Current Policy

SUBJECT: SEXUAL HARASSMENT OF DISTRICT PERSONNEL

The Board affirms its commitment to provide an environment free from sex-based discrimination and sexual harassment, including sexual violence and intimidation. The Board, therefore, prohibits all forms of sexual harassment against District personnel by employees, school volunteers, students, and non-employees, such as contractors and vendors, which occurs on school grounds or at school-sponsored events, programs, or activities, including those that take place at locations off school premises.

Sexual Harassment

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute harassment on the basis of sex when:

a) Submission of this conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;

b) Submission to or rejection of this conduct by an individual is used as a basis for employment decisions affecting these individuals; or

c) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment includes, but is not limited to, sexual violence. For the purpose of this policy, sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.

Sexual harassment can originate from a person of either sex against a person of the opposite or same sex, and from students, supervisors, co-workers, or third parties such as visitors and school volunteers.

Prohibited Conduct

Sexual harassment can be verbal, non-verbal, or physical. Examples of this conduct may include, but are not limited to, the following:

a) Verbal abuse or ridicule, including innuendoes, stories, and jokes that are sexual in nature and/or gender-related. This might include inappropriate sex-oriented comments on appearance, including dress or physical features.

b) Direct or indirect threats or bribes for unwanted sexual activity.

c) Asking or commenting about a person's sexual activities.

(Continued)

SUBJECT: SEXUAL HARASSMENT OF DISTRICT PERSONNEL (Cont'd.)

d) Unwelcome and unwanted physical contact of a sexual nature including, but not limited to, physical acts such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement.

e) Displaying or distributing pornographic or other sexually explicit materials such as magazines, pictures, internet material, cartoons, etc.

f) The use of profanity or other obscenities that are sexually suggestive or degrading in nature.

g) Unwelcome staring, leering, or gesturing which is sexually suggestive in nature.

h) Unwelcome and/or offensive public displays of sexual or physical affection.

i) Clothing that reflects sexually obscene or sexually explicit messages, slogans, or pictures.

j) Engaging in sexual conduct with an individual who is unable to consent due to his or her age, use of drugs or alcohol, intellectual disability, or other disability.

k) Any other unwelcome and unwanted sexually oriented or gender-based behavior which is sexually demeaning, belittling, intimidating, or perpetrates sexual stereotypes and attitudes.

Investigation of Complaints and Grievances

In order for the Board to enforce this policy, and to take corrective measures as may be necessary, it is essential that any employee who believes he or she has been a victim of sexual harassment in the work environment, as well as any other person who is aware of and/or who has knowledge of or witnesses any possible occurrence of sexual harassment, immediately report the alleged harassment to the District's designated Civil Rights Compliance Officer (CRCO). In the event that the CRCO is the alleged offender, the report will be directed to another CRCO, if the District has designated an additional individual to serve in that capacity, or to the Superintendent.

The District will act to promptly, thoroughly, and equitably investigate all complaints, whether verbal or written, of sexual harassment, and will promptly take appropriate action to protect individuals from further harassment. All complaints will be handled in a manner consistent with the District's policies, procedures, and/or regulations regarding the investigation of discrimination and harassment complaints, including Policy #3420 -- Non-Discrimination and Anti-Harassment in the District.

Additional information regarding the District's discrimination and harassment complaint and grievance procedures, including, but not limited to, the designation of the CRCO, knowingly making false accusations, and possible corrective actions, can be found in Policy #3420 -- Non-Discrimination and Anti-Harassment in the District.

(Continued)

SUBJECT: SEXUAL HARASSMENT OF DISTRICT PERSONNEL (Cont'd.)

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

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

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

Civil Rights Act of 1991, 42 USC § 1981(a)
29 CFR § 1604.11(a)
Civil Service Law § 75-B
Executive Law §§ 296 and 297
Title VII of the Civil Rights Act of 1964, 42 USC § 2000e et seq.
Title IX of the Education Amendments of 1972, 20 USC § 1681 et seq.
34 CFR § 100 et seq.

NOTE: Refer also to Policies #3420 -- Non-Discrimination and Anti-Harassment in the District
#6122 -- Employee Grievances

Adopted: 1992
Revised: 1/9/07; 10/28/08; 1/9/18

SEXUAL HARASSMENT OF DISTRICT PERSONNEL

A. PURPOSE AND APPLICATION

1. The District is committed to maintaining a workplace free from sex-based discrimination and sexual harassment, including sexual violence and intimidation. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace.

2. This Policy is one component of the District's commitment to a discrimination-free work environment. Sexual harassment is against the law and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with the District. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

3. This District policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the District. In the remainder of this document, the term "employees" refers to this collective group. A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

4. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination). All complaints will be handled in a manner consistent with the District's policies, procedures, and/or regulations regarding the investigation of discrimination and harassment complaints, including Policy No.: 3420 – Non-Discrimination and Anti-Harassment in the District.

5. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The District will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the District who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or with the District's Civil Rights Compliance Officer (CRCO). In the event that the CRCO is the alleged offender, the report will be directed to another CRCO, if the District has designated an additional individual to serve in that capacity, or to the Superintendent.

SEXUAL HARASSMENT OF DISTRICT PERSONNEL

6. Additional information regarding the District's discrimination and harassment complaint and grievance procedures, including, but not limited to, the designation of the CRCO, knowingly making false accusations, and possible corrective actions can be found in Policy No.: 3420 -- Non-Discrimination and Anti-Harassment in the District.

7. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

8. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the District to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

9. The District will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. The District will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

10. All employees are encouraged to report any harassment or behaviors that violate this policy. The District will provide all employees a complaint form for employees to report harassment and file complaints.

11. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the District's Civil Rights Compliance Officer (CRCO). In the event that the CRCO is the alleged offender, the report will be directed to another CRCO, if the District has designated an additional individual to serve in that capacity, or to the Superintendent.

12. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

B. WHAT IS "SEXUAL HARASSMENT"?

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

SEXUAL HARASSMENT OF DISTRICT PERSONNEL

2. 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. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;

    b. Such conduct is made either explicitly or implicitly a term or condition of employment; or

    c. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

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

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

5. Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

C. EXAMPLES OF SEXUAL HARASSMENT

1. The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

    a. Physical acts of a sexual nature, such as:

        i. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;

        ii. Rape, sexual battery, molestation or attempts to commit these assaults.

    b. Unwanted sexual advances or propositions, such as:

SEXUAL HARASSMENT OF DISTRICT PERSONNEL

i. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;

ii. Subtle or obvious pressure for unwelcome sexual activities.

c. Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.

d. Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

e. Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.

f. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:

i. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;

ii. Sabotaging an individual's work;

iii. Bullying, yelling, name-calling.

2. Sexual harassment can occur between any individuals, regardless of their sex or gender. 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.

3. Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. 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.

SEXUAL HARASSMENT OF DISTRICT PERSONNEL

D. RETALIATION

1. Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

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

   a. made a complaint of sexual harassment, either internally or with any anti-discrimination agency;

   b. testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;

   c. opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment; reported that another employee has been sexually harassed; or

   d. encouraged a fellow employee to report harassment.

3. Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person 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.

E. REPORTING SEXUAL HARASSMENT

1. Preventing sexual harassment is everyone's responsibility. The District cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or CRCO. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or CRCO.

2. Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

SEXUAL HARASSMENT OF DISTRICT PERSONNEL

3. Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

4. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to CRCO.

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

6. Supervisors and managers will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

7. All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

8. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

9. Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The District will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

10. While the process may vary from case to case, investigations should be done in accordance with the following steps:

    a. Upon receipt of complaint, CRCO will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal,

is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

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

State Human Rights Law (HRL)

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

15. Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

16. 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 date of the most recent incident of harassment.

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

18. DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

19. 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.

20. Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

SEXUAL HARASSMENT OF DISTRICT PERSONNEL

Civil Rights Act of 1964

21. The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

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

23. 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.

24. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Contact the Local Police Department

25. 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.

Legal Ref: Civil Rights Act of 1991, 42 USC §1981(a); 29 CFR §1604.11(a); Civil Service Law §75-B; Labor Law §§209-g, 296-d; Gen Obligations §5-336; CPLR §§5003-b, 7515; Finance §139-l; Public Officer §17-a; Executive Law §§296, 297; Title VII of the Civil Rights Act of 1964, 42 USC §2000e et seq., Title IX of the Education Amendments of 1972, 20 USC §1681 et. seq.; and 34 CFR §100 et seq.

Adopted: 1992

Revised: 1/9/07; 10/28/08; 1/9/18; 11/___/18

_____ SCHOOL DISTRICT
COMPLAINT FORM FOR SEXUAL HARASSMENT IN THE WORKPLACE

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Civil Rights Compliance Officer (CRCO). You will not be retaliated against for filing a complaint. Questions regarding the completion or submission of this form can be directed to the District's CRCO or a trusted staff member with whom you feel comfortable.

If you are more comfortable reporting verbally or in another manner, the person to whom you report the sexual harassment should complete this form, provide you with a copy and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

For additional resources, visit: ny.gov/programs/combating-sexual-harassment-workplace

COMPLAINANT INFORMATION

Name: _____

Work Address: _____ Work Phone: _____

_____

Job Title: _____ Email: _____

Selected Preferred Communication Method: [ ] Email [ ] Phone [ ] In person

SUPERVISORY INFORMATION

Immediate Supervisor's Name: _____

Title: _____

Work Phone:_____ Work Address: _____

_____

COMPLAINT INFORMATION

1) Your complaint of Sexual Harassment is made about:

Name: _____ Title: _____

Work Address: _____ Work Phone: _____

_____

Relationship to you: [ ] Supervisor [ ] Subordinate [ ] Co-Worker [ ] Other

(Continued)

_____ SCHOOL DISTRICT
COMPLAINT FORM FOR SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

2) Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

_____

_____

_____

3) Date(s) sexual harassment occurred: _____

Is the sexual harassment continuing? [ ] Yes [ ] No

4) Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

_____

_____

_____

The last question is optional, but may help the investigation.

5) Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

_____

_____

If you have retained legal counsel and would like us to work with them, please provide their contact information.

_____

_____

Signature: _____ *Date*: _____

Instructions for the District

After receiving a complaint about alleged sexual harassment, follow the District's sexual harassment prevention policies and procedures.

(Continued)

_____ SCHOOL DISTRICT
COMPLAINT FORM FOR SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

Generally, an investigation involves:

1) Speaking with the employee;

2) Speaking with the alleged harasser;

3) Interviewing witnesses; and

4) Collecting and reviewing any related documents.

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for the District's decision along with any corrective actions taken and notify the complainant and the individual(s) against whom the complaint was made. This may be done via email.