose or effect of substantially or unreasonably interfering with an employee's or "non-employee's" work performance or a student's academic performance or participation in school-sponsored activities, or creating an intimidating, hostile or offensive working or educational environment.

"Sexual violence" means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. A person may be incapable of giving consent due to age, drug or alcohol use, or an intellectual or other disability. Sexual violence includes, but is not limited to, acts such as rape, sexual assault, sexual battery and sexual coercion. All such acts of sexual violence are forms of sexual harassment.

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

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

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

Because sexual harassment can occur staff to student, staff to staff, student to student, student to staff, male to female, female to male, male to male or female to female, it shall be a violation of this policy for any student, employee or third party (school visitor, vendor, etc.) to sexually harass any student, employee, or "non-employee."

Under various state and federal laws, students, employees and "non-employees" have legal protections against sexual harassment in the school environment as described above. The School District's Code of Conduct also addresses appropriate behavior in the school environment. Sexual harassment can occur between persons of all ages and genders. Any student, employee or "non-employee" who feels harassed should submit a complaint so that any potential violation of this policy be promptly addressed. Where alleged sexual harassment involves discrimination, harassment, and/or bullying as defined by the Dignity of All Students Act (DASA) and the District's DASA policy (0115), the appropriate guidelines set forth therein shall also apply.

**Prohibited Conduct**

School-related conduct that the School District considers unacceptable and which may constitute sexual harassment includes, but is not limited to, the following:

1. rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the State Penal Law;
2. unwelcome sexual invitations or requests for sexual activity in exchange for grades, promotions, preferences, favors, selection for extracurricular activities or job assignments, homework, etc.;
3. unwelcome and offensive public sexual display of affection, including kissing, making out, groping, fondling, petting, inappropriate touching of one's self or others, sexually suggestive dancing, and massages;
4. any unwelcome communication that is sexually suggestive, sexually degrading or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual jokes; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings lists"; howling, catcalls, and whistles; sexually graphic computer files, messages or games, etc.;
5. unwelcome and offensive name calling or profanity that is sexually suggestive, sexually degrading, implies sexual intentions, or that is based on sexual stereotypes or sexual preference;
6. unwelcome physical contact or closeness that is sexually suggestive, sexually degrading, or sexually intimidating such as the unwelcome touching of another's body parts, cornering or blocking an individual, standing too close, spanking, pinching, grabbing, poking, following, stalking, frontal body hugs, etc.;
7. unwelcome and sexually offensive physical pranks or touching of an individual's clothing, such as hazing and initiation, "streaking," "mooning," "nuggies" or "wedgies" (pulling underwear up at the waist so it goes in between the buttocks), bra-snapping, skirt "flip-ups," "spiking" (pulling down someone's pants or swimming suit); pinching; placing hands inside an individual's pants, shirt, blouse, or dress, etc.;
8. unwelcome leers, stares, gestures, or slang that are sexually suggestive; sexually degrading or imply sexual motives or intentions;
9. clothing with sexually obscene or sexually explicit slogans or messages;

10. unwelcome and offensive skits, assemblies, and productions that are sexually suggestive, sexually degrading, or that imply sexual motives or intentions, or that are based on sexual stereotypes;
11. unwelcome written or pictorial display or distribution of pornographic or other sexually explicit materials such as posters, calendars, magazines, videos, films, Internet material, etc.;
12. any other unwelcome gender-based behavior that is offensive, degrading, intimidating, demeaning, or that is based on sexual stereotypes and attitudes;
13. hostile actions taken against an individual because of his/her sex, sexual orientation, gender identity or transgender status, including:
    a. Interfering with, destroying or damaging a person's workstation, tools, or equipment, or otherwise interfering with the person's ability to perform the job;
    b. Sabotaging a person's work; and
    c. Bullying, yelling or name-calling.

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

**Determining if Prohibited Conduct is Sexual Harassment**

Complaints of sexual harassment will be thoroughly investigated in accordance with the procedures set forth below to determine whether the totality of the behavior and circumstances meet any of the elements of the above definition of sexual harassment and should therefore be treated as sexual harassment. Not all unacceptable conduct with sexual connotations may constitute sexual harassment. Such conduct must rise above what a reasonable victim of discrimination with the same protected characteristics would consider petty slights or trivial inconveniences to be considered sexual harassment. In many cases (other than *quid pro quo* situations where the alleged harasser offers academic or employment rewards or threatens punishment as an inducement for sexual favors), unacceptable behavior must be sufficiently severe, pervasive and objectively offensive to be considered sexual harassment. If the behavior doesn't rise to the level of sexual harassment, but is found to be objectionable behavior, the individual will be educated and counseled in order to prevent the behavior from continuing.

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

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

6. the location of the incidents and context in which they occurred;
7. other incidents at the school;
8. incidents of gender-based, but non-sexual harassment; and
9. any other matters considered relevant.

**Reporting Complaints**

In order for the Board of Education to effectively enforce this policy and to take prompt corrective measures, it is essential that all victims of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. Any student, employee, or "non-employee" who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior. Reports can be made to a teacher, Building Principal, an immediate supervisor, and/or a Title IX Compliance Officer. The School District will promptly investigate all complaints of sexual harassment, formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner.

Reports of sexual harassment may be made in person, by mail, by telephone or electronic mail, using the contact information listed for the Title IX Coordinator and/or Compliance Officer(s), or by any other means that would result in the Title IX Coordinator and/or Compliance Officer(s) receiving the person's verbal or written report. A form for submission of a written complain can be found attached to this Policy, and all covered individuals are encouraged to use this complaint form.

If a covered individual reports sexual harassment on behalf of someone else, he/she should use the written complaint form and note that he/she is submitting the complaint on someone else's behalf. Such report may be made at any time (including outside of school hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator and/or Compliance Officer(s).

Employees receiving complaints of sexual harassment must either direct the complainant to the Building Principal or Title IX Coordinator, or may report the incident themselves. Supervisory and managerial personnel are required to report complaints of sexual harassment to the Building Principal or Title IX Coordinator and may be subject to discipline for failing to report suspected or reported sexual harassment, knowingly allowing sexual harassment to continue, or engaging in any retaliation.

Any supervisory or managerial personnel who receives a complaint or information about suspected sexual harassment, observes what may be sexually harassing behavior or for any reason becomes aware of or suspects that sexual harassment is occurring or has occurred, is required to report that suspected sexual harassment to the Building Principal and/or Title IX Compliance Officer(s), irrespective of whether the affected individual files a complaint. If the complaint or information involves the Building Principal or Title IX Compliance Officer(s), the supervisory/managerial employee must report the suspected sexual harassment to the Superintendent of Schools. If the complaint or information involves the Superintendent of Schools, the supervisory/managerial employee must report the suspected sexual harassment to the President of the Board of Education. Contact information for these individuals can be found on the District's website.

Subject to any statutory or contractual limitations, if supervisory/managerial employees engage in

sexually harassing conduct or retaliation themselves, fail to report suspected sexual harassment and/or otherwise knowingly allow sexual harassment to continue, such employees shall be subject to appropriate corrective action, including, but not limited to, disciplinary action or termination of employment.

Victims of sexual harassment are urged to come forward and to make reports of such sexual harassment to the Compliance Officer and/or Title IX coordinator without fear of retaliation or intimidation. Due to the sensitive and serious nature of these complaints, investigations or allegations of sexual harassment will be conducted with due regard for confidentiality. It is the School District's policy to respect the privacy of all parties and witnesses to complaints of sexual harassment.

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

**Grievance Procedure**

The following grievance procedure should be followed for the prompt and equitable resolution of complaints under this policy.

**Definitions:**

For purposes of this grievance process,

(1) "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

(2) "Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the School District investigate the allegation of sexual harassment. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator.

(3) "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

(4) "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the School District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the School District's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The School District will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the School District to

provide the supportive measures. The Title IX Coordinator shall be responsible for coordinating the effective implementation of supportive measures.

**Level One – Informal Resolution Procedure**

The Title IX Coordinator/Compliance Officer/Investigator shall facilitate a resolution through an informal procedure, if possible, upon receipt of a report of sexual discrimination that does not allege sexual harassment. This informal procedure is not required as a prerequisite to filing a formal complaint. The informal procedure is available only in those circumstances that parties agree to participate in it. An individual may proceed immediately to filing a formal complaint and the complaint procedure if they believe they have been unlawfully sexually discriminated and/or retaliated against. Individuals who seek resolution through the informal procedure may request at any time that the informal procedure be terminated to move to the complaint procedure. The Title IX Coordinator and/or designee will attempt to resolve the informal procedure within fifteen (15) business days of receiving the report.

The School District's informal procedure may consist of mediation as a potential means of resolving the complaint. In addition to mediation, the School District may use appropriate informal methods to resolve the complaint, including but not limited to:

a) discussion with the respondent, informing him or her of the School District's policies and indicating that the reported behavior must stop;
b) suggesting counseling and/or sensitivity training;
c) conducting training for the department or school in which the behavior occurred, calling attention to the consequences of engaging in such behavior;
d) requesting a letter of apology to the complainant;
e) writing letters of caution or reprimand; and/or
f) separating the parties.

Upon receipt of a report of sexual harassment, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wished with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process of filing a complaint. The School District will maintain as confidential any supportive measures provided before or after the filing of a formal complaint and where no complaint had been filed, to the extent that maintaining such confidentiality would not impair the ability of the School District to provide supportive measures.

The Title IX Coordinator/Compliance Officer/Investigator or second designee shall conduct a preliminary review when the report they receive is verbal or written, or if they observe sexual harassment. If the complaint is oral, the Title IX Compliance Officer/Investigator, or designee, will encourage the complainant or informant to complete the written complaint form, a copy of which is attached to this Policy. If he or she refuses, the Title IX Compliance Officer/Investigator, or designee, will prepare a complaint form based on the oral reporting. Except in the case of severe or criminal conduct, the Title IX Coordinator/Compliance Officer/Investigator or second designee should make all reasonable efforts to resolve complaints through the informal resolution procedure set forth herein.

**Level Two – Formal Complaint Procedure**

Upon receipt of a formal complaint (or later as additional allegations become known), the School District will provide the following written notice to the parties who are known:

A. Notice to each of the parties of the School District's grievance procedure, including any informal resolution process.
B. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice will include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The written notice will also inform the parties of the School District's prohibition from knowingly making false statements or knowingly submitting false information during this grievance process.

If, in the course of an investigation, the School District decides to investigate allegations about the complainant or respondent that are not included in the foregoing notice provided, the School District will provide notice of the additional allegations to the parties whose identities are known.

The School District may also consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

**Investigation:**

The Title IX Coordinator/Compliance Officer/Investigator and/or designee will investigate the allegations in a formal complaint in the following manner:

1. Interview the complainant and document the conversation. Provide the complainant with supportive measures as appropriate. Refer the victim, as appropriate, to school social workers, school psychologists, crisis team managers, other school staff, or appropriate outside agencies for counseling services.
2. Review any written documentation of the harassment prepared by the complainant. If the complainant has not prepared written documentation, encourage the victim to do so, providing alternative formats for individuals with disabilities and young children, who have difficulty writing and need accommodation. If the complainant/informant refuses to complete a complaint form or written documentation, the Title IX Compliance Officer/Investigator shall complete a complaint form (form attached to this Policy) based on the verbal report.
3. Interview the respondent regarding the complaint. and inform the respondent that if the objectionable conduct has occurred, it must cease immediately. Document the

conversation. Provide the respondent with supportive measures as appropriate. Provide the alleged harasser an opportunity to respond to the charges in writing.

4. Instruct the alleged harasser to have no contact or communication regarding the complaint with the victim and to not retaliate against the victim. Warn the alleged harasser that if he/she makes contact with or retaliates against the victim, he/she will be subject to immediate disciplinary action.
5. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses. Interview witnesses presented by the parties, as appropriate and relevant. Where appropriate, obtain a written statement from each witness. Caution each witness to keep the complaint and his/her statement confidential.
6. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the School District may establish restrictions regarding the extent to which the advisor may participate in the proceedings. To the extent that such restrictions are established, they shall apply equally to both parties;
7. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the School District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the School District will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties shall have ten (10) business days to submit a written response, which the Title IX Coordinator/Compliance Officer/Investigator will consider prior to completion of the investigative report; and
8. Create an investigative report within thirty (30) business days of receipt of a formal complaint that fairly summarizes relevant evidence and, at least ten (10) business days prior to a time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

If a complaint received by the Title IX Coordinator/Compliance Officer/Investigator or designee contains evidence or allegations of serious or extreme harassment, such as employee to student harassment, criminal touching, quid pro quo (e.g., offering an academic or employment reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint shall be referred promptly to the Superintendent of Schools. In addition, where the Title IX Coordinator/Compliance Officer/Investigator or second designee has a reasonable suspicion that the alleged harassment involves criminal activity, he/she should immediately notify the Superintendent of Schools, who shall then contact appropriate child protection and/or law enforcement authorities.

**Question and Answer Period**

After the School District has sent the investigative report to the parties, the Title IX Coordinator or his/her designee shall submit the investigative report to the Decision-Maker to reach a determination regarding responsibility.

Before reaching a determination regarding responsibility, the Decision-Maker shall afford each party ten (10) business days to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. However, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The Decision-Maker shall explain to the party proposing the questions any decision to exclude a question as not relevant.

**Determination of Responsibility**

The Decision-Maker shall issue a written determination regarding responsibility after receiving the investigative report. The written determination shall include:

A. Identification of the allegations potentially constituting sexual harassment;
B. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
C. Findings of fact supporting the determination;
D. Conclusions regarding the application of this Policy to the facts;
E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the School District will be imposing on the respondent, and whether remedies designed to restore or preserve equal access to the School District's education program or activity will be provided by the School District to the complainant; and
F. The School District's procedures and permissible bases for the complainant and respondent to appeal.

The written determination regarding responsibility shall be provided to both parties simultaneously and shall become final either on the date that the School District provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

If a determination of responsibility for sexual harassment has been made against a respondent, the School District will provide remedies to a complainant. The Title IX Coordinator shall be responsible for the effective implementation of any remedies. Possible remedies to the complainant that the School District may implement include: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures or individualized

services offered as may be appropriate and reasonably available, without fee or charge to the complainant, that are designed to restore or preserve equal access to the School District's education program or activity, to protect the safety of the complainant or the School District's educational environment, or to deter sexual harassment.

Possible disciplinary sanctions that the School District may implement following any determination of responsibility against the respondent may include: suspension, expulsion, reprimand, documenting the occurrence in the respondent's personnel file, referral to counseling, withholding of a promotion, demotion, reassignment, temporary suspension without pay, termination of employment, or any other disciplinary measures outlined in the School District's code of conduct, Staff Handbook or pursuant to any applicable collective bargaining agreements.

Any party who is not satisfied with the determination regarding responsibility by the Decision-Maker may request an appeal of the determination to the District's Title IX Appellate Decision Maker within ten (10) days of the determination.

**Dismissal of Complaint**

If the conduct alleged would not constitute sexual harassment even if proven, did not occur in the School District's education program or activity, or did not occur against a person in the United States, then the School District shall dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX. However, such a dismissal does not preclude action under another provision of the School District's code of conduct. The School District may also dismiss the formal complaint or any allegations therein, if at any time during the investigation: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; or specific circumstances prevent the School from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. Upon a dismissal, the School District will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

**Level Three – Appeal Procedure**

Either the complainant or respondent, or their parent or guardian, may appeal from a determination regarding responsibility or from a dismissal of a formal complaint, or any allegations therein. Any such appeal shall be received by the Title IX Coordinator in writing within ten (10) business days of the determination.

The appeal may be on one or more of the following bases:

A. Procedural irregularity that affected the outcome of the matter;
B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Title IX Coordinator shall give the written appeal to the Appellate Decision-Maker for a decision. The decision-maker on appeal cannot be the same person(s) as the initial decision-maker,

the Title IX Coordinator, or the investigator(s).

Within three (3) business days of receipt, the Title IX Coordinator shall also provide notice to the other party in writing that the appeal was filed. Each party shall then be provided five (5) business days to submit a written statement in support of, or challenging, the outcome. Within ten (10) business days after the time to submit a written statement has passed, the Appellate Decision-Maker shall issue a written decision describing the result of the appeal and the rationale for the result, and provide the written decision simultaneously to both parties.

**Presumption of No Responsibility**

Throughout this grievance procedure, there shall be a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. In addition, the School District shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The School District will comply with this grievance process before the imposition of any disciplinary sanctions, or other actions that are not supportive measures, against a respondent.

The investigation of the grievance shall include an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and credibility determinations may not be based on a person's status as a complainant, respondent, or witness. The standard of evidence to be used in determine responsibility will be the clear and convincing standard of evidence.

**Confidentiality**

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

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

1. the request may limit the School District's ability to respond to his/her complaint;
2. School District policy and federal law prohibit retaliation against complainants and witnesses;
3. the School District will attempt to prevent any retaliation; and
4. the School District will take strong responsive action if retaliation occurs.

If the complainant still requests confidentiality after being given the notice above, the investigator

will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not preclude the School District from responding effectively to the harassment and preventing the harassment of other students, employees or "non-employees".

**Corrective Action**

If, after appropriate investigation, the School District finds that a student, an employee, "non-employee" or a third party has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, contract, School District policy and State law or Federal law. The School District may include nondisclosure agreements (to not disclose the underlying facts and circumstances of a sexual harassment complaint) in any sexual harassment settlement agreement or resolution only if it is the complainant's preference. Any such nondisclosure agreement shall be provided to all parties. Complainants shall have twenty-one (21) days to consider any such nondisclosure provision before it is signed by all parties, and shall have seven (7) days to revoke the agreement after signing. Nondisclosure agreements shall only become effective after the seven-day revocable period has passed.

Mandatory arbitration clauses concerning sexual harassment claims are prohibited in all School District contracts and agreements.

**Retaliation Prohibited**

All complainants and those who participate in the investigation of a complaint of sexual harassment have the right to be free from retaliation of any kind. Any act of retaliation against any person who complains of sexual harassment, is prohibited and illegal, and therefore subject to disciplinary action. Likewise, retaliation against any person who has testified, assisted, or participated in any manner in an investigation or proceeding concerning a sexual harassment complaint is prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing phone calls, discipline, discrimination, demotion, denial of privileges, any action that would keep a person from coming forward to make or support a sexual harassment claim, and any other form of harassment. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension or termination.

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

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

Even if the alleged sexual harassment does not rise to the level of a violation of law, the individual is protected from retaliation if he/she had a good faith belief that the practices were unlawful. The retaliation provision is not intended, however, to protect persons making intentionally false charges

of sexual harassment.

Any individual who believes he/she has been the target of any acts of retaliation in violation of this Policy should immediately report that conduct to an immediate supervisor, the Building Principal, and/or the Title IX Coordinator/Compliance Officer. In the event the Title IX Coordinator/Compliance Officer is the alleged offender, the report will be directed to another Title IX Compliance Officer, if the School District has designated another individual to serve in such a capacity, or to the Superintendent of Schools.

Where appropriate, follow-up inquiries will be made to ensure that sexual harassment has not resumed and that none of the individuals involved in the investigation of sexual harassment have suffered any retaliation.

**Legal Protections and External Remedies**

As stated above, sexual harassment is not only prohibited by the School District but is also prohibited by state, federal, and, where applicable, local law. Complainants are advised that the School District's internal investigatory procedures do not toll the time within which claims are required to be filed pursuant to federal, state or local law.

***State Human Rights Law (HRL)***

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

Complaints with DHR may be filed any time within three years of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court. Complaining internally to the School District does not extend your time to file with DHR or in court. The three years is counted from date of the most recent incident of harassment.

Individuals seeking to file a complaint with DHR are not required to have an attorney and there is no cost to file with DHR. DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov. Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across

New York State.

Individuals may also contact DHR's toll-free sexual harassment hotline at 1-800-HARASS-3 Monday through Friday, 9:00 AM to 5:00 PM.

***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 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

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

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1- 800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

***Title IX***

Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

In addition to the Title IX procedures outlined in this policy, the U.S. Department of Education's Office for Civil Rights (OCR) is responsible for the enforcement of Title IX. OCR evaluates, investigates, and resolves complaints alleging sex discrimination. OCR also conducts proactive investigations, called compliance reviews, to examine potential systemic violations based on sources of information other than complaints.

For assistance related to Title IX or other civil rights laws, please contact OCR at OCR@ed.gov or 800-421-3481, TDD 800-877-8339.

***Dignity for All Students Act***

The Dignity for All Students Act (DASA), codified as N.Y. Education Law, Art. 2, § 10 et seq., protects all students from harassment, bullying and discrimination while on school grounds and during school activities based on numerous protected classes, including, but not limited to sexual

orientation, gender (including gender identity and expression), and sex. A complaint alleging a violation of DASA may be made to one of the School District's Dignity Act Coordinators and/or any staff member in accordance with the School District's policy.

***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. 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.

**Discipline/Penalties**

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

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

Employees: Discipline may range from a warning up to and including termination, to be imposed consistent with all applicable contractual and statutory rights. Discipline may also be imposed upon management and administrators who knowingly allow prohibited behavior to continue.

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

Vendors: Penalties may range from a warning up to and including loss of School District business.

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

**False Complaints**

False or malicious complaints of sexual harassment may result in corrective or disciplinary action taken against the complainant. An individual may not knowingly make or knowingly submit false information or statements during the grievance process.

**Post Remedial Action**

Following a finding of sexual harassment, victims will be periodically interviewed by the appropriate supervisory personnel to ensure that the harassment has not resumed and that no retaliatory action has occurred. In the discretion of the School District, these follow-up interviews will continue for an appropriate period of time. A report will be made of any victim's response.

In recognition of the trauma experienced by victims of sexual harassment, the victims will be referred to an appropriate local counseling service or the Employee Assistant Program.

**Training**

In addition, training programs shall be established for students and employees to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment including but not limited to the following:

1. All students and employees shall be informed of this policy in student and employee handbooks and student registration materials. The policy shall be posted on the School District's website and in prominent locations at each school. These materials will be provided in English and in an employee's primary language, for those languages which the NYS Department of Labor has provided a translated template policy.

2. All new employees shall receive information about the policy and procedures concerning the prohibition against sexual harassment at new employee orientation. All other employees shall be provided information at least once a year regarding this policy and school district's commitment to a harassment-free learning and working environment. Principals, Title IX Officer/Coordinators, and other administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment shall receive a yearly training on this policy, procedures and related legal developments. Training will be provided in English and in an employee's primary language, for those languages for which the NYS Department of Labor has provided translated model training.

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

Age appropriate instructional materials will be incorporated into the curriculum to educate students so that they can recognize and reduce the incidence of sexual harassment.

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

This policy shall be posted on the School District's website and in prominent places in each School District facility and shall also be published in student registration materials, student, parent and employee handbooks, and other appropriate school publications.

Cross Ref: Policy 0100 Sexual Harassment Policy
0115 Dignity for All Students Policy 5300 Code
of Conduct

Ref: Education Amendments of 1972, Title IX, 20 U.S.C. §1681 *et seq.*
Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 *et seq.*

Adoption date: March 20, 2019 Annual
Review:
June 17, 2020
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April 18, 2023
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April 18, 2023, June 11, 2025

## SEXUAL HARASSMENT FORMAL COMPLAINT FORM

Name and position of complainant: _____

Name and Telephone No. of Parent/Guardian: _____

Name of Supervisor: _____

Date(s) of complaint: _____

Name(s) of individuals against whom complaint is being made:

_____

_____

Date(s) and place(s) of incident(s):

_____

_____

Description of misconduct: incident(s), behavior(s), statement(s), etc.

_____

_____

_____

Name(s) of witnesses (if any)

_____

Has the incident been reported before: _____

If yes, when? To whom? _____

What was the resolution:

_____

Reason(s) for dissatisfaction

_____

_____

Reported by:

Name: (print) _____

Signature: _____

Date: _____

*Below dotted line for school use only*

**********

Disposition

_____

_____

_____

Signature of Title IX Coordinator: _____

Date: _____

Copies:
1. Complainant
2. Title IX Coordinator
3. Superintendent of Schools
4. Building Principal

## SEXUAL HARASSMENT COMPLAINT APPEAL FORM

Name and position of appellant:

_____

Name of original complainant:

_____

Date of appeal: _____

Date of original complaint: _____

Have there been any prior appeals? _____
If yes, when? _____ To whom? _____

_____

Description of decision being appealed:

_____

_____

Why is the decision being appealed?

_____

_____

_____

Reported by: _____

Name (print) _____
Signature: _____ Date:

_____