

SUBJECT: TITLE IX POLICY AGAINST SEXUAL HARASSMENT AND SEX DISCRIMINATION**I. TITLE IX NOTICE OF NON-DISCRIMINATION**

In compliance with Title IX of the Education Amendments of 1972, the Lewiston-Porter Central School District (“the District”) does not discriminate on the basis of sex in the educational programs or activities it operates, including employment and admissions, and it is required by Title IX and its attendant regulations not to discriminate in such a manner. All forms of sex-based discrimination, including sexual harassment, are strictly prohibited by the District. Inquiries regarding Title IX may be referred to the Title IX Coordinator or to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

II. TITLE IX SEXUAL HARASSMENT POLICY

While all forms of sex-based discrimination are prohibited in the District, the primary purpose of this policy is to address *sexual harassment as defined in Title IX and its attendant regulations* that occurs within an education program or activity of the District, and to provide a grievance process for investigating and reaching a final determination regarding responsibility for a formal complaint of sexual harassment. The Title IX Grievance Process (“Grievance Process”) is set forth below in Section IV Grievance Process, on page 11. While the District must and will respond to all reports it receives of sex discrimination or sexual harassment, the Grievance Process herein is initiated only with the filing of a formal complaint which alleges sexual harassment in violation of Title IX. Please refer to the definitions below in Section II.A for an explanation of what constitutes a formal complaint of sexual harassment.

The Superintendent shall have overall responsibility for implementing this Policy, and shall annually appoint at least one Title IX Coordinator as that position is described in Section II.B below. Below please find contact information for the District’s Title IX Coordinator:

Title IX Coordinator

1. Andrea Tamarazio, Director of Curriculum, Instruction, Technology and Data
atamarazio@lew-port.com, 716-286-7295

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A. Definitions

“Actual knowledge” – notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or to any District official with authority to institute corrective measures on behalf of the District, or to any District employee (other than a “Respondent” or alleged harasser).

“Complainant” – an individual who is alleged to be the victim of conduct that could constitute sexual harassment, whether or not that person files a report or formal complaint.

“Days” – all references to “days” shall mean calendar days unless otherwise specified. If a deadline falls on a weekend or holiday, the deadline shall be extended to the next regular business day.

“Decision-Maker” – the person tasked with the responsibility of making determinations regarding responsibility. The Superintendent of Schools shall be responsible for designating the Decision-Maker on a case-by-case basis, in consultation with the Title IX Coordinator. Neither the investigator nor the Title IX Coordinator may serve as the Decision-Maker.

“Determination regarding responsibility” – the formal finding by the Decision-Maker on each allegation of sexual harassment contained in a formal Complaint that the Respondent did or did not engage in conduct constituting sexual harassment under Title IX.

“Education program(s) or activity(ies)” – refers to locations, events or circumstances over which the District exercises substantial control over both the Respondent and the context in which the sexual harassment occurs.

“Formal Complaint” – a document filed by a Complainant, the Complainant’s parent/guardian, or the Title IX Coordinator, alleging sexual harassment against a Respondent, and requesting that the District investigate the allegation of sexual harassment. The phrase “document filed by a Complainant” includes the complaint form on the website, or a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.

“Respondent” – an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

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“Sexual Harassment” – conduct on the basis of sex (including, without limitation, gender, sexual orientation and/or gender identity) that occurs in the District’s education programs or activities that satisfies one or more of the following:

- (1) An employee of the District conditioning the provision of an aid, benefit, or service of an education program or activity on an individual’s participation or refusal to participate in sexual conduct irrespective of whether the conduct is welcomed by the student or other employee (i.e. *quid pro quo* sexual harassment);
- (2) Unwelcome sex-based/related conduct determined by a reasonable person to be so severe, pervasive **and** objectively offensive that it effectively denies a person equal access to the District’s education program or activity; or
- (3) Sexual assault, dating violence, domestic violence, or stalking as defined in state or federal law (*see e.g.* 20 U.S.C. § 1092(f)(6)(A)(v); 34 U.S.C. § 12291(a)(10); 34 U.S.C. § 12291(a)(8); 34 U.S.C. § 12291(a)(30)).

Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex. The context of behavior can make a difference between conduct falling within the technical definition of sexual harassment under Title IX, and conduct of a sexual nature that is offensive or hostile in itself but which does not rise to the level defined above. District policies prohibit both, but for purposes of its Title IX obligations, the District must address reports or complaints of conduct which may constitute sexual harassment as defined above in accordance with this Policy and the grievance procedures set forth herein. Unless otherwise specified, all references to “sexual harassment” in this Policy refer to sexual harassment as defined above. Please note, however, that conduct that otherwise satisfies that definition does not fall within the scope of this particular Policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the District did not have substantial control over both the harasser/Respondent and the context in which the harassment occurred.

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“Supportive Measures” – 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. Supportive measures are designed to restore or preserve equal access to the District’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment, or deter sexual harassment. Examples may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, leaves of absence, mutual restrictions on contact between the parties, and other similar measures.

"Title IX" of the Educational Amendments of 1972 - 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 program or activity receiving federal financial assistance. Sex discrimination under Title IX includes sexual harassment and sexual violence.

B. Title IX Coordinator

The Title IX Coordinator shall be responsible for coordinating the District’s efforts to comply with its responsibilities under Title IX. In this regard, the Title IX Coordinator shall receive general reports and formal complaints reports of sexual harassment (as well as other forms of sex discrimination), and shall coordinate the District’s responses to such reports or complaints so that the same are prompt and equitable. In addition to any other specific responsibilities assigned under this Policy, or as assigned by the Superintendent, the Title IX Coordinator will be responsible for:

1. Identification and implementation of supportive measures;
2. Signing or receiving formal complaints of sexual harassment;
3. Coordinating with District and school-level personnel to facilitate and assure implementation of investigations, and remedies, and helping to assure that the District otherwise meets its obligations associated with reports and formal complaints of sexual harassment;
4. Coordinating with the Superintendent with respect to assignment of persons to fulfill the District’s obligations, both general and case specific, relative to this Policy (e.g., investigator, Decision-Maker, etc., which may involve the retention of outside counsel or other third party personnel);
5. Coordinating with District and school-level personnel to assure appropriate training and professional development of employees and others in accordance with Section II.C of this Policy; and
6. Helping to ensure that appropriate records are kept and maintained in connection with this Policy.

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In cases where the Title IX Coordinator is unavailable, including unavailability due to a conflict of interest or other disqualifying reason, the Superintendent shall assure that another person with the appropriate training and qualifications is appointed as acting Title IX Coordinator for that case. In such instances, “Title IX Coordinator” shall include the acting Title IX Coordinator.

C. Training

All District employees shall receive training relative to mandatory reporting obligations, and any other responsibilities they may have relative to this Policy.

Title IX Coordinator, investigators, Decision-Makers, any individuals who decide appeals or who facilitate an informal resolution process, must receive training on:

- The definition of sexual harassment;
- The scope of the District’s education program or activity;
- How to conduct an investigation and the Grievance Process, including appeals and the informal resolution process, as applicable; and
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias.

Decision-Makers, including individuals who decide appeals, must also receive training on issues of relevance of questions and evidence, including when questions about the Complainant’s sexual predisposition or prior sexual behavior are not relevant. Also, investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Materials used to train Title IX Coordinator, investigators, Decision-Makers, individuals who decide appeals and individuals who facilitate an informal resolution process must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of sexual harassment. The training materials for the individuals identified in this paragraph shall be made publicly available on the District’s website.

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The District will respect the confidentiality of a Complainant and Respondent as much as possible, however, some information may need to be disclosed to appropriate individuals or authorities. All disclosures shall be consistent with the District's legal obligations and the necessity to investigate allegations of sexual harassment and take appropriate action in response thereto. Examples of required disclosures include:

1. Information to either party to the extent necessary to provide the parties due process during the Grievance Process;
2. Information to individuals who are responsible for handling the District's investigation and determination regarding responsibility to the extent necessary to complete the District's Grievance Process;
3. Mandatory reports of child abuse or neglect; and
4. Information to the Complainant's and the Respondent's parent/guardian as required by this Policy and/or the Family Educational Rights and Privacy Act ("FERPA").

Additionally, any supportive measures offered to the Complainant or the Respondent shall remain confidential to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures.

Except as specified above, the District shall keep confidential to the extent permitted by law the identity of (1) any individual who has made a report or complaint of sex discrimination or sexual harassment; (2) any Complainant or Respondent; (3) any individual who has been reported to be the perpetrator of sex discrimination; and (4) any witness.

E. Retaliation Prohibited

Retaliation against any person who makes a report or complaint, or against any person who assists, participates, or refuses to participate in any investigation of an act alleged in this Policy is strictly prohibited. The District further prohibits any other intimidation, threats, coercion or discrimination against anyone for the purpose of interfering with any right or privilege secured by Title IX. Charging an individual with Code of Conduct violations that arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, also constitutes retaliation and is strictly prohibited.

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However, charging an individual with a violation of the Code of Conduct or other applicable policy or rule for making a materially false statement in bad faith, or for submitting materially false information in bad faith, in the course of a grievance proceeding does not constitute retaliation. Please note that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

Complaints of retaliation in connection with this Policy will be handled in accordance with District Policy 6432, Whistleblower Policy. Individuals who are found to have engaged in retaliation may be subject to disciplinary action.

F. Conflict of Interest

No person designated as a Title IX Coordinator, investigator, Decision-Maker, nor any person designated by the District to facilitate an informal resolution process, may have a conflict of interest or bias for or against Complainants or Respondents generally, or against an individual Complainant or Respondent.

G. Dissemination and Notice

The District shall publish on its website this Policy, and shall prominently display on its website the contact information for the Title IX Coordinator and the Title IX Notice of Non-Discrimination (*see* Section I, above). The District shall also publish that information in any student or employee handbooks that it may produce. The District shall take any other steps that may be necessary in order to notify students, parents or legal guardians of students, employees, applicants for admission or employment, and all unions or professional organizations holding collective bargaining or professional agreements with the District of this Policy, the Title IX Coordinator's contact information and the District's notice of non-discrimination.

H. Records and Record Keeping

The District will maintain the following for a period of seven (7) years:

1. Records of each sexual harassment investigation, including any:
 - a. Determination regarding responsibility, including dismissal;
 - b. Disciplinary sanctions imposed on the Respondent; and
 - c. Remedies provided to the Complainant designed to restore or preserve equal access to the District's education program or activity.

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2. Any appeal and its result;
3. Any informal resolution and its result; and
4. All materials used to train the Title IX Coordinator, investigations, Decision-Maker(s), and any person who facilitates an informal resolution process;

In addition, when the District obtains actual knowledge of sexual harassment as defined herein, the District shall create and maintain for a period of seven (7) years the following:

1. Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, as well as documentation:
 - a. Explaining why the District's response was not deliberately indifferent; and
 - b. That it took measures designed to restore or preserve equal access to the District's education program or activity;
2. In the event that no supportive measures were provided to the Complainant, documentation of the reason(s) why such a response was not clearly unreasonable in light of the known circumstances.

Please note that documentation of certain reasons or measures taken shall not limit or preclude the District in the future from providing additional explanations or detailing additional measures taken.

II. COMPLAINTS OF SEX DISCRIMINATION OTHER THAN SEXUAL HARASSMENT

Any individual seeking to report allegations of sex discrimination other than sexual harassment is encouraged to file a formal complaint form with the Title IX Coordinator, or contact the Title IX Coordinator. A copy of the formal complaint form is on the website. For discriminatory or harassing conduct which does not meet the definition of sexual harassment under this Policy, the District's response will be governed by other applicable laws and policies, such as Board Policy 6121, Policy Against Discrimination and Harassment; 7550, Dignity for All Students; District Code of Conduct.

All reports or complaints of sex discrimination, including sexual harassment, are encouraged to be submitted to the Title IX Coordinator, who will determine the applicable process through which the allegations will be handled.

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Please note that a report does not initiate the Grievance Process. That process is begun only upon the filing of a formal complaint, as explained further below.

Any person may report sexual harassment whether relating to themselves or another person. However, if any District employee – other than the employee harasser, or the Title IX Coordinator – reasonably believes a student has been discriminated against based on sex or who receives information of conduct which may constitute sexual harassment under this Policy, they shall immediately inform the Title IX Coordinator of the alleged sexual harassment. Failure to report will subject the employee to discipline up to and including dismissal.

A report of sexual harassment may be made at any time, in person, by mail, by telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Additionally, while the District encourages reports of sexual harassment to be made directly to the Title IX Coordinator, the report may be made to any District staff member, including, for instance, a guidance counselor, teacher or principal.

If a Title IX Coordinator is the alleged Respondent, the report or formal complaint may be made to a different Title IX Coordinator if the District has designated more than one Title IX Coordinator, or directly to the Superintendent, who shall thereafter fulfill the functions of the Title IX Coordinator regarding that report/complaint, or delegate the function to another person.

A. District Response to Report of Sexual Harassment

The District will promptly respond when there is actual knowledge of sexual harassment, even if a formal complaint has not been filed. The District shall treat Complainants and Respondents equitably by offering supportive measures to the Complainant and by following the Grievance Process prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a Respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

As soon as reasonably possible after receiving a report of alleged sexual harassment from another District employee or after receiving a report directly through any means, the Title IX Coordinator shall contact the Complainant to:

- Discuss the availability of and offer supportive measures, as well as inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint;
- Consider the Complainant's wishes with respect to supportive measures; and
- Explain to the Complainant the process for filing a formal complaint.

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Pursuant to federal regulations and this Policy, a formal complaint that contains an allegation of sexual harassment and a request that the District investigate the allegations is required before the District may conduct a formal investigation of sexual harassment or take any action (other than supportive measures) against a person accused of sexual harassment. Once a formal complaint of sexual harassment is received by the Title IX Coordinator, they shall commence the Grievance

Process set forth below in Section IV. The process for filing a formal complaint is explained below in Section IV.A. If a formal complaint is filed, no disciplinary action may be imposed against a Respondent for conduct which may constitute sexual harassment until the Grievance Process has been completed. If no formal complaint is filed, no disciplinary action may be imposed against a Respondent based upon conduct that would constitute sexual harassment under this Policy.

C. Emergency Removal and Administrative Leave

At any point after receiving a report or formal complaint of sexual harassment, the Title IX Coordinator (or other District official charged with a specific function under this Policy or applicable regulations, such as the investigator or Decision-Maker, for example) may request the Superintendent to direct that an individualized safety and risk analysis be performed to determine whether a Respondent student is an immediate threat to the physical health or safety of any person arising from the allegations of sexual harassment. In the event that the safety and risk analysis determines that the Respondent student does present such a threat and removal is therefore justified, the District may remove the Respondent student on an emergency basis, provided that such removal is in full compliance with the IDEA, a student's IEP and or 504 plan if applicable. Such emergency removal shall not be disciplinary. However, the District must provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal, and shall continue to offer educational programming until a final determination is made pursuant to the Grievance Process.

The Title IX Coordinator shall keep the Superintendent of Schools informed of any employee Respondents so that they can make any necessary reports to the New York State Education Department. In appropriate cases, the Superintendent may place an employee Respondent on non-disciplinary administrative leave until a final determination on responsibility is made pursuant to the Grievance Process.

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PURPOSE: The purpose of these procedures is to secure prompt and equitable resolutions of formal complaints of sexual harassment, and to treat both Complainants and Respondents equitably in the process. **These procedures apply only to formal complaints alleging sexual harassment prohibited by Title IX.** Upon receipt of a formal complaint of sexual harassment, the Title IX Coordinator will coordinate the District's efforts to comply with its responsibilities related to the Grievance Process. These procedures shall be followed prior to the imposition of any disciplinary sanctions or other actions that are not supportive measures against the Respondent unless otherwise noted herein.

A. Process for Filing a Formal Complaint of Sexual Harassment

The Title IX Grievance Process is initiated by way of a formal complaint filed by the Complainant, the Complainant's parent/guardian, or the Title IX Coordinator. A formal complaint should be filed with the Title IX Coordinator. The Complainant may file a formal complaint or choose not to file a formal complaint and simply receive the supportive measures. If the Complainant does not file a formal complaint, the Title IX Coordinator may sign a formal complaint, but only if initiating the Grievance Process against the Respondent is not clearly unreasonable in light of the known circumstances, or in other cases where, in the exercise of good judgment, the Title IX Coordinator determines that a Grievance Process is necessary to comply with the obligation not to be deliberately indifferent to known allegations of sexual harassment. If the formal complaint is filed by the Title IX Coordinator, they are not a party to the action, and the District must comply with all of the provisions of the Title IX Grievance Process relative to Respondents and Complainants.

Although there is no time limit *per se* to filing a formal complaint, **a Complainant must be participating in or attempting to participate in the education program or activity of the District at the time of filing.** Delays in reporting may significantly impair the ability of school officials to investigate and respond to the allegations. At a minimum, a formal complaint must:

1. contain the name and address of the Complainant;
2. describe the alleged sexual harassment;
3. request an investigation of the matter; and
4. be signed by the Complainant or otherwise indicate that the Complainant is the person filing the formal complaint.

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The formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email. A complaint form is on the website and may be obtained from the Title IX Coordinator or on the District's website. A written narrative may be attached to the complaint form explaining the nature of the formal complaint. The complaint form or narrative should contain information that describes the conduct and identifies with reasonable particularity the Complainant(s), the Respondent(s), and any witness(es) to the alleged conduct.

B. Initial Steps and Notice of Formal Complaint

Following receipt of a formal complaint:

1. The Title IX Coordinator will provide notice to the Complainant and to the Respondent (if known), as well as to any other known parties, of the following:
 - a. this Grievance Process, including any informal resolution process;
 - b. 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" shall include to the extent known identities of persons involved, the conduct allegedly constituting sexual harassment, and the date and location of the incident(s);
 - c. a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the Grievance Process;
 - d. that each party has the right to have an advisor of his or her choice who may be, but is not required to be, an attorney;
 - e. that each party is entitled to inspect and review evidence; and
 - f. any provisions in the District's Code of Conduct or other applicable District policies, rules or collective bargaining agreements that prohibit knowingly making false statements or knowingly submitting false information in the course of the grievance procedures.
2. The Title IX Coordinator will contact the Complainant to discuss and offer supportive measures as appropriate.
3. The Title IX Coordinator may contact the Respondent to discuss, and/or impose, non-disciplinary supportive measures.
4. The Title IX Coordinator will examine the allegations in the formal complaint to determine whether the allegations, if assumed to be true, are sufficient to sustain a finding of sexual harassment under this Policy.
 - a. If the Title IX Coordinator was not involved with preparing the formal complaint, the Title IX Coordinator will contact the Complainant to discuss the allegations in the formal complaint and whether amendment is appropriate. In the event that amendment
 - b. If the Title IX Coordinator was not involved with preparing the formal complaint, the Title IX Coordinator will contact the Complainant to discuss the allegations in the formal complaint and whether amendment is appropriate. In the event that amendment

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- c. If the Title IX Coordinator was not involved with preparing the formal complaint, the Title IX Coordinator will contact the Complainant to discuss the allegations in the formal complaint and whether amendment is appropriate. In the event that amendment
 - d. is appropriate, the Title IX Coordinator shall immediately provide notice of the additional allegations to the parties whose identities are known.
 - e. If the allegations set forth in the formal complaint are insufficient to sustain a finding of sexual harassment under this Policy, the complaint shall be dismissed. Please refer to Section IV.H, below, for additional details regarding dismissal, including additional grounds on which a formal complaint must/may be dismissed.
5. If the formal complaint is not dismissed, then the Title IX Coordinator will consult with the Superintendent with regard to designating an appropriate investigator and Decision-Maker, both of whom must be properly training and otherwise qualified.

C. Miscellaneous Provisions

1. Copies and Notices. Except as specifically stated elsewhere in this Policy, for any document, information or material required to be delivered to a party or to a person assigned with responsibility under the Grievance Process, the manner of transmittal may be by hand delivery, electronic mail, regular mail or such other manner reasonably calculated to assure prompt delivery with evidence thereof. However, hand delivery to the District will only be permitted if made to the District official charged with the specific function under this Policy (e.g., Title IX Coordinator, Superintendent, investigator, Decision-Maker(s), etc.).
2. Legal Privileges. Nothing in the Grievance Process shall require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g. medical records, attorney-client privileged information, etc.), unless the person or entity holding such privilege has waived the privilege.
3. Additional Allegations. If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that were not included in the previous notice, the District shall simultaneously provide notice of the additional allegations to the parties whose identities are known.
4. Consolidation of Complaints. The District may consolidate formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances and the formal complaints are against more than one Respondent; or by more than one Complainant against one or more Respondents; or by one party against the other party. When the District has consolidated formal complaints so that the Grievance Process involves more than one Complainant or more than one Respondent, references to the singular “party”, “Complainant”, or “Respondent” include the plural, as applicable.

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The District shall make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the Grievance Process will be concluded through at least the determination regarding responsibility within ninety (90) calendar days after filing the formal complaint. In more complex cases, where a determination regarding responsibility cannot reasonably be made within that time frame, additional time may be required in order to complete a fair and thorough investigation, or to complete other aspects of the Grievance Process.

Delays and Extensions of Time. At any stage of the Grievance Process, the District may for good cause allow for temporary delays or extensions of time upon request of either party, or on its own initiative. Examples of good cause may include such things as availability of parties or witnesses; school or school administrative office holidays or vacations; school recess periods; referral back to an earlier stage of the grievance process; concurrent law enforcement or other agency activity; or need to obtain interpreters or accommodation of disabilities. For any such delay or extension of time, the Title IX Coordinator, Superintendent or any other individual appointed to play a role in the Grievance Process will provide written notice to the parties of the delay/extension and the reason(s).

E. Investigation

The Title IX Coordinator will coordinate the investigation in accordance with his or her duties as Title IX Coordinator. The investigator designated by the District shall conduct the investigation. The investigator may but is not required to be a District employee so long as the investigator is appropriately trained and does not have a conflict of interest or other bias prohibited by this Policy. The investigation shall include the following:

1. An objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence, and shall not make credibility determinations based on a person's status as a Complainant, Respondent or witness;
2. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on either of the parties;
3. Provide an equal opportunity for the parties to present witnesses and other inculpatory and exculpatory evidence, and not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;

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4. Provide the parties with the same opportunities to have others present during any interview or other part of the investigation, including the opportunity to be accompanied by an advisor of their choice. However, the District, including the investigator, may establish restrictions regarding the extent to which an advisor may participate in the proceedings as long as the restrictions apply equally to both parties.
5. Provide, to a party (e.g., Respondent or Complainant, and parent/guardian as appropriate) whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate.
6. 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, regardless of whether the evidence may or may not be relied upon in reaching a determination regarding responsibility.
7. Prior to completion of the investigative report, the District, through the Title IX Coordinator, must send to each party as well as each 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 (10) days calendar from transmission of same to submit a written response, which the investigator will consider prior to completion of the investigative report.
8. The investigator must prepare a written investigative report that:
 - a. Fairly summarizes relevant evidence;
 - b. Identifies allegations potentially constituting sexual harassment;
 - c. Describes the procedural steps taken from receipt of the formal complaint through the preparation of the investigative report, including notifications to the parties, interviews with parties and witnesses, site visits and any methods used to gather other evidence; and
 - d. Addresses any witness credibility issues, if applicable.
9. The completed investigative report shall be provided in hard copy or electronic format to the Title IX Coordinator, to each party and each party's advisor, if any, and to the Decision-Maker. The Title IX Coordinator shall ensure that the report is provided to the appropriate individuals. In transmitting the report to the parties and their advisors, if any, the parties shall be notified in writing that they have ten (10) calendar days from the date on which the report is transmitted to:

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- a. submit a written response to the report, if they desire;
- b. submit written, relevant questions that the party wants asked of any party or witness, if they desire; and
- c. that any such written response or relevant questions must be sent directly to the Decision-Maker, along with the Decision-Maker's contact information.

F. Determination Regarding Responsibility and Decision-Maker

The determination regarding responsibility of Respondent shall be made by the Decision-Maker. In addition to allowing the parties an opportunity to submit a written response to the investigation report as well as relevant questions, per the above, the Decision-Maker shall adhere to the following in rendering a determination regarding responsibility:

1. In event the Decision-Maker decides to exclude a question posed by a party as not relevant, the Decision-Maker must explain that decision to the party.
2. The Decision-Maker will provide the relevant questions to the party/witness, with copies to each party, and shall provide at least five (5) calendar days for written responses, which responses shall be provided to each party.
3. After the parties have received responses to their initial questions, the Decision-Maker will provide five (5) calendar days for additional, limited follow-up questions and five (5) calendar days for written responses to same. The Decision-Maker may but is not required to provide for additional rounds of follow-up questions, as long as the provision is extended to both parties equally.
4. The Decision-Maker may not make any credibility determinations based on the person's status as a Complainant, Respondent or witness. The Respondent must be deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
5. In rendering his or her determination regarding responsibility, the Decision-Maker shall apply a preponderance of evidence standard, which requires evidence establishing that it is more likely than not that Respondent engaged in sexual harassment in violation of this Policy.

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6. The Decision-Maker shall issue a written determination regarding responsibility within fifteen (15) business days after the close of the period for responses to the last round of follow-up questions. The written determination must 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 regarding responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits and methods used to gather evidence;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of the District's Code of Conduct or other policies, rules or regulations to the facts;
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether or not the Respondent is responsible for sexual harassment); any disciplinary sanctions or remedies that are imposed or that are recommended to be imposed; and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to Complainant; and
 - f. The District's procedures and permissible bases for Complainant or Respondent to appeal (*see* Section IV.I, below).
7. The Decision Maker shall provide his or her determination regarding responsibility to the Title IX Coordinator, the Superintendent and the parties simultaneously.
8. The determination regarding responsibility shall become final on the date on which an appeal would no longer be considered timely, or if an appeal is timely filed, when the District provides the parties with the written determination of the result of the appeal.

G. Remedies Upon Final Determination Regarding Responsibility

1. Remedies must be designed to restore or preserve equal access to the District's education program or activity. Remedies may include supportive measures and/or disciplinary sanctions, as appropriate under the circumstances.
2. Disciplinary sanctions against an employee Respondent may include any sanction available for the discipline of employees, up to and including dismissal, in accordance with any applicable collective bargaining agreement as well as any applicable state or federal laws or regulations.
3. Disciplinary sanctions against a student may include any available discipline or sanction, up to and including expulsion, pursuant to the District's Code of Conduct and any other applicable policies or rules, and in accordance with any applicable state or federal laws or regulations.

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SUBJECT: TITLE IX POLICY AGAINST SEXUAL HARASSMENT AND SEX DISCRIMINATION

H. Dismissal of a Formal Complaint

1. The District must dismiss a formal complaint with regard to Title IX sexual harassment if the alleged conduct:
 - a. Does not fall within the scope of this policy (e.g. the allegations do not constitute sexual harassment as defined herein), even if proved;
 - b. Did not occur in the District's education program or activity; or
 - c. Did not occur against a person in the United States.
2. The District may dismiss a formal complaint with regard to Title IX sexual harassment if at any time during the investigation or determination regarding responsibility stage(s):
 - a. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
 - b. The Respondent is no longer enrolled or employed by the District; or
 - c. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations therein.
3. Prior to dismissal of a formal complaint, the person responsible at that stage shall consult with the Superintendent.
4. Upon dismissal of a formal complaint, the District must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.
5. NOTE: The dismissal of a formal complaint under Title IX does not preclude the District from continuing any investigation or taking action under other applicable policies, rules or Code of Conduct of the District. In some cases, the District may have an obligation to continue an investigation and proceed under a different policy or mandated process.

I. Appeals Process

1. Complainant(s) or Respondent(s) may appeal from a determination regarding responsibility, or from a dismissal of a formal complaint or any allegations therein, on the following bases only:
 - 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; or
 - c. The Title IX Coordinator, investigator, or Decision-Maker 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.

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SUBJECT: TITLE IX POLICY AGAINST SEXUAL HARASSMENT AND SEX DISCRIMINATION

2. Appeals for any other reason, or upon any determination regarding responsibility not included in the written appeal, will not be heard.
3. An appeal must be filed within seven (7) calendar days from the date on which the determination regarding responsibility is transmitted to the parties. An appeal must be submitted in writing to the Title IX Coordinator, with a copy to the Superintendent of Schools, and shall state with particularity the basis(es) for the appeal as well as all information and evidence in support of the basis(es) identified. Appellants should include with the appeal any documentary or electronic evidence in support of the appeal. Any supportive measures shall remain in place during the pendency of an appeal unless a change in circumstances warrant modifications to those measures.
4. Following receipt of the appeal, the Title IX Coordinator shall notify all parties in writing of the appeal, any deadlines associated with the appeal process, and the individual who will decide the appeal (i.e. the Superintendent or a member of the District's Administration who is not the Title IX Coordinator, investigator or Decision-Maker, who does not have a conflict of interest, and who underwent the training specified in this Policy). The non-appealing party(ies) shall also be provided a copy of the appeal and any information submitted in connection with the appeal.
5. Either party may submit a written statement in response to the appeal, whether in support of or challenging the outcome. Any such written statement must be received by the Title IX Coordinator, with a copy to the individual who will decide the appeal, within seven (7) calendar days from the date on which the appeal was transmitted to the non-appealing party(ies). Each party which submits a written statement shall simultaneously provide a copy to the other party(ies) and to the Title IX Coordinator.
6. The individual who will decide the appeal, in rendering a decision on the appeal, shall consider the record as well as any statements or information submitted by the parties in connection with the appeal.
7. The individual who will decide the appeal shall issue a written decision within ten (10) business days after the deadline for either party to submit a written statement in response to the appeal. The written decision shall describe the result of the appeal and the rationale. The decision may deny or grant the appeal, in whole or in part, and may but is not required to refer an appealed issue back to a prior point in the Grievance Process, if appropriate under the circumstances. The written decision shall be provided to both parties as well as the Title IX Coordinator.

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J. Informal Resolution

At any time prior to reaching a determination regarding responsibility, but only after a formal complaint has been filed, the District may offer an optional informal resolution process (e.g. mediation) that does not involve a full investigation and adjudication of the formal complaint. In order to do so, the District must:

1. Provide written notice to the parties disclosing:
 - a. The allegations of the formal complaint;
 - b. The requirements of the informal resolution process, including that the parties will be precluded from resuming a formal complaint arising from the same allegations in the event that an informal final resolution is agreed to during the informal resolution process, and that any party has the right to withdraw from the informal resolution process and resume the Grievance Process with respect to the formal complaint at any time prior to agreeing to an informal final resolution;
 - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
2. Obtain the parties' voluntary written consent to the informal resolution process.

In no event may the District offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

If the parties consent to the informal resolution process, the District will attempt to complete that process within thirty (30) calendar days. If at any point during the informal resolution process it is determined that the allegations are unlikely to be resolved, the District reserves the right to resume the Grievance Process.

20 USC § 1092(f)(6)(A)(v) 20 USC § 1681, et. seq.
34 USC § 12291(a)(8, 10, and 30)
34 CFR Part 106 Education Law §
13 8 NYCRR § 100.2(kk)

NOTE: Refer also to Policies: #6121 - Policy Against Discrimination and Harassment
#6432 - Whistleblower Policy
#7550 - Dignity for All Students
District Code of Conduct

Adoption Date: (revised 12/2025)
01/27/2025
(revised 09/27/2024)
10/24/2022

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SUBJECT: POLICY AGAINST DISCRIMINATION AND HARASSMENT

Overview

The District believes in the dignity of the individual and recognizes the rights of all people to equal employment opportunities in the workplace. In this regard, the District is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment without subjugation to harassment or discrimination in the workplace. It is the District's policy to provide an employment environment free from harassment and discrimination based on race, color, gender, religion, religious creed, sex, familial or marital status, age, national origin or ancestry, physical or mental disability, genetic information/predisposition or carrier status, military or veteran status, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender, pregnancy (including childbirth and related medical conditions, and including medical conditions related to lactation) citizenship, prior arrest or conviction record, domestic violence victim status or any other characteristics protected by applicable federal, state or local law.

Scope and Application

This Policy applies to all District employees and all personnel in a contractual or other business relationship with the District including, for example, applicants, temporary or leased employees, interns (whether paid or unpaid), volunteers, visitors, independent contractors, contractors, subcontractors, vendors, consultants or other persons providing services pursuant to a contract in the workplace, including employees of independent contractors, contractors, subcontractors, vendors, consultants, or others providing services pursuant to a contract in the workplace. In the remainder of this Policy, the term "employees" refers to this collective group. This Policy applies with equal force on District property as it does at District-sponsored events, programs, and activities that take place off District premises.

By adopting and publishing this Policy, it is the intention of the District's Board of Education to:

- a) Notify employees about the types of conduct that constitute harassment and discrimination prohibited by this Policy;
- b) Inform employees about the complaint and investigation procedures established by the District that enable any employee who believes (s)he is the victim of harassment or discrimination to submit a complaint which will be investigated by the District;

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- c) Clearly advise all supervisory staff, administrators, and employees that harassment, discrimination and retaliation is strictly prohibited and no such person possesses the authority to harass or discriminate; and
- d) Notify all employees that the District has appointed Civil Rights Compliance Officer who are specifically designated to receive complaints and ensure compliance with this Policy.

NOTE: The names and office location of each Civil Rights Compliance Officer designated to receive and investigate complaints are listed below in Compliance Officer (s) section of this Policy. Any change in the designated Civil Rights Compliance Officer shall be distributed in writing to all current employees and shall be posted.

Definitions

“Prohibited Discrimination of Employees” Prohibited discrimination of employees can take the form of any adverse employment action against an employee, by either a District employee or official or a third party engaged in activities sponsored by the District which is based upon the employee’s protected characteristic. Prohibited discrimination of employees also includes harassment based on a protected characteristic even where there is no tangible impact upon the employee’s employment opportunities and/or employment benefits. The phrase “prohibited discrimination” as used in this Policy includes all forms of prohibited discrimination and harassment based on a protected characteristic, including “Sexual Harassment” as defined below.

“Harassment” Harassment is strictly prohibited and includes, but is not limited to, any conduct that is unwelcome and that subjects an employee to inferior terms, conditions, or privileges of employment because of an individual’s membership in one or more of the protected categories. Harassment does not have to be severe or pervasive to be illegal or violate this policy. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Such harassment of employees is prohibited by this Policy if it is based on a protected characteristic or directed at an individual because of a protected characteristic. In this regard, individuals subject to this Policy should be mindful that conduct or behavior that is acceptable, amusing or inoffensive to some individuals may be viewed as unwelcome, abusive or offensive to others.

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

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The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do.

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

- a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b) Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual (e.g., promotion, transfer, demotion, termination); or
- c) Such gender-based conduct has the purpose or effect of subjecting an employee to inferior terms, conditions, or privileges of employment, even if the reporting individual is not the intended target of the sexual harassment.

The foregoing includes offensive comments, jokes, innuendoes or other statements of a sexual or gender-based nature as well as favoritism between a supervisor and subordinate based on an intimate/sexual relationship or desire for the same.

Who can be the target of harassment?

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

Where can harassment occur?

Unlawful harassment is not limited to the physical workplace itself. It can occur while employees are working remotely, traveling for business or at employer sponsored events or parties. Harassment can occur on virtual meeting platforms, in messaging apps, and between personal cell phones. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

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“Prohibited Behavior and Examples of Harassment, including Sexual Harassment”

Specific forms of behavior the District considers harassment or sexual harassment are set forth below. Every conceivable example cannot be delineated herein, and thus the descriptions below are examples and should not be interpreted in any way as being all-inclusive.

Verbal: Abusive verbal language including jokes, comments, teasing or threats related to an employee’s protected characteristic, sexual activity and/or body parts whether or not said in that person’s presence including, but not limited to: sexual innuendos; slurs; suggestive, derogatory, or insulting comments or sounds; whistling; jokes; propositions; threats; comments on a person’s appearance that make the person feel uncomfortable because of his or her protected characteristic; sex stereotyping; continuing to ask someone for dates or to meet after work after the person has made it clear that he or she does not want to go; comments about an employee’s anatomy or protected characteristic that are unwelcome; and unwelcome advances or demands based on someone’s protected characteristic. This includes verbal remarks made over virtual platforms and in messaging apps when employees are working remotely.

Nonverbal: Abusive written language showing or displaying pornographic or sexually explicit objects or pictures; graphic commentaries based on a protected characteristic; derogatory cartoons or caricatures; luring or obscene gestures in the workplace; staring at a person’s body in a sexually suggestive manner; gestures or motions based on a protected characteristic; sending material through the District e-mail system or other electronic communication devices (e.g. voice mail) or using the District’s mail, computers or cell phones to view material that is demeaning or derogatory based on one’s protected characteristic. This includes the virtual or remote workspace and can include materials visible in the background of one’s home during a virtual meeting.

Physical: Unwelcome physical conduct, including but not limited to: hitting, pushing, shoving, slapping, petting, pinching, grabbing, holding, hugging, kissing, tickling, massaging, displaying private body parts, coerced sexual intercourse, rape or assault or attempts to commit these assaults, persistent brushing up against a person’s body, unnecessary touching and flashing or other unwelcome physical conduct.

Other: Hostile actions taken against an individual because of an individual’s sex, sexual orientation, gender identity and the status of being transgender or because of any other protected characteristic, such as: interfering with, destroying or damaging a person’s workstation, tools, or equipment, or otherwise interfering with the individual’s ability to perform the job; sabotaging an individual’s work; bullying, yelling, or name-calling.

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

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The District prohibits harassment and discrimination based on any characteristic protected by applicable law and will not tolerate any form of unlawful discrimination or harassment. The District will take all steps necessary to prevent and stop the occurrence of unlawful discrimination and/or harassment, including sexual harassment, in the workplace.

All employees, including but not limited to, District officials and supervisory personnel, are responsible for ensuring a work environment free from prohibited harassment and discrimination. All employees will be held responsible and accountable for avoiding or eliminating inappropriate conduct that may give rise to a claim of harassment or discrimination. Employees are encouraged to report violations to a supervisor, administrator, or one of the Civil Rights Compliance Officer listed in Compliance Officer section of this Policy in accordance with the Complaint Procedure set forth in this Policy. Officials, administrators and supervisors must take immediate and appropriate corrective action when suspected instances of prohibited harassment and/or discrimination come to their attention to assure compliance with this Policy as well as report the suspected misconduct to the District's designated Civil Rights Compliance Officer. Furthermore, if any employee believes that any member of management has violated this policy or has not properly responded to and/or handled a report or concerns of discrimination or harassment, the employee should immediately contact one of the District's designated Civil Rights Compliance Officer.

Each employee is assured pursuant to Prohibition Against Retaliation and Abuse of the Policy section of this Policy, that retaliation against an individual who makes a complaint or report under this Policy is absolutely prohibited and constitutes, in and of itself, a violation of this Policy. Employees who engage in retaliation against any employee for making or encouraging another employee to make a good faith complaint of harassment or discrimination, for opposing in good faith any practices forbidden by applicable anti-discrimination laws or for filing a good faith complaint with, or otherwise participating in any manner in an internal workplace investigation or an external investigation, proceeding or hearing conducted by any federal or state agency charged with enforcing employment discrimination laws shall be subject to discipline, up to and including termination of employment. Any employee who believes they have been retaliated against in violation of this policy should report violations to one of the Civil Rights Compliance Officer listed in Compliance Officers section of this Policy in accordance with the Complaint Procedure set forth in this Policy.

Any questions regarding the scope or application of this Policy should be directed to one of the Civil Rights Compliance Officer listed in the Civil Rights and Compliance Officer(s) Section.

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Complaint Procedure for Employees

1. Notification Procedure

Prompt reporting of complaints or concerns is encouraged so that timely and constructive action can be taken before relationships become strained. Reporting of all perceived incidents of prohibited discrimination and/or harassment is encouraged and essential, regardless of the offender's identity or position. An employee or other individual who feels aggrieved because of harassment or discrimination shall contact their supervisor or a Civil Rights Compliance Officer listed in Compliance Officer(s) section of this Policy, or another administrator. Likewise, anyone who witnesses or becomes aware of instances of harassment or discrimination should report such behavior to their supervisor or a Civil Rights Compliance Officer listed in Compliance Officer(s) section of this Policy, or another administrator. Employees should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can occur in different degrees, potential discipline for engaging in harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.

2. Making a Complaint

Complaints are accepted orally and in writing. All employees are encouraged to use the District's "Complaint of Alleged Discrimination" form. A copy of this form is attached to this Policy. Additional complaint forms can be obtained from a Civil Rights Compliance Officer, with no questions asked, or from the District's website. Because an accurate record of the allegedly objectionable behavior is necessary to resolve a complaint of prohibited discrimination or harassment, the District encourages employees to place complaints in writing, even if originally made orally. If an employee has any questions or difficulty filling out the complaint form, they can obtain assistance from any one of the Civil Rights Compliance Officer or the supervisor to which they complained. All complaints should include: the name of the complaining party, the name of the alleged offender(s), date(s) of the incident(s), description of the incident(s), names of witnesses to the incident(s) and the signature of the complaining party.

Once the complaining party has completed and dated a complaint, with or without the assistance of one of the District's Civil Rights Compliance Officer or a supervisor, the written complaint, or oral complaint as the case may be, should be promptly forwarded to one of the District's Civil Rights Compliance Officer.

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Complainants are expected to cooperate with the District's investigation procedures by providing all relevant information relating to the complaint, as are other supervisory and non-supervisory employees having relevant or related knowledge or information.

If the allegations forming the basis of a complaint of sexual harassment, if proven, would constitute prohibited conduct under Title IX, then the District's response, including the investigation procedures, will be governed by Title IX and the District's Title IX Policy.

3. Supervisory Responsibilities

Supervisors and administrators have a responsibility to prevent sexual harassment and discrimination. All supervisors and administrators who receive a complaint or information about suspected harassment or discrimination, observe what may be harassing behavior or for any reason suspects that harassment is occurring, are required to report such suspected harassment or discrimination to one of the District's Civil Rights Compliance Officer.

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

Supervisors and administrators will also be subjected to discipline for engaging in any retaliation.

While supervisors and administrators have a responsibility to report harassment and discrimination, supervisors and administrators must be mindful of the emotional impact to the complainant as well as all parties involved. Supervisors and administrators will ensure complaints are handled with sensitivity and without retaliation.

4. Bystander Intervention

Any employee witnessing harassment as a bystander is encouraged to report it. The following are standard methods of bystander intervention that can be used by a witness to discrimination or harassment who wants to intervene:

- a. Interrupting harassment by engaging with the individual being harassed;
- b. Asking a third party to help intervene in harassment;
- c. Making a record of the harassment to benefit a future investigation;
- d. Following up with the harassed individual and confirming the behavior was not okay; or

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- e. If safe, confronting the harasser(s) and naming the behavior as inappropriate. When confronting harassment, physically assaulting an individual or reciprocating by engaging in harassment, is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide for how to react when witnessing harassment in the workplace. As set forth above, any employee witnessing harassment as a bystander is encouraged to report it; a supervisor or administrator who is a bystander to harassment is required to report it.

Time for Reporting a Complaint

Prompt reporting of all complaints is strongly encouraged. All employees should be aware that appropriate resolution of complaints and effective remedial action oftentimes is possible only when complaints are promptly filed.

Confidentiality and Privacy

The District shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, and other laws and regulations regarding employees. To the extent complaints made under this Policy implicate criminal conduct, the District may be required by law to contact and cooperate with the appropriate law enforcement authorities. During the pendency of an investigation the District will consider implementation of appropriate mitigating measures in an effort to ensure against retaliation and ensure complaints and investigations are handled with sensitivity toward those participating.

Acknowledgement of Complaint

Upon receipt of an oral or written complaint, the Civil Rights Compliance Officer should endeavor to contact promptly the complainant to confirm that the complaint has been received. If the complainant does not receive such confirmation promptly, she/he is encouraged to contact a Civil Rights Compliance Officer or his/her supervisor or the supervisor to whom the complaint was made to ensure its receipt. The purpose of this acknowledgment procedure is to ensure that all complaints are received by authorized individuals, carefully processed and promptly investigated.

INVESTIGATION PROCEDURES

A. Timing of Investigations

The District will promptly investigate all allegations of discrimination and harassment prohibited by this Policy. The District will also attempt to complete investigations under this Policy promptly. The length of the investigation will depend upon the complexity and particular circumstances of each complaint.

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B. Method of Investigation

Investigations will provide all parties due process, and reach reasonable conclusions based on the evidence collected. Investigations will be conducted by District Civil Rights Compliance Officer, District's legal counsel, and/or other impartial persons designated by the District. The primary purposes of all investigations under this Policy will be to determine:

- Did the conduct complained of occur?;
- Did the conduct complained of violate this Policy?; and
- What remedial measures or preventative steps, if any, shall be taken?

Investigations will necessarily vary from case to case and may typically include the following: fact-finding interviews, including of the accuser and the accused; document request, review and preservation, depositions, observations, or other reasonable methods. District investigators should pursue reasonable steps to investigate each complaint in a thorough and comprehensive manner. Any notes, memoranda, or other records created by District employees or agents conducting an investigation under this Policy shall be deemed confidential and privileged to the extent allowed by law.

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

- A list of all documents reviewed, along with a detailed summary of relevant documents;
- A list of names of those interviewed, along with a detailed summary of their statements;
- A timeline of events;
- A summary of prior relevant incidents, reported or unreported; and
- The basis for the decision and final resolution of the complaint, together with any remedial actions.

C. Notification to Complaining Party and the Accused Party

The results of the investigation shall be communicated in writing to both the person filing the complaint and the accused party. The District will remind the individual(s) reporting the complaint of his/her rights pursuant to the Legal Protections and External Remedies section of this Policy.

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D. Remedial Measures

This Policy is intended to prevent all forms of unlawful discrimination and harassment and put an end to any prohibited discrimination that is found to have occurred. While disciplinary action may be appropriate in certain instances, punitive measures are not the exclusive means for responding to prohibited discrimination or harassment. During the pendency of any investigation being conducted pursuant to this Policy, remedial measures may be taken if appropriate and necessary.

Any individual who is found to have engaged in prohibited discrimination or harassment or conduct which may be prohibited by this Policy, may receive education, training, counseling, warnings, discipline, or other measures designed to prevent future violations of this Policy. Disciplinary action may include: warnings, suspension, or discharge from employment or such disciplinary action as may be permitted by applicable collective bargaining agreements and law. Any third party found to have engaged in discrimination or harassment of an employee may be barred from District property.

PROHIBITION AGAINST RETALIATION AND ABUSE OF THE POLICY

Unlawful retaliation can be any action that could discourage an employee from coming forward to make a complaint or support a discrimination or harassment claim. Adverse action need not be job-related or occur in the workplace to constitute retaliation (e.g., threats of physical violence outside of work hours). Examples of retaliation may include, but are not limited to: demotion, termination, denying accommodations, reducing hours, or the assignment of less desirable shifts; publicly releasing personnel files; refusing to provide a reference or providing an unwarranted negative reference; labeling an employee as “difficult” and excluding him/her from projects to avoid “drama;” undermining an individual’s immigration status; or reducing work responsibilities, passing over for a promotion, or moving an individual’s desk to a less desirable office location.

Retaliation is strictly prohibited by this Policy and by law against anyone for making or encouraging another employee to make a good faith complaint of harassment or discrimination, for opposing in good faith any practices forbidden by applicable anti-discrimination laws or for filing a good faith complaint with, or otherwise participating in any manner in an internal workplace investigation or an external investigation, proceeding or hearing conducted by any federal or state agency charged with enforcing employment discrimination laws.

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

Complaints of retaliation should be brought directly to a Civil Rights Compliance Officer. Such complaints will be promptly investigated. If retaliation is found, the person retaliating will be subject to corrective action up to and including termination from employment, or in the case of a non-employee, an appropriate remedy up to and including termination of the business relationship.

RECORD KEEPING

The District shall maintain a written record of all complaints of discrimination and/or harassment for a period of at least three years. The District shall also document the steps taken with regard to investigations, as well as conclusions reached and remedial action taken, if any. The District shall also maintain these documents for, at a minimum, three years.

The District's records regarding alleged discrimination and harassment shall be maintained separate and apart from personnel records in a secure and confidential location.

LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Discrimination and harassment based on protected characteristics, including sexual harassment, are not only prohibited by the District but are also prohibited by state, federal, and, where applicable, local law.

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

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

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment and harassment based on other protected characteristics set forth in this Policy, 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.

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SUBJECT: POLICY AGAINST DISCRIMINATION AND HARASSMENT

Complaints with DHR may be filed any time **within one year** of the discrimination or harassment. Complaints of sexual harassment may be filed with DHR at any time **within three years** of the alleged sexual 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 harassment, including sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

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

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

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual or other illegal harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual or other illegal 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 (in sex discrimination and sexual harassment cases only) 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.

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

Call the DHR sexual harassment hotline at 1(800) HARASS3 for more information about filing a sexual harassment complaint. This hotline can also provide a referral to a volunteer attorney experienced in sexual harassment matters who can provide limited free assistance and counsel over the phone.

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SUBJECT: POLICY AGAINST DISCRIMINATION AND HARASSMENT

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 discrimination or harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred but does not file a lawsuit.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An 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 automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

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

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SUBJECT: POLICY AGAINST DISCRIMINATION AND HARASSMENT

Contact the Local Police Department

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

QUESTIONS

Any questions by employees of the District about this Policy or potential harassment or discrimination should be brought to the attention of one of the District's Civil Rights Compliance Officers. The name, address, and telephone numbers of the District's Civil Rights Compliance Officers are listed in Compliance Officer section of this Policy.

CIVIL RIGHTS COMPLIANCE OFFICER

Andrea Tamarazio, Director of Curriculum, Instruction, Technology and Data
atamararizo@lew-port.com, 716-286-7295
District Office, 4061 Creek Road, Youngstown, NY 14174

EFFECTIVE DATE AND POLICY DISSEMINATION

The effective date of this Policy, as revised, shall be December 18, 2023. The District Superintendent shall ensure that this Policy is adequately disseminated and made available to all employees of the District. This Policy shall be distributed at the time of hire, and at every annual training regarding prevention of sexual harassment. In addition, copies of this Policy and Complaint Form shall be maintained in the office of each Civil Rights Compliance Officer as well as the District's Policy Manual that is available December 19, 2023 and through the Board of Education Page of the District website <https://www.lew-port.com>.

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

Note: Upon the effective date of this Policy, as revised, the provisions of this Policy shall supersede and replace the following prior District policies and regulations regarding employee discrimination and harassment: Policy 6121 Sexual Harassment in the Workplace, 3420 Non-Discrimination and Anti-Harassment in the District.

Adoption Date: (revised 12/2025)
(revised 09/27/2024)
12/18/2023