

SEXUAL HARASSMENT

The Board of Education is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of South Colonie'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 their supervisor or the Human Resources Department.

Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. This 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 "employee" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. 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 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, building principal, or the Assistant Superintendent for Human Resources. All 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.
4. 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.
5. 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.

6. 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.
7. Principals and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the Assistant Superintendent of Human Resources.
8. This policy must be provided to all employees. It should also be posted prominently and be provided to employees upon hiring.

What Is Sexual Harassment?

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

- 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; or
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

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.

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.

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.

Examples of 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.

Who Can Be a Target of Sexual Harassment?

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.

Where Can Sexual Harassment Occur?

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.

Retaliation

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).

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:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- 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
- encouraged a fellow employee to report harassment.

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.

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SEXUAL HARASSMENT REGULATION

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The District cannot prevent or remedy sexual harassment unless it knows about it. Any employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, principal or Assistant Superintendent of Human Resources. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, principal or Assistant Superintendent of Human Resources.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this policy. 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.

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

All supervisors and principals 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 Assistant Superintendent of Human Resources.

Complaint and Investigation of Sexual Harassment

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.

Employees who believe they have been subjected to sexual harassment are to report the incident to their immediate supervisor. Should the immediate supervisor be the alleged harasser, the report shall be made to the next level of management. Incidents of sexual harassment may be reported informally or through the filing of a formal complaint.

All reports of sexual harassment will be held in confidence subject to all applicable laws and any relevant provisions found in the District's collective bargaining agreements.

Consistent with federal and state law, and all applicable provisions contained in the District's collective bargaining agreements, the following procedures shall be employed in handling any report, investigation and remedial action concerning allegations of sexual harassment:

1. Informal Complaints

Employees who believe they have been subjected to sexual harassment may request that an informal meeting be held between themselves and the appropriate supervisor. The purpose of such a meeting will be to discuss the allegations and remedial steps available. The supervisor will then promptly discuss the complaint with the alleged harasser. Should the harasser admit the allegations, the supervisor is to obtain a written assurance that the unwelcome behavior will stop. Depending on the severity of the charges, the supervisor may recommend that further disciplinary action be taken. Thereafter, the supervisor is to prepare a written report of the incident and inform the complainant of the resolution. The complainant is to indicate on the supervisor's report whether or not he/she is satisfied with the resolution.

If the complainant is satisfied with the resolution, the incident will be deemed closed. However, the complaint may be reopened for investigation if a recurrence of sexual harassment is reported. The supervisor is to inform the complainant to report any recurrence of the harassment or any retaliatory action that might occur.

Should the complainant be dissatisfied with the resolution, he/she is to file a formal written complaint.

If, during the supervisor's informal attempt to resolve the complaint, the alleged harasser admits the allegations but refuses to give assurance that he/she will refrain from the unwelcome behavior, the supervisor is to file a report with the next appropriate level of management. The report is to indicate the nature of the complaint, a description of what occurred when the supervisor informed the alleged harasser of the allegations against him/her, the harasser's response to the allegations, and a recommendation that strong corrective measures be taken. This report should be accompanied by a formal complaint.

Should the alleged harasser deny the allegations, the supervisor is to inform the complainant of the denial and state that a formal written complaint will be required for further formal investigation. The supervisor will file a report with the next level of management on what has transpired to date. If the complainant submits a formal complaint, a copy of it should accompany the supervisor's report with a recommendation for further action.

2. Formal Complaints

Formal complaints may be submitted either to initially report any incidence of sexual harassment, or as a follow-up to an unsatisfactory resolution of an informal attempt to resolve a complaint. In the latter case, the formal written complaint is to be submitted to the supervisor originally consulted, who will then forward it to the next appropriate level of management, (e.g., the Assistant Superintendent of HR, the Assistant Superintendent for Management Services, or the Superintendent) for appropriate action.

The formal written complaint will consist of any appropriate forms and a copy of any applicable supervisor reports. The appropriate forms solicit the specifics of the complaint,

(e.g., date and place of incident, description of sexual misconduct, names of any witnesses) and any previous action taken to resolve the matter.

3. Investigating a Complaint

Upon receipt of a formal or informal complaint, a prompt, thorough and impartial investigation of the allegations must follow. This investigation is to be conducted diligently. Complainants are to be notified of the outcome of the investigation.

4. Remedial Action

If the investigation reveals that sexual harassment has occurred, appropriate sanctions will be imposed in a manner consistent with any applicable law and collective bargaining agreements. Depending on the gravity of the misconduct, these may range from a reprimand up to an including dismissal from employment. When applicable, any lost employment benefits or opportunities will be restored to the victim.

Anyone subjecting complainants or witnesses to any form of retaliation will also be subject to disciplinary action in the manner prescribed by law and consistent with any applicable provisions in the district's collective bargaining agreements.

If the investigation reveals that no sexual harassment has occurred, or if the complainant is not satisfied with the remedial action taken after a finding of sexual harassment, the complainant may appeal to the next appropriate level of management (e.g., the Superintendent or the Board of Education). The appeal must include a copy of the original complaint, all relevant reports, the specific action being appealed, and an explanation of why the complainant is appealing.

5. Post-Remedial Action

Following a finding of sexual harassment, victims will be periodically interviewed by the appropriate supervisory personnel to ensure that the harassment has not resumed and that no retaliatory action has occurred. These follow-up interviews will continue for an appropriate period of time. A report will be made of any victim's response.

Complaint Records

Complainants should receive a copy of any resolution reports filed by the supervisor concerning his/her complaint. Copies should also be filed with the employment records of both the complainant and the alleged harasser.

Investigation in the Absence of a Complaint

The Superintendent will, in the absence of a victim's complaint, ensure that an investigation is commenced by the appropriate individuals, upon learning of, or having reason to suspect, the occurrence of any sexual misconduct.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by the District but is also prohibited by state, federal, and, where applicable, local law.

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

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

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and 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.

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.

Complaining internally to the South Colonie Central School 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.

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

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual 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.

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: <https://dhr.ny.gov/>.

Contact DHR at (888) 392-3644 or visit <https://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.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal antidiscrimination 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.

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.

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 1-800-6694000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov/ or via email at info@eeoc.gov.

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

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

Contact the Local Police Department

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

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SEXUAL HARASSMENT COMPLAINT FORM – EMPLOYEE

Complainant: _____

Home Address: _____ Home Phone: _____

Work Address: _____ Work Phone: _____

Date(s) and time(s) of alleged incident(s): _____

Name of person you believe harassed you or another person: _____

If the alleged harassment was toward another person, identify that other person: _____

Describe the incident(s) as clearly as possible. Include a full description of the events, and verbal statements (i.e., threats, requests, demands, etc.), and what, if any, physical contact was involved. Attach additional pages as necessary. _____

Where did the incident occur? _____

List any witnesses who were present: _____

How did you or the person harassed (if not you) react to the harassment? _____

This complaint is based upon my honest belief that _____ has harassed me or another person. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge.

Complainant's Signature _____ Date _____

Received by _____ Date _____