

**SEXUAL HARASSMENT**

The Board of Education recognizes that harassment on the basis of sex, gender, gender identity or expression, and/or sexual orientation is abusive and illegal behavior that harms individuals and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board 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 can work productively.

Sexual harassment is a form of discrimination and is unlawful under this policy, federal and state law. This policy applies to students, families, visitors, employees, applicants for employment, paid or unpaid interns, volunteers, contractors, subcontractors, and persons doing business with the Rochester City School District.

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

**Definitions**

Sex-based harassment can be comprised of two types of behavior: sexual harassment and/or gender-based harassment.

Sexual harassment is unwelcome conduct of a sexual nature, which can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature (see regulation 0110-R for examples as may be required under federal and state law, and periodically updated accordingly).

Gender-based harassment includes verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender, perceived gender identity, and sexual stereotypes (see regulation 0110-R for examples as may be required under federal and state law, and periodically updated accordingly.)

Sexual or gender-based harassment of a student can deny or limit the student's ability to participate in or to receive benefits, services, or opportunities from the school's program.

**Prevention**

Preventing sexual harassment or discrimination largely depends upon creating a climate of respect for the dignity of each person. The District will promote civility, respect, and understanding by providing annual training to raise awareness of:

1. The specific behaviors that constitute sexual harassment in all of its forms;
2. The short- and long-term impact of sexual harassment on the individual and the larger community;
3. The importance of reporting incidents of sexual harassment to convey an intolerance for this behavior and to support individuals who have been the target of such harassment; and
4. The process for reporting, investigating, and resolving incidents of sexual harassment.

Training regarding sexual harassment will be provided on an annual basis to students and families, annually to employees, and at time of hire for newly hired employees. The training must cover all elements required by law, meet minimum state standards, and include interactive activities (i.e. question and answer session,

quiz, feedback survey). Sexual harassment training may be provided by the District or by an approved contractor.

Paid and unpaid interns, applicants for employment, volunteers, contractors, subcontractors and persons doing business with the Rochester City School District will be instructed to review and agree to be bound by this policy, which will be posted on the District website with a complaint form (*see Superintendent's Regulation 0100-R*).

### **Reporting and Investigation in the Rochester City School District**

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all targets of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The District will promptly investigate all complaints of sexual harassment, either formal or informal, verbal or written. Anyone expressing a complaint of sexual harassment under this policy may utilize any form(s) which the District may have published under Policy 0100. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation. If the complainant reports that they feel unsafe at school due to the nature of the complaint, the District will determine if accommodations need to be made until the issue is resolved.

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe sexually harassing behavior, or suspect that sexual harassment is occurring are required to file a report. Supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or knowingly allowing sexual harassment to continue.

Once received, an appropriate investigation will be conducted pursuant to the procedures outlined in this Policy. If, after appropriate investigation, the District finds that a student, an employee or a third party has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, District policy and state law. Students engaging in sexual harassment may be subject to any discipline outlined in Policy 1400, Code of Conduct, up to and including long-term suspension. Families and/or visitors engaging in sexual harassment may be subject to a ban from District premises for up to one year.

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. Anyone who retaliates against an individual who has in good faith reported or assisted in an investigation of sexual harassment will be subjected to disciplinary action, up to and including termination of employment, internship, volunteering, or business with the Rochester City School District. Students engaging in retaliation may be subject to the discipline identified under Policy 1400, Code of Conduct. Families and/or visitors engaging in retaliation may be subject to a ban from District premises for up to one year.

### **Title IX Sexual Harassment Grievance Procedures**

This section describes the grievance process required by Federal Title IX regulations for certain allegations of sexual harassment occurring in the District's education program or activity in the United States. Allegations that do not meet the Federal Title IX definition or jurisdictional requirements will be addressed under this policy and/or other District policies and procedures, consistent with applicable state law protections, including but not limited to Policies 0100 and 0115.

**Title IX Definition (Federal).** For purposes of this section only, 'sexual harassment' means conduct on the basis of sex that includes:

1. an employee conditioning an aid, benefit, or service on participation in unwelcome sexual conduct;

2. unwelcome conduct that a reasonable person would find 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 those terms are defined in federal law.

The following sections outline the investigative and resolution process for complaints received, which alleged a violation of Title IX in the Rochester City School District.

**Notice to the Title IX Coordinator.** Any District employee who receives information about possible Title IX sexual harassment must promptly notify the Title IX Coordinator so the District can offer supportive measures and determine the appropriate process. Individuals may contact the Title IX Officer confidentially at [titleixcomplianceofficer@rcsdk12.org](mailto:titleixcomplianceofficer@rcsdk12.org), and individuals are encouraged to complete the form attached to Regulation 0100-R.

**Supportive Measures.** When the District has notice of possible Title IX sexual harassment, the Title IX Coordinator will promptly contact the complainant to discuss available supportive measures, with or without a formal complaint. Supportive measures are non-disciplinary, non-punitive individualized services designed to restore or preserve equal access and may include counseling, schedule adjustments, mutual no-contact directives, changes in work or class locations, leaves of absence, and increased monitoring of specific areas. Staff who wish to confidentially discuss supportive measures that are available to them are encouraged to contact the District's Benefits Department.

**Formal Complaint.** A formal complaint is a written document filed by a complainant, or signed by the Title IX Coordinator, alleging Title IX sexual harassment against a respondent and requesting an investigation. At the time of filing, the complainant must be participating in or attempting to participate in the District's education program or activity.

**Standard of Evidence and Impartiality.** The District will apply the preponderance-of-the-evidence standard to determine responsibility for formal complaints under this section. Individuals serving as Title IX Coordinator, investigator, decision-maker, or informal resolution facilitator will be free from conflicts of interest or bias; anyone with a conflict must recuse. The decision-maker will not be the Title IX Coordinator or the investigator.

**District Responsibilities.** Throughout the grievance process, the District will treat the parties equitably, objectively evaluate relevant evidence, presume the respondent not responsible until the end of the process, and respect legally privileged information unless waived.

**Timeframes; Extensions.** The District will use reasonably prompt timeframes for major stages of the process (notice, investigation, determination, appeal), which are set forth in regulation or administrative guidance. For good cause, the District may temporarily delay or extend timeframes with written notice to the parties explaining the reason and expected completion dates. Good cause may include the absence of a party, advisor, or witness; concurrent law enforcement activity; or the need for language assistance or disability accommodations.

**Written Notice.** Upon receipt of a formal complaint, the District will provide written notice to known parties sufficiently in advance of an initial interview. The notice required in this section may come in the form of an Incident Report served in the presence of the employee's union representative as may be required under the applicable collective bargaining agreement. The notice will include a description of the allegations (including identities, date, and location if known), the applicable grievance process (and any informal

resolution option, if offered), the presumption of non-responsibility, the right to an advisor of choice, the opportunity to review evidence, and the prohibition on knowingly making false statements.

***Informal Resolution (if offered).*** Before a determination is reached, the parties may voluntarily agree in writing to participate in an informal resolution process. Informal resolution will not be used to resolve allegations that an employee sexually harassed a student, or where prohibited by law. The District will provide written information about the allegations, the informal process requirements, the right to withdraw and resume the formal process, and any records or consequences associated with participation.

***Investigation; Review of Evidence.*** The Title IX Coordinator will assign an investigator who will gather information through interviews and relevant evidence collection and will prepare an investigative report. Each party will have an equal opportunity to present witnesses and evidence and to have an advisor present during the investigation process. Prior to finalizing the report, the District will provide the parties access to the evidence directly related to the allegations and allow at least ten (10) calendar days for a written response, which will be considered before the report is completed.

***Dismissal.*** The District will dismiss a formal complaint under this section if, even if proven, the alleged conduct would not constitute Title IX sexual harassment, did not occur in the District's education program or activity, or did not occur against a person in the United States. The District may dismiss a formal complaint if the complainant withdraws in writing, the respondent is no longer enrolled or employed, or specific circumstances prevent sufficient evidence gathering. Written notice of any dismissal and the reason(s) will be provided to the parties.

***Written Questions.*** Before issuing a determination, the decision-maker will allow each party to submit relevant written questions for parties and witnesses, provide answers to each party, and allow limited follow-up questions. Questions about a complainant's sexual predisposition or prior sexual behavior are generally not relevant, with limited exceptions permitted by federal regulation. The decision-maker will explain any decision to exclude questions as not relevant.

***Written Determination; Sanctions and Remedies.*** After reviewing the investigative report and the written-question process, the decision-maker will issue a written determination addressing the allegations, procedural steps taken, findings of fact, the application of relevant policies and rules, and the result and rationale for each allegation, including any discipline and whether remedies to restore or preserve equal access will be provided. Potential consequences may include, as applicable: (a) for students, consequences under the Code of Conduct up to long-term suspension; (b) for employees, consequences consistent with contractual and statutory rights, up to termination; (c) for volunteers or vendors/contractors, removal from assignments or District property and limitations on future access/business.

***Appeals.*** Either party may appeal a determination or dismissal on limited grounds: procedural irregularity affecting the outcome; new evidence not reasonably available earlier that could affect the outcome; conflict of interest or bias that affected the outcome; and/or an inappropriate sanction. Appeals must be submitted within the timeframe set forth in regulation or administrative guidance. The appeal will be decided by a trained decision-maker who was not involved in the underlying determination, and written notice of the outcome will be provided to the parties. This section does not limit or eliminate any grievance rights any employee may have pursuant to their collective bargaining agreement. It is the understanding and expectation that should an appeal under this provision concern a disciplinary matter subject to a grievance, that the appeal of the decision-makers findings will be heard in the bargained for grievance process, and potentially be preserved for an Arbitrator.

### **Additional Legal Protections and Remedies**

In addition to reporting incidents of sexual harassment to authorities in the Rochester City School District, individuals can also file a report with any of the following government agencies:

The New York State Division of Human Rights: enforces New York State Human Rights Law, which protects employees, paid or unpaid interns, and non-employees when this law has been violated. Complaints can be filed within one year of the incident of harassment, or a suit can be filed in state court within three years of the incident. For more information, go to: [www.dhr.ny.gov](http://www.dhr.ny.gov) or contact 1-888-392-3644.

U.S. Equal Employment Opportunity Commission (EEOC): enforces federal anti-discrimination laws, allowing individuals to file a complaint any time within 300 days of the incident of harassment. For more information, go to: [www.eeoc.gov](http://www.eeoc.gov) or contact 1-800-669-4000.

If the sexual harassment involved physical touching, coerced physical confinement or coerced sexual acts, this may constitute a crime and should be reported to the local police department.

### **Implementation of Policy in the Rochester City School District**

The Superintendent of Schools is directed to develop and implement regulations for reporting, investigating and remedying allegations of sexual harassment. These regulations are to be attached to this Policy. In addition, training programs shall be established to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment.

This Policy shall be posted in a prominent place in each District facility, on the District's website, and shall also be published in student registration materials; student, parent and employee handbooks; information provided to contractors and vendors doing business with the District; and other appropriate publications.

The Policy will be reviewed annually to determine if revisions are applicable based on this policy's effectiveness and compliance with applicable state and federal law.

Cross-ref: District Policy Prohibiting Discrimination or Harassment of Students or Employees (0100)  
Reporting Complaints of Discrimination or Harassment (0100-R)  
Sexual Harassment (0110-R)  
Student Harassment and Bullying Prevention and Intervention Policy (0115)  
Code of Conduct (1400)  
Public Conduct on School Property (1520)  
Public Conduct on School Property Regulation (1520-R)  
Professional Boundaries Between Students and Employees, Volunteers, or Contractors (9800-R)

NYSBBA Ref: Sexual Harassment (0110) – Required Policy  
Sexual Harassment Grievances Under Title IX (0111) – Required Policy

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.*  
N.Y. Exec. Law Art. 15, § 290 *et. seq.*  
N.Y. Labor Law Article 7, § 201-G, *et seq.*

*Davis v. Monroe County Board of Education*, 526 U.S. 629, 652 (1999)  
*Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998)  
*Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)  
*Burlington Industries v. Ellerth*, 524 U.S. 742 (1998)  
*Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998) *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992)  
*Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986)  
Office for Civil Rights *Revised Sexual Harassment Guidance (January 19, 2001)*  
Office for Civil Rights, *Dear Colleague Letter: Sexual Harassment Issues (2006)*  
Office for Civil Rights, *Dear Colleague Letter: Bullying (October 26, 2010)*  
New York State Department of Labor Sexual Harassment Prevention Model Policy and Training Guidance (*current through July 2024*)  
20 USC §§1681 et seq.  
34 CFR Part 106

Notes: Adopted May 24, 2018 pursuant to Resolution No. 2017-18: 894; Amended November 15, 2018 pursuant to Resolution No. 2018-19: 469; Amended October 19, 2023 pursuant to Resolution No. 2023-24: 415; Amended October 24, 2024 pursuant to Resolution No. 2024-25: 314; Amended May 28, 2026 pursuant to Resolution No. 2025-26: 604

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