

## **SEXUAL HARASSMENT**

The Board of Education recognizes that harassment of students, employees (including all staff, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, regardless of immigration status) and certain “non-employees” (which includes contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees) on the basis of sex, gender and/or sexual orientation is abusive and illegal behavior that harms targets 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 and “non-employees” can work productively.

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

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 that conduct is made either explicitly or implicitly a term or condition of an individual's employment or a student's education;
- b. submission to or rejection of such conduct is used as the basis for decisions affecting an individual’s employment or a student's education; or
- c. the conduct has the purpose or effect of unreasonably interfering with an employee's or "non-employee’s" work or student's school performance or creating an intimidating, hostile or offensive work or educational environment, even if the complaining individual is not the intended target of the sexual harassment;

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes. Examples of sexual harassment can be found in the accompanying regulation (0110-R).

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, or outside the school setting if the harassment impacts the

individual's education or employment in a way that violates their legal rights, including when employees and "non-employees" travel on district business, or when harassment is done by electronic means (including on social media). For employees, sexual harassment is considered a form of employee misconduct. Sanctions will be enforced against all those who engage in sexual harassment, and against supervisory and managerial personnel who knowingly allow such behavior to continue or engage in retaliation.

Sexual harassment may subject the district to liability for harm done to targets. Harassers may also be individually subject to civil liability if sued in a court of law or criminal liability if prosecuted.

Under various state and federal laws, students, employees and "non-employees" have legal protections against sexual harassment in the school environment as described above. Those laws are listed in the references section. Additionally, local laws may apply to the district. The district's Code of Conduct also addresses appropriate behavior in the school environment. Sexual harassment can occur between persons of all ages and genders.

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. 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.

If, after appropriate investigation, the district finds that a student, an employee, "non-employee" or a third party has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, contract, district policy and state law. Individual nondisclosure agreements in connection with the resolution a sexual harassment claim may only be used as permitted by law, described in the accompanying regulation. Mandatory arbitration of sexual harassment claims is prohibited in all district contracts and agreements entered into on or after July 11, 2018.

All complainants and those who participate in sexual harassment complaints or the investigation of a complaint of sexual harassment have the right to be free from retaliation of any kind, when they do so with a good faith belief that sexual harassment has occurred. Such prohibited retaliation can include, but is not limited to, discipline, discrimination, demotion, denial of privileges, or any action that would keep a person from coming forward to make or support a sexual harassment claim. Such actions need not be job- or education-related, or occur in the workplace or educational environment, to constitute unlawful retaliation.

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 for students, and annually for employees, to raise awareness of the issues surrounding sexual harassment and to

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

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, and other appropriate school publications.

A committee appointed by the Superintendent of Schools may be convened annually to review this policy's effectiveness and compliance with applicable state and federal law, and to recommend revisions to Board.

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.*

Executive Law §296-d (prohibition of sexual harassment of non-employees)

Labor Law §201-g (required sexual harassment policy and training)

Civil Practice Law and Rules §§5003-b (nondisclosure agreements optional); 7515 (mandatory arbitration prohibited)

General Obligations Law §5-336 (nondisclosure agreements optional)

*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)*

Adoption Date: 4/7/03

Classification:

Revised Dates: **10/9/18**

## **SEXUAL HARASSMENT REGULATION**

This regulation is intended to create and preserve an educational and working environment free from unlawful sexual harassment on the basis of sex, gender, and/or sexual orientation in furtherance of the district's commitment to provide a healthy and productive environment for all students, employees (including all staff, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, regardless of immigration status) and "non-employees" (i.e., contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees) that promotes respect, dignity and equality.

### **Sexual Harassment Defined**

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

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, gender, or sexual orientation, when:

1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of an employee's or "non-employee's" employment or a student's education (including any aspect of the student's participation in school-sponsored activities, or any other aspect of the student's education); or
2. submission to or rejection of that conduct or communication by an individual is used as the basis for decisions affecting an employee's or "non-employee's" employment or a student's education; or
3. the conduct or communication has the purpose or effect of substantially or unreasonably interfering with an employee's or "non-employee's" work performance or a student's academic performance or participation in school-sponsored activities, or creating an intimidating, hostile or offensive working or educational environment, even if the complaining individual is not the intended target of the sexual harassment.

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

## Unacceptable Conduct

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

1. rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the State Penal Law;
2. unwelcome sexual advances or invitations or requests for sexual activity, including but not limited to those in exchange for grades, promotions, preferences, favors, selection for extracurricular activities or job assignments, homework, etc., or when accompanied by implied or overt threats concerning the target's work or school evaluations, other benefits or detriments;
3. unwelcome and/or offensive public sexual display of affection, including kissing, hugging, making out, groping, fondling, petting, inappropriate touching of one's self or others (e.g., pinching, patting, grabbing, poking), sexually suggestive dancing, and massages;
4. any unwelcome communication that is sexually suggestive, sexually degrading or derogatory or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual jokes; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings lists;" howling, catcalls, and whistles; sexually graphic computer files, messages or games, etc;
5. unwelcome and offensive name calling or profanity that is sexually suggestive or explicit, sexually degrading or derogatory, implies sexual intentions, or that is based on sexual stereotypes or sexual orientation, gender identity or expression;
6. unwelcome physical contact or closeness that is sexually suggestive, sexually degrading or derogatory, or sexually intimidating such as the unwelcome touching of another's body parts, cornering or blocking an individual, standing too close, spanking, pinching, following, stalking, frontal body hugs, etc.;
7. unwelcome and sexually offensive physical pranks or touching of an individual's clothing, such as hazing and initiation, "streaking," "mooning," "snuggies" or "wedgies" (pulling underwear up at the waist so it goes in between the buttocks), bra-snapping, skirt "flip-ups," "spiking" (pulling down someone's pants or swimming suit); pinching; placing hands inside an individual's pants, shirt, blouse, or dress, etc.;
8. unwelcome leers, stares, gestures, or slang that are sexually suggestive; sexually degrading or derogatory or imply sexual motives or intentions;
9. clothing with sexually obscene or sexually explicit slogans or messages;

10. unwelcome and offensive skits, assemblies, and productions that are sexually suggestive, sexually degrading or derogatory, or that imply sexual motives or intentions, or that are based on sexual stereotypes;
11. unwelcome written or pictorial display or distribution (including via electronic devices) of pornographic or other sexually explicit materials such as signs, graffiti, calendars, objects, magazines, videos, films, Internet material, etc.;
12. other hostile actions taken against an individual because of that person's sex, sexual orientation, gender identity or transgender status, such as interfering with, destroying or damaging a person's work or school area or equipment; sabotaging that person's work or school activities; bullying, yelling, or name calling; or otherwise interfering with that person's ability to work or participate in school functions and activities; and
13. any unwelcome behavior based on sexual stereotypes and attitudes that is offensive, degrading, derogatory, intimidating, or demeaning, including, but not limited to:
  - a. disparaging remarks, slurs, jokes about or aggression toward an individual because the person displays mannerisms or a style of dress inconsistent with stereotypical characteristics of the person's sex;
  - b. ostracizing or refusing to participate in group activities with an individual during class projects, physical education classes or field trips because of the individual's sex, gender expression or gender identity;
  - c. taunting or teasing an individual because they are participating in an activity not typically associated with the individual's sex or gender.

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

Sexual harassment may occur on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside the district, or outside the school setting if the harassment impacts the individual's education or employment in a way that violates their legal rights, including when employees or "non-employees" travel on district business, or when the harassment is done by electronic means (including on social media).

### **Determining if Prohibited Conduct is Sexual Harassment**

Complaints of sexual harassment will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the above definition of sexual harassment and should therefore be treated as sexual harassment. Not all unacceptable conduct with sexual connotations may constitute sexual harassment. In many cases (other than quid pro quo situations where the alleged harasser offers academic or employment rewards or threatens punishment as an inducement for sexual favors), unacceptable behavior must be

sufficiently severe, pervasive and objectively offensive to be considered sexual harassment. If the behavior doesn't rise to the level of sexual harassment, but is found to be objectionable behavior, the individual will be educated and counseled in order to prevent the behavior from continuing.

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

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

### **Reporting Complaints**

Any person who believes he or she has been the target of sexual harassment by a student, district employee or "non-employee" or third party related to the school is encouraged to report complaints as soon as possible after the incident in order to enable the district to promptly and effectively investigate and resolve the complaint. Any person who witnesses or is aware of sexual harassment of a student, employee, or "non-employee" is also encouraged to report the incident or behavior to the district. Targets are encouraged to submit the complaint in writing; however, complaints may be filed verbally.

Complaints should be filed with the Building Principal or the Title IX Coordinator; the Superintendent at 432 New Salem Road, Voorheesville, NY 12186.

Any school employee who receives a complaint of sexual harassment from a student shall inform the student of the employee's obligation to report the complaint to the school administration, and then shall immediately notify the Building Principal and/or the Title IX Coordinator. School employees receiving complaints of sexual harassment from employees and "non-employees" shall either direct the complainant to the Building Principal or Title IX Coordinator, or may report the incident themselves. Supervisory and managerial personnel are required to report

complaints of sexual harassment received by staff, and will be subject to discipline for failing to report suspected or reported sexual harassment, knowingly allowing sexual harassment to continue, or engaging in any retaliation.

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

## **Confidentiality**

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

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

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

If the complainant still requests confidentiality after being given the notice above, the investigator will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not preclude the district from responding effectively to the harassment and preventing the harassment of other students or employees.

## **Investigation and Resolution Procedure**

### **A. Initial (Building-level) Procedure**

The Building Principal or the Title IX Coordinator shall conduct a preliminary review when they receive a verbal or written complaint of sexual harassment, or if they observe sexual harassment. Except in the case of severe or criminal conduct, the Building Principal or the Title IX Coordinator should make all reasonable efforts to resolve complaints at the school level. The

goal of investigation and resolution procedures is to end the harassment and obtain a prompt and equitable resolution to a complaint. All persons involved in an investigation (complainants, witnesses and alleged harassers) will be accorded due process to protect their rights to a fair and impartial investigation. This investigation shall be prompt and thorough, and shall be completed as soon as possible.

Immediately, but no later than two (2) working days following receipt of a complaint, the Building Principal or Title IX Coordinator shall begin an investigation of the complaint according to the following steps:

1. Interview the target and document the conversation. Instruct the target to have no contact or communication regarding the complaint with the alleged harasser. Ask the target specifically what action he/she wants taken in order to resolve the complaint. Refer the target, as appropriate, to school social workers, school psychologists, crisis team managers, other school staff, or appropriate outside agencies for counseling services.
2. Review any written documentation of the harassment prepared by the target. If the target has not prepared written documentation, ask the target to do so, providing alternative formats for individuals with disabilities and young children, who have difficulty writing and need accommodation. If the complainant refuses to complete a complaint form or written documentation, the Building Principal or Title IX Coordinator shall complete a complaint form (see exhibit 0110-E) based on the verbal report.
3. Request, review, obtain and preserve relevant evidence of harassment (e.g., documents, emails, text messages, social media communications, phone records, etc.), if any exist.
4. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Document the conversation. Provide the alleged harasser an opportunity to respond to the charges in writing.
5. Instruct the alleged harasser to have no contact or communication regarding the complaint with the target and to not retaliate against the target. Warn the alleged harasser that if he/she makes contact with or retaliates against the target, he/she will be subject to immediate disciplinary action.
6. Interview any witnesses to the complaint. Caution each witness to keep the complaint and his/her participation in the investigation confidential. Employees may be required to cooperate as needed in investigations of suspected sexual harassment, in a manner that is consistent with any applicable collective bargaining agreement.
7. Review all documentation and information relevant to the complaint.
8. Where appropriate, suggest mediation as a potential means of resolving the complaint. In addition to mediation, use appropriate alternative methods to resolve the complaint, including but not limited to:

- a. discussion with the accused, informing him or her of the district's policies and indicating that the behavior must stop;
  - b. suggesting counseling and/or sensitivity training;
  - c. conducting training for the department or school in which the behavior occurred, calling attention to the consequences of engaging in such behavior;
  - d. requesting a letter of apology to the complainant;
  - e. writing letters of caution or reprimand; and/or
  - f. separating the parties.
9. Parent/Student/Employee/“Non-Employee” Involvement and Notification
- a. Parents of student targets and accused students shall be notified within one (1) school day of allegations that are serious or involve repeated conduct.
  - b. The parents of students who file complaints are welcome to participate at each stage of both informal and formal investigation and resolution procedures.
  - c. If either the target or the accused is a disabled student receiving special education services under an IEP or section 504/Americans with Disabilities Act accommodations, the committee on special education may be consulted to determine the degree to which the student's disability either caused or is affected by the discrimination or policy violation. In addition, due process procedures required for persons with disabilities under state and federal law shall be followed.
  - d. The investigator shall report back to both the target and the accused, notifying them in writing, and also in person as appropriate regarding the outcome of the investigation and the action taken to resolve the complaint. The investigator shall instruct the target to report immediately if the objectionable behavior occurs again or if the alleged harasser retaliates against him/her.
  - e. The investigator shall notify the target that if he/she desires further investigation and action, he/she may request a district level investigation by contacting the Superintendent of Schools. The investigator shall also notify the target of his/her right to contact the U.S. Department of Education's Office for Civil Rights and/or a private attorney. Employees may also contact the U.S. Equal Employment Opportunity Commission or the New York State Division of Human Rights.
10. Create a written report of the investigation, kept in a secure and confidential location, containing:
- a. A list of all documentation and other evidence reviewed, along with a detailed summary;

- b. A list of names of those interviewed along with a detailed summary of their statements;
- c. A timeline of events;
- d. A summary of prior relevant incidents, reported or unreported;
- e. A determination, based on a preponderance of the evidence, as to whether each incident of alleged conduct did or did not occur; and
- f. The final resolution of the complaint, together with any corrective action(s).

If the initial investigation results in a determination that sexual harassment did occur, the investigator will promptly notify the Superintendent, who shall then take prompt disciplinary action in accordance with district policy, the applicable collective bargaining agreement or state law.

If a complaint received by the Building Principal or the Title IX Coordinator contains evidence or allegations of serious or extreme harassment, such as employee to student harassment, criminal touching, quid pro quo (e.g., offering an academic or employment reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint shall be referred promptly to the Superintendent. In addition, where the Building Principal or the Title IX Coordinator has a reasonable suspicion that the alleged harassment involves criminal activity, he/she should immediately notify the Superintendent, who shall then contact appropriate child protection and law enforcement authorities. Where criminal activity is alleged or suspected by a district employee, the accused employee shall be suspended or placed on administrative leave pending the outcome of the investigation, consistent with all contractual or statutory requirements.

Any party who is not satisfied with the outcome of the initial investigation by the Building Principal or the Title IX Coordinator may request a district-level investigation by submitting a written complaint to the Superintendent within thirty (30) days.

The Building Principal or Title IX Coordinator (i.e., the investigator) shall promptly submit a copy of all building-level investigation and interview documentation to the Superintendent, following the receipt of any request for a district-level investigation.

#### B. District-level Procedure

The Superintendent shall promptly investigate and resolve all sexual harassment complaints that are referred to him/her by a Building Principal or Title IX Coordinator, as well as those appealed to the Superintendent following an initial investigation by a Building Principal or Title IX Coordinator. In the event the complaint of sexual harassment involves the Superintendent, the complaint shall be filed with or referred to the Board President. The Board, on its own initiative or at the request of the Superintendent, may refer the complaint to a trained investigator not employed by the district for investigation.

The district level investigation should begin as soon as possible but not later than three (3) working days following receipt of the complaint by the Superintendent or Board President.

In conducting the district level investigation, the district will use investigators who have received training in sexual harassment investigation or who have previous experience investigating sexual harassment complaints.

If a district investigation results in a determination that sexual harassment did occur, prompt corrective action will be taken to end the harassment. Where appropriate, district investigators may suggest mediation as a means of exploring options of corrective action and informally resolving the complaint.

No later than thirty (30) days following receipt of the complaint, the Superintendent or the appointed investigator will notify the target and alleged harasser, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Superintendent or investigator will provide all parties with a written status report within thirty (30) days following receipt of the complaint.

The target and the alleged harasser have the right to be represented by a person of their choice, at their own expense, during sexual harassment investigations and hearings.

### **External Remedies**

Targets have the right to register sexual harassment complaints with the U.S. Department of Education's Office for Civil Rights (OCR). The OCR can be contacted at (800) 421-3481, 400 Maryland Avenue SW, Washington, DC 20202-1100, or at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

Employee targets also have the right to register complaints with the federal Equal Employment Opportunity Commission (EEOC) and the New York State Division of Human Rights (DHR). The EEOC can be contacted at (800) 669-4000, <https://www.eeoc.gov/employees/howtofile.cfm>, [info@eeoc.gov](mailto:info@eeoc.gov), or at 33 Whitehall Street, 5th Floor, New York, NY 10004 or 300 Pearl Street, Suite 450, Buffalo, NY 14202. The DHR can be contacted at (888) 392-3644, [www.dhr.ny.gov/complaint](http://www.dhr.ny.gov/complaint), or at 1 Fordham Plaza, Fourth Floor, Bronx, NY 10458.

Nothing in these regulations shall be construed to limit the right of the complainant to file a lawsuit in either state or federal court, or to contact law enforcement officials if the sexual harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, which may constitute a crime. No district contract or collective bargaining agreement entered into after July 11, 2018 may include a binding arbitration clause for sexual harassment requiring arbitration before bringing a sexual harassment claim to a court.

### **Nondisclosure Agreements**

The district may include nondisclosure agreements (to not disclose the underlying facts and circumstances of a sexual harassment complaint) in any sexual harassment settlement agreement or resolution only if it is the complainant's preference. Any such nondisclosure agreement shall be provided to all parties. Complainants shall have twenty-one (21) days to consider any such nondisclosure provision before it is signed by all parties, and shall have seven (7) days to revoke the agreement after signing. Nondisclosure agreements shall only become effective after this seven-day period has passed.

### **Retaliation Prohibited**

Any act of retaliation against any person who opposes sexually harassing behavior, or who has filed a complaint in good faith, is prohibited and illegal, and therefore subject to disciplinary action. Likewise, retaliation against any person who has, in good faith, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a sexual harassment complaint is prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing phone calls, discipline, discrimination, demotion, denial of privileges, any action that would keep a reasonable person from coming forward to make or support a sexual harassment claim, and any other form of harassment. Such actions need not be job- or education-related, or occur in the workplace or educational environment, to constitute unlawful retaliation. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension or termination.

### **Discipline/Penalties**

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

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

**Employees:** Discipline may range from a warning up to and including termination, to be imposed consistent with all applicable contractual and statutory rights.

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

**“Non-employees”** (i.e., contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees): Penalties may range from a warning up to and including loss of district business.

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

## **False Complaints**

False or malicious complaints of sexual harassment may result in corrective or disciplinary action taken against the complainant.

## **Training**

All students and employees shall be informed of this policy in student and employee handbooks, on the district website and student registration materials. A poster summarizing the policy shall also be posted in a prominent location at each school. All secondary school student body officers shall receive district training about the policy at the beginning of each school year. The district shall provide all existing employees with either a paper or electronic copy of the district's sexual harassment policy and regulation, and shall provide the same to new employees before the employee starts his/her job.

In addition, age-appropriate curricular materials will be made available so that it can be incorporated in instruction K-12 to ensure that all students are educated to recognize and report sexual harassment.

All new employees shall receive copies of and training on this policy and regulation at new employee orientation or as soon as possible after starting their job. All other employees shall be provided with copies of this policy and regulation and training regarding this policy at least once a year in furtherance of the district's commitment to a harassment-free learning and working environment. Building Principals, the Title IX Coordinator, and other administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment shall receive yearly training on their responsibilities pursuant to this policy and regulation and related legal developments.

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

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

Adoption Date: 4/7/03

Classification:6/11/12

Revised Dates: **10/9/18**

## SEXUAL HARASSMENT EXHIBIT

### Complaint Form for Reporting Sexual Harassment

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for targets to report alleged incidents of sexual harassment. This form is intended to be used by both students and employees.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form to the best of your ability and submit it to the Building Principal or the Title IX Coordinator, the Superintendent in the District Office at 432 New Salem Road. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, the district 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: <https://www.ny.gov/programs/combating-sexual-harassment-workplace>

#### YOUR INFORMATION (for all persons making a complaint)

Your Name: \_\_\_\_\_

Name of student (for parents/guardians): \_\_\_\_\_

Home Address: \_\_\_\_\_

Home or Cell Phone: \_\_\_\_\_

Email: \_\_\_\_\_

School (for students): \_\_\_\_\_

Grade/Class (for students): \_\_\_\_\_

Work Address (for employees): \_\_\_\_\_

Work Phone (for parents/guardians/employees): \_\_\_\_\_

Job Title (for employees): \_\_\_\_\_

Preferred Communication Method (please select one):

phone      email      mail      in person

**SUPERVISOR INFORMATION** (for employees)

Immediate Supervisor's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Work Address: \_\_\_\_\_

**COMPLAINT INFORMATION** (for all persons making a complaint)

1. Your complaint of Sexual Harassment is made against:

Name: \_\_\_\_\_

Job Title (if an employee): \_\_\_\_\_

Grade/Class (if a student): \_\_\_\_\_

School Address/Work Location (if known): \_\_\_\_\_

Phone (if known): \_\_\_\_\_

Relationship to you (please circle one below):

For employees – Supervisor / Subordinate / Co-Worker / Student / Other: \_\_\_\_\_

For students – Teacher / Other staff member / Other Student / Other: \_\_\_\_\_

*(Please use additional sheets of paper if the complaint is against multiple people.)*

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

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3. Date(s) and location(s) sexual harassment occurred: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is the sexual harassment continuing? \_\_\_\_ Yes \_\_\_\_ No

4. Please list the name and contact information (if known) of any witnesses or individuals who may have information related to your complaint:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*The following question is optional, but may help the district's investigation.*

5. Have you previously complained about or provided information (verbal or written) about sexual harassment or related incidents to the district? \_\_\_\_ Yes \_\_\_\_ No

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.

\_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Instructions for the District**

If you receive a complaint about alleged sexual harassment, you must follow the district's sexual harassment prevention policy by investigating the allegations through actions including:

- Speaking with the complainant
- Speaking with the alleged harasser
- Interviewing witnesses
- 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 findings of the investigation and basis for your decision along with any corrective actions taken, and notify the complainant (if the complainant is a student, also notify the parent/guardian) and the individual(s) against whom the complaint was made. This may be done via email.

Adoption date:10/15/18

Adoption Date: 10/15/18

Classification:

Revised Dates: **10/15/18**