

POLICY 12
Revised September 16, 2020

SEXUAL HARASSMENT POLICY

It is the policy of the District that all employees, students, visitors and volunteers have a right to work or study in an environment free of discrimination on the basis of sex, sexual orientation, or gender identity or gender expression. The District has a zero-tolerance policy against sexual harassment of its employees or students in any form, and states that all employees as well as students at all grade levels of the District must avoid offensive or inappropriate sexual or sexually harassing behavior at school, on school grounds, at school functions, and on school transportation and will be held responsible for ensuring that such workplace is free from sexual harassment.

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

- Physical acts of a sexual nature, such as:

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

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

- Unwanted sexual advances or propositions, such as:

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;

Subtle or obvious pressure for unwelcome sexual activities.

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

- 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.

- 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.

- Hostile actions taken against an individual because of that individual's sex, sexual orientation gender identity and the status of being transgender, 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, name-calling.

Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.

Sexual harassment is considered a form of employee misconduct and sanctions will be enforced against individuals engaging in such harassing conduct and against any supervisor or manager who knowingly allows such behavior to continue.

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, gender, sexual orientation, national origin, age, disability, marital status, citizenship, genetic information or any other characteristic protected by law or that of his/her relatives, friends or associates, and that a) has the purpose or effect of creating an intimidating, hostile or offensive work environment; b) has the purpose or effect of unreasonably interfering with an individual's work performance; or c) otherwise adversely affects an individual's employment opportunities.

Such conduct is considered misconduct and may result in disciplinary action up to and including dismissal or suspension upon instruction. Employees who are found to have engaged in sexual harassment, and supervisors who knowingly permit such behavior to continue, will be subject to discipline.

Other sexually harassing conduct in the workplace, whether physical or verbal, committed by supervisors or non-supervisory personnel or students is also prohibited. This behavior includes but is not limited to commentary about an individual's body, sexually degrading words to describe an individual, offensive comments, off color language or jokes, innuendos, or displaying sexually suggestive objects, books, magazines, photographs, cartoons or pictures.

Employees or students who have complaints of sexual harassment by anyone in the school environment, including any supervisors, co-employees, students, or visitors are urged to report

such conduct to the Compliance Officer so that the District may investigate and resolve the problem. If the complaint involves the Compliance Officer, or if the person for any reason is uncomfortable in dealing with the Compliance Officer, the employee or student may go to the Superintendent or a person appointed by the Superintendent to handle the complaint. The District will endeavor to investigate all complaints as expeditiously and as professionally as possible. Where investigations confirm the allegations, appropriate corrective action will be taken.

The District will endeavor to maintain the information provided to it in the complaint and investigation process as confidentially as possible, consistent with the laws of the State and, if applicable, the collective bargaining agreement.

Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe to the Compliance Officer.

There will be no retaliation against employees or students for reporting sexual harassment or assisting the District in the investigation of a complaint. Engaging in retaliatory behavior will be a violation of this policy.

Consistent with the Anti-Discrimination Policy the procedures for investigating a complaint of sexual harassment are as follows:

Section 1

All complaints or information about suspected sexual harassment will be investigated in a timely manner. The investigation will be confidential to the extent possible, and all persons involved will be accorded due process to protect their right to a fair and impartial investigation.

The Compliance Officer will investigate the substance of the complaint in a thorough and impartial manner. Alternatively, an outside investigator may be used to conduct the investigation. The Complainant may provide evidence or witnesses to the Compliance Officer as part of the investigation. If a determination is found that sexual harassment occurred, the District will take appropriate steps to prevent further harassment from occurring and to correct the effects of said harassment if appropriate.

Further, the District prohibits retaliation against any individual filing a complaint under this policy or participating in any resulting investigation. If you believe you are being retaliated against, you should contact the District's Compliance Officer or file a complaint with the United States Office for Civil Rights, NYS Division of Human Rights or the EEOC. Contact information for each is at the end of this policy.

The District's Compliance Officer is Mr. Bryan Ayres.

Section 2**Step (a):**

The Complainant shall discuss the complaint informally with the Compliance Officer, or may file a written complaint with the Compliance Officer. The Compliance Officer will then investigate in an impartial and thorough manner the substance of the complaint. Alternatively, an outside investigator may be used to investigate the complaint. The Complainant and the Respondent shall receive written notice in advance of any interview or hearing. The Complainant or Respondent may provide evidence or witnesses to the Compliance Officer as part of the investigation. The Compliance Officer will take necessary steps during the investigation to ensure the Complainant's safety. The Compliance Officer will reply to the Complainant and person alleged to be engaged in the harassment in writing within seven business days of the initiation of the complaint. If a determination is found that harassment occurred, the District will take appropriate steps to prevent further harassment from occurring and to correct the effects of said harassment if appropriate. If a determination is found that disciplinary action will be taken against a responding party, written notice will be provided to the Respondent containing the allegations constituting a violation.

Step (b):

If either party wishes to appeal the decision of the Compliance Officer, that party may submit a signed statement of appeal to the Superintendent within seven business days after receipt of the Compliance Officer's response. The Superintendent shall meet with the Complainant or the respondent and any representative, and make such other inquiries which the Superintendent deems appropriate. The Superintendent will consider the appeal in an impartial manner. Thereafter, the Superintendent shall set forth a conclusion and respond in writing to the Complainant and Respondent within 14 business days.

Step (c):

If the party is not satisfied with the conclusion of the Superintendent, that party may appeal through a signed, written statement to the Board within seven business days of receipt of the Superintendent's response in Step (b). In an attempt to resolve the appeal, the Board shall meet with the Complainant or Respondent and any representative within 30 calendar days of receipt of such an appeal. The Board's written disposition of the appeal shall be sent to the appealing party within ten business days of this meeting.

Step (d):

If the appeal has not been satisfactorily settled at Step (c), employees and students may seek further legal remedies. Specifically, the New York State Human Rights Law protects employees, students, and non-employees from sexual harassment. Complaints may be filed with the Division of Human Rights or in New York State Supreme Court. Further, the United States Equal

Employment Opportunity Commission enforces federal discrimination laws, including Title VII of the Federal Civil Rights Act. Contact information is provided below.

New York State Division of Human Rights
1 Fordham Plaza, Fourth Floor
Bronx, NY 10458
(888) 392-3644

United States Equal Employment Opportunity Commission (EEOC)
1-800-669-4000
www.eeoc.gov

[U.S. Department of Education](http://www2.ed.gov)
[Office of Civil Rights](http://www2.ed.gov)
[400 Maryland Avenue, SW](http://www2.ed.gov)
[Washington, D.C. 20202](http://www2.ed.gov)
[\(800\) 872-5327](http://www2.ed.gov)
www2.ed.gov

In addition to the above, local laws, including criminal laws, may also apply.

First Reading:	January 18, 2017
Second Reading:	February 1, 2017
BOE Adoption:	February 1, 2017
Revised:	October 2018
Revised:	September 18, 2019
Revised:	September 16, 2020

POLICY 12A

Title IX Student Sexual Harassment Policy

It is the policy of the District that no person in the District shall be excluded on the basis of sex from participation in, denied benefits of, or be subjected to discrimination under any education program or activity. This includes the following types of sexual harassment:

Quid Pro Quo Harassment: No employee may condition the provision of aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct.

Hostile Environment Harassment: No person may engage in unwelcome sexual conduct which a reasonable person would find to be so severe and objectively offensive so as to deny a person's equal access to the District's education program or activity. Sexual assault, domestic violence and stalking are considered hostile environment harassment.

For purposes of this policy, the District's education program or activity is defined as any location, event, or circumstance over which the District exhibits substantial control over both the alleged harasser and the context in which the harassment occurred.

The District will provide notice of this policy and the related grievance procedure on an annual basis and the policy and related procedure will be posted on the District website.

Reporting Sexual Harassment:

Any person believing they have been the victim of sexual harassment may report the harassment to the District's Title IX Coordinator. District employees who have knowledge of sexual harassment under this policy are required to report the harassment to the District's Title IX Coordinator promptly even if the person reporting is not the victim. The report may be made in person, by email, telephone or in writing.

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

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - 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;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- 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.
- 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.
- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity and the status of being transgender, 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, name-calling.

Once the Title IX Coordinator has notice of the sexual harassment, the Coordinator must respond promptly to the report of harassment. The Title IX Coordinator will promptly reach out to the victim of the alleged harassment to discuss the formal complaint procedure, availability of supportive measures and to determine the victim’s wishes regarding supportive measures. The Title IX Coordinator will treat both parties equitably and will offer supportive measures to both parties. Supportive measures include, but are not limited to non-disciplinary, non-punitive, individualized services such as counseling, course modification, schedule changes or increased monitoring or supervision. Supportive measures will be designed to restore or preserve equal access to education programs or activities without unreasonably burdening the other party. The Title IX Coordinator will also conduct an individualized safety and risk analysis to determine whether removal of the respondent is necessary to protect a student or another individual from an immediate threat to physical health and safety. If there is an immediate threat to physical health or safety, the respondent can be removed on an emergency basis. If the respondent is removed, the respondent must be given notice and opportunity to challenge the decision immediately after the removal. Removal for an employee is administrative leave. For purposes of this policy, the respondent is the individual who has been reported to be the perpetrator of the conduct that could be considered sexual harassment.

Formal Complaint:

A formal complaint may only be filed by the victim of the alleged harassment during the time that the victim is participating in or attempting to participate in the District’s educational program. Once the victim is no longer participating in the District’s educational program or attempting to participate, a complaint may no longer be filed. Parties other than the victim, with the exception of the District Title IX Coordinator, may not file a formal complaint on behalf of the victim. The Title IX Coordinator may file a formal sexual harassment complaint on behalf of the victim. A formal complaint must be written and signed on the District’s Title IX Complaint form.

Once the formal complaint has been filed, the District will ensure that the parties are treated equitably during the grievance procedure, evidence will be evaluated objectively, and the Title IX Coordinator or investigator does not have a conflict of interest against a party. Further, the Title IX Coordinator and the investigator will presume that the respondent is not responsible for the alleged conduct and that the grievance procedure moves forward in a reasonably prompt manner. Both parties will be advised of the procedures and advised about the possible

disciplinary outcomes and remedies which may be implemented following a determination of responsibility.

Upon filing of a formal complaint, the Title IX Coordinator will provide both parties with a Notice of Formal Complaint. The Notice of Formal Complaint will include the following:

- a. Supportive measures available
- b. Appeals procedures
- c. Notice of allegations in sufficient detail to allow the respondent to prepare a response
- d. Informal resolution process, if any
- e. A statement that the respondent is presumed not responsible for the conduct and responsibility will be determined at the conclusion of the grievance process
- f. The parties' right to be represented by an attorney or other representative
- g. The right to review and inspect the evidence
- h. Notice of any provision of the Code of Conduct that prohibits making false statements or providing false information during the grievance process
- i. The right to be notified of any new allegations occurring during the grievance process.

The Notice will be provided to the parties prior to the initial interview and early enough to allow the respondent to prepare a response to the complaint.

In evaluating complaints, the District adopts an evidentiary standard of preponderance of the evidence. The Title IX Coordinator may dismiss a complaint if the complaint does not constitute sexual harassment as defined by this policy, if the Title IX Coordinator receives a request for the complaint to be withdrawn, the respondent's employment or enrollment ends, or circumstances exist which prevent the District from gathering evidence.

Once a formal complaint is received, an investigation is triggered. The Title IX Coordinator may, but is not required to, act as investigator as long as no conflict of interest against either party exists. Other investigators may be appointed as needed. In conducting the investigation, the District must:

- a. Bear the responsibility for gathering the evidence and meeting the burden of proof;
- b. Provide both parties an equal opportunity to present witnesses and evidence;
- c. Refrain from restricting either party's ability to discuss the allegations or gather and present evidence;
- d. Provide both parties the same opportunity to have a representative present during the interview and subsequent hearing, if any;
- e. Provide both parties written notice of date, time, participants, purpose and location of any investigative interview, hearing or other meetings with sufficient time for the party to prepare;
- f. Provide both parties and representatives, if any, equal opportunity to review all the evidence that is directly related to the allegations in the formal complaint, including evidence the District does not rely on and any exculpatory or inculpatory evidence from any source. This evidence is to be provided at least 10

days prior to completion of the investigatory report and the parties may submit a written response which will be considered prior to completion of the investigation report.

Once the investigation is complete, the investigator must prepare a written investigative report and provide the report to the parties and representatives, if any, for their review and written response. The complaint, evidence, investigation report and any written responses must then go to a Decision maker for a determination regarding responsibility of the respondent for the conduct alleged.

At least 10 days prior to any hearing or other determination of responsibility by the Decision maker, each party has the opportunity to submit to the Decision maker relevant questions to be asked of another party or witness. The Decision maker will provide the answers and the parties will be given a follow-up opportunity for questions.

The Decision maker must be a person who is neither the Title IX Coordinator nor the investigator. Once the Decision maker reviews all the documentation, the Decision maker must issue a written response within 10 days of the last submission of documentation. The written decision must address the allegations, procedural steps taken, finding of facts, application of the Code of Conduct to the facts and a statement of and rationale for each allegation including determination of responsibility, disciplinary sanctions and whether remedies to restore or preserve equal access to the educational program will be provided.

Appeal of Decision

If either party is unhappy with the final determination of the complaint for the following reasons, the party may appeal:

- a. A procedural irregularity existed that affected the outcome of the investigation and final determination;
- b. New evidence has been discovered which was not reasonably available at the time of the determination and which could affect the outcome;
- c. There was a conflict of interest on the part of the Title IX Coordinator, investigator or Decision maker.

The appeal must be filed with the Title IX Coordinator within 10 days of the final written determination. Upon receipt of the written request for appeal, the Title IX Coordinator will notify both parties of the appeal and given them each an equal opportunity to submit in writing a statement in support of or challenging the final determination. Within 10 days of submission of statements, the appeal will be reviewed by a member of the District administration who is not the Title IX Coordinator, investigator or Decision maker and who does not have a conflict of interest. Within 10 days after receipt of the submissions, a written decision will be issued to both parties on the appeal.

If a party is not satisfied with the outcome of the appeal, either party may seek further legal remedies. Specifically, the New York State Human Rights Law protects employees, students, and non-employees from sexual harassment. Complaints may be filed with the Division of Human Rights or in New York State Supreme Court. Further, the United States Equal

Employment Opportunity Commission enforces federal discrimination laws, including Title VII of the Federal Civil Rights Act. Contact information is provided below.

New York State Division of Human Rights
1 Fordham Plaza, Fourth Floor
Bronx, NY 10458
(888) 392-3644

United States Equal Employment Opportunity Commission (EEOC)
1-800-669-4000
www.eeoc.gov

U.S. Department of Education
Office of Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202
(800) 872-5327
www.ed.gov

All records regarding the formal complaint, investigation, remedies, sanctions and appeals must be maintained by the District for at least 7 years.

Any District employee is prohibited from engaging in retaliation against any person involved in the complaint, the grievance process, appeal or investigation.

First Reading: September 16, 2020
Second Reading:
BOE Adoption:

POLICY 37A**PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY**

The District, in compliance with Education Law §2-d, provides the following:

DEFINITIONS:

As used in this policy, the following terms are defined:

Student Data means personally identifiable information from the student records of a District student.

Teacher or Principal Data means personally identifiable information from District records relating to the annual professional performance reviews of classroom teachers or Principals that is confidential and not subject to release under the provisions of Education Law §§3012-c and 3012-d.

Third-Party Contractor means any person or entity, other than a District, that receives student data or teacher or Principal data from the District pursuant to a contract or other written agreement for purposes of providing services to the District, including, but not limited to, data management or storage services, conducting studies for or on behalf of the District, or audit or evaluation of publicly funded programs. Such term shall include an educational partnership organization that receives student or teacher or Principal data from a school district to carry out its responsibilities pursuant to Education Law §211-e and is not a District, and a not-for-profit corporation or other nonprofit organization, other than a District.

1. Neither student data, nor teacher or Principal data will be sold or released for any commercial purpose;
2. Parents have the right to inspect and review the complete contents of their child's education records. Procedures for reviewing student records can be found in the Board Policy entitled (**insert title of FERPA policy**);
3. Security protocols regarding confidentiality of personally identifiable information are currently in place and the safeguards necessary to protect the confidentiality of student data are maintained at industry standards and best practices. The safeguards include, but are not limited to, encryption, firewalls, and password protection. As required by Education Law §2-d (5), the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1 (NIST Cybersecurity Framework or NIST CSF) is adopted as the standard for data security and privacy;

4. New York State maintains a complete list of all student data collected by the State and the data is available for public review at <http://www.p12.nysed.gov/irs/sirs/NYSEDDataElements2018.xlsx>, or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234;
5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to **(insert contact information)**;
6. The District will promptly acknowledge receipt of complaints, commence an investigation, and take the necessary precautions to protect personally identifiable information;
 - Following its investigation of a submitted complaint, the District shall provide the parent or eligible student with its findings within a reasonable period but no more than 60 calendar days from receipt of the complaint;
 - Where the District requires additional time, or where the response may compromise security or impede a law enforcement investigation, the District shall provide the parent or eligible student with a written explanation that includes the approximate date when the District anticipates that it will respond to the complaint;
 - The District will require complaints to be submitted in writing;
 - The District will maintain a record of all complaints of breaches or unauthorized releases of student data and their disposition in accordance with applicable data retention policies, including the Records Retention and Disposition Schedule ED-1;
7. This policy will be regularly updated with supplemental information for each contract the District enters into with a third-party contractor where the third-party contractor receives student data or teacher or Principal data. The supplemental information must be developed by the District and include the following information:

- the exclusive purposes for which the student data or teacher or Principal data will be used by the third-party contractor, as defined in the contract;
 - how the third-party contractor will ensure that the subcontractors, or other authorized persons or entities to whom the third-party contractor will disclose the student data or teacher or Principal data, if any, will abide by all applicable data protection and security requirements, including, but not limited to, those outlined in applicable State and federal laws and regulations (e.g., FERPA; Education Law §2-d);
 - the duration of the contract, including the contract’s expiration date and a description of what will happen to the student data or teacher or Principal data upon expiration of the contract or other written agreement (e.g., whether, when and in what format it will be returned to the District, and whether, when and how the data will be destroyed);
 - if and how a parent, student, eligible student, teacher or Principal may challenge the accuracy of the student data or teacher or Principal data that is collected;
 - where the student data or teacher or Principal data will be stored, it will be described in such a manner as to protect data security and the security protections taken to ensure that such data will be protected and data security and privacy risks mitigated; and how the data will be protected using encryption while in motion and at rest will be addressed.
8. This policy shall be published on the District’s website. This policy shall also be included with every contract the District enters with a third-party contractor where the third-party contractor receives student data or teacher or Principal data.

First Reading: May 16, 2018
 Second Reading: June 6, 2018
 BOE Adoption: June 6, 2018
 Revised: September 16, 2020