

**DEER PARK SCHOOL DISTRICT  
BOARD OF EDUCATION  
WORK SESSION AGENDA  
ADMINISTRATION BUILDING - 7:30 p.m.  
TUESDAY- SEPTEMBER 10, 2024**



**NEW BUSINESS:**

**1. ADDITIONAL APPOINTMENTS TO THE DISTRICT WIDE SCHOOL SAFETY PLAN COMMITTEE**

*Recommend, that the Board of Education approve the following Resolution:*

**RESOLVED**, that additional members\* be added to the previously approved (7/9/24) DW School Safety Plan Committee:

Marguerite Jimenez	Donna Marie Elliott	Donna Gulli Grunseich
Jeff LaFlair	Steve Hampson	John Heeg
Kathy Ugalde	Dave DePrima	Annmarie Kennedy
Mariana Greico	Jessica Kalisiewicz	Ray Scotto *
Karen Camodeo *	Marlo Falco *	Pavan Sharma *

**2. AMENDMENT TO THE 403(b) ADOPTION AGREEMENT #04002**

*Recommend, that the Board of Education approve the following Resolution:*

**RESOLVED**, that the Board of Education approve the Agreement (amendment) to the 403(b) plan to allow for ROTH contributions.

**Be it FURTHER RESOLVED**, that the President of the Board of Education is authorized to sign this Agreement.

### **3. FIRST READING - POLICIES**

*Recommend, that the Board of Education approve the following Resolution:*

**RESOLVED**, that the Board of Education approve the first reading of the below listed policies:

**#0100** – Non-Discrimination and Equal Opportunity

**#0110** – Sexual Harassment

**#0110.2** – Sexual Harassment in the Workplace

**#0111** – Sexual Discrimination and Sex Based Harassment under Title IX

**#0111-E** – Sexual Discrimination and Sex Based Harassment Under Title IX Exhibit  
– Definitions

**#0115** – Student Harassment and Bullying Prevention and Intervention

**#0115-R**- Student Harassment and Bullying Prevention and Intervention  
Regulations

**#9520.6** – Policy on the Right of Employees to Express Breast Milk in the Workplace

### **AGENDA ITEMS:**

- School Opening

2  
3  
4 **NON-DISCRIMINATION AND EQUAL OPPORTUNITY**

5 The Board of Education, its officers and employees, will not discriminate in its  
6 programs and activities on the basis of legally protected classes, such as, but not  
7 limited to: race, (including traits historically associated with race, such as hair texture  
8 and protective hairstyles like braids, locks, and twists), color, national origin, creed,  
9 religion, (including religious practices), marital status, sex (including pregnancy,  
10 childbirth, or related medical condition), gender identity and expression (i.e., actual  
11 or perceived gender-related identity, appearance, behavior, expression, or other  
12 gender-related characteristic regardless of the sex assigned to that person at birth,  
13 including but not limited to the status of being transgender), age, sexual orientation,  
14 disability (physical or mental), predisposing genetic characteristic, military work or  
15 status, domestic violence victim status, or use of a guide dog, hearing dog, or service  
16 dog, as applicable. The district will provide notice of this policy in accordance with  
17 federal and state law and regulation.

18  
19 This policy of non-discrimination includes access by students to educational  
20 programs, counseling services for students, course offerings, and student activities, as  
21 well as recruitment and appointment of employees and employment pay, benefits,  
22 advancement and/or terminations.

23  
24 Employees also have protections under state law against discrimination on the basis  
25 of their familial status, reproductive healthcare decisions (their own or their  
26 dependents) and certain prior criminal history.

27  
28 Specific protections for students under the Dignity for All Students Act are  
29 addressed in policy 0115, Student Bullying and Harassment Prevention and  
30 Intervention. The district will follow the guidance from the State Education  
31 Department on creating a safe, supportive, and affirming school environment for  
32 transgender and gender-expansive students.

33  
34 As a condition of participation in federal meal programs, the district will post the  
35 following statement: "In accordance with federal civil rights law and U.S.  
36 Department of Agriculture (USDA) civil rights regulations and policies, this  
37 institution is prohibited from discriminating on the basis of race, color, national  
38 origin, sex (including gender identity and sexual orientation), disability, age, or  
39 reprisal or retaliation for prior civil rights activity." Discrimination complaint  
40 information is available at [https://www.fns.usda.gov/civil-rights/usda-](https://www.fns.usda.gov/civil-rights/usda-nondiscrimination-statement-other-fns-programs)  
41 [nondiscrimination-statement-other-fns-programs](https://www.fns.usda.gov/civil-rights/usda-nondiscrimination-statement-other-fns-programs).

42  
43 A finding that an individual has engaged in conduct in violation of this policy may  
44 result in disciplinary action and/or filing of a report with third parties in the manner  
45 prescribed by the district code of conduct, the law or applicable contract.

46  
47 Nothing in this policy will be construed to prohibit a denial of admission into, or  
48 exclusion from, a course of instruction or activity based on a person's gender that

49 would be permissible under the law, or to prohibit, as discrimination based on  
50 disability, actions that would be permissible under the law.

51  
52 ~~Additionally, to promote the district website's accessibility to staff, students, and~~  
53 ~~members of the community with disabilities, the district will maintain a website that~~  
54 ~~is accessible (or contains accessible alternatives) on perceivability, operability and~~  
55 ~~understandability principles. The district's District Administrator of Technology is~~  
56 ~~responsible for considering the following when developing or updating the district~~  
57 ~~website:~~

- 58  
59 ~~• Adding the text equivalent to every image;~~  
60 ~~• Posting documents in a text-based format such as HTML or RTF in addition~~  
61 ~~to PDFs;~~  
62 ~~• Avoiding dictating colors and font settings;~~  
63 ~~• Including audio descriptions and captions to videos;~~  
64 ~~• Identifying other barriers to access; and~~  
65 • Making other considerations when developing the district's website.

66  
67 To promote the accessibility of the district's website and social media to persons  
68 with disabilities, and as required by federal regulations implementing the Americans  
69 with Disabilities Act, the district's website content and mobile apps will conform to  
70 the WCAG 2.1 Level AA standard for accessibility on or after April 26, 2027. If a  
71 technical or legal limitation prevents accessibility, conforming alternate versions of  
72 web content may be used. Exceptions to this requirement are outlined in federal  
73 regulations 28 CFR Part 35, and includes certain archived web content, certain  
74 preexisting electronic documents, certain third-party content, individualized secured  
75 electronic documents, and preexisting social media posts). The district's Executive  
76 Director for Instructional Technology is responsible for addressing the accessibility  
77 of the district's website content and mobile apps.

#### 78 79 Annual Notification

80  
81 At the beginning of each school year, the district will publish a notice of the  
82 established grievance procedures for resolving complaints of discrimination to  
83 parents/guardians, employees, students, and the community. The public notice will:

- 84  
85 1. inform parents, employees, students and the community that education  
86 programs, including but not limited to vocational programs, are offered  
87 without regard to actual or perceived race, color, weight, national origin,  
88 ethnic group, religion, religious practice, disability, sex; sexual orientation, or  
89 gender (including gender identity and expression).  
90 2. provide the name, address and telephone number of the person designated to  
91 coordinate activities concerning discrimination; and  
92 3. be included in announcements, bulletins, catalogues, and applications made  
93 available by the district.  
94



95 Complaints of sex discrimination and sex-based harassment are addressed by the  
 96 district’s Title IX grievance procedure and will also be addressed by other district  
 97 policies if the conduct is not a violation of Title IX. ~~All~~ Complaints of  
 98 discrimination and harassment made by employees and applicants are addressed by  
 99 the process outlined in policy 0110.2, Sexual Harassment in the  
 100 Workplace. Complaints of discrimination and harassment by students are addressed  
 101 by the process outlined in policy 0115, Student Bullying and Harassment Prevention  
 102 and Intervention.

103  
 104 All complainants and those who participate in the investigation of a complaint in  
 105 conformity with state law and district policies, who have acted reasonably and in good  
 106 faith, have the right to be free from retaliation of any kind.

107  
 108 The Board authorizes the Superintendent of Schools to establish such rules,  
 109 regulations, and procedures necessary to implement and maintain this policy.

110  
 111 Cross-ref: 0110.2, Sexual Harassment in the Workplace  
 112 [0111, Sex Discrimination and Sex-Based Harassment Under Title IX](#)  
 113 0115, Student Bullying and Harassment Prevention and Intervention  
 114 5030, Student Complaints and Grievances  
 115 5300, Code of Conduct  
 116 9140.1, Staff Complaints and Grievances

117  
 118 Ref: Age Discrimination in Employment Act of 1967 29 U.S.C. §621 *et seq.*  
 119 Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*  
 120 Title VI, Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.* (nondiscrimination based on race, color, and national  
 121 origin in federally assisted programs)  
 122 Title VII, Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* (nondiscrimination based on race, color, and national  
 123 origin in employment)  
 124 Title IX, Education Amendments of 1972, 20 U.S.C. §1681 *et seq.* (nondiscrimination based on sex)  
 125 §504, Rehabilitation Act of 1973, 29 U.S.C. §794  
 126 Individuals with Disabilities Education Law, 20 U.S.C §§1400 *et seq.*  
 127 Genetic Information Nondiscrimination Act of 2008 P.L. 110-233  
 128 34 C.F.R. §§ 100.6, 104.8, 106.9, 110.25  
 129 Executive Law §290 *et seq.* (New York State Human Rights Law)  
 130 Education Law §§10-18 (The Dignity for All Students Act)  
 131 Education Law §§313(3), 3201, 3201-a  
 132 [ADA Best Practices Tool Kit for State and Local Governments, Website Accessibility Under Title II of the ADA](#)  
 133 [\(see Chapter 5 and Chapter 5 Addendum checklist\), www.ada.gov/pcatoolkit/toolkitmain.htm](#)  
 134 [Creating a Safe, Supportive, and Affirming School Environment for Transgender and](#)  
 135 [Gender Expansive Students: 2023 Legal Update and Best Practices,](#)  
 136 [https://www.nysed.gov/sites/default/files/programs/student-support-services/creating-a-safe-supportive-and-](https://www.nysed.gov/sites/default/files/programs/student-support-services/creating-a-safe-supportive-and-affirming-school-environment-for-transgender-and-gender-expansive-students.pdf)  
 137 [affirming-school-environment-for-transgender-and-gender-expansive-students.pdf](https://www.nysed.gov/sites/default/files/programs/student-support-services/creating-a-safe-supportive-and-affirming-school-environment-for-transgender-and-gender-expansive-students.pdf)

138  
 139  
 140  
 141 First Reading: March 23, 2010  
 142 Adoption Date: April 13, 2010  
 143 First Reading: June 5, 2012  
 144 Adoption Date: June 12, 2012  
 145 First Reading: January 10, 2017  
 146 Adoption Date: January 24, 2017  
 147 First Reading: July 6, 2021  
 148 Adoption Date: July 27, 2021  
 149 First Reading: September 26, 2023  
 150 Adoption Date: October 10, 2023  
 151 First Reading: September 10, 2024

## SEXUAL HARASSMENT

Sexual harassment is against federal and state law. The Board is committed to maintaining an educational and working environment free from such harassment, and therefore prohibits sexual harassment of students and employees in the district. The district will establish detailed policies and regulations for both students and employees which address definitions, protections, prohibited behavior (including retaliation), prevention activities, training/education, complaint reporting, investigations, and consequences.

Cross-ref:~~0110.1. Sexual Harassment of Students~~

0110.2. Sexual Harassment of Employees in the Workplace

~~0111. Sex Discrimination and Sex-Based Harassment Under Title IX~~~~0115. Student Bullying and Harassment Prevention and Intervention~~Ref:Education Amendments of 1972, Title IX, 20 U.S.C. §1681 *et seq.*; 34 CFR 106 *et seq.*Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 *et seq.*

Education Law §§10-18 (Dignity for All Students Act)

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

Labor Law §201-g (required workplace 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)*Cannon v. University of Chicago*, 441 U.S. 677 (1979)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: January 22, 2008

First Reading: July 31, 2012

Adoption Date: August 28, 2012

First Reading: November 15, 2016

Adoption: November 29, 2016

First Reading: January 8, 2019

Adoption Date: January 22, 2019

First Reading: September 26, 2019

Adoption Date: October 10, 2023

First Reading: September 10, 2024

## SEXUAL HARASSMENT IN THE WORKPLACE

### Purpose and Goals

The Deer Park UFSD (“the district”) is committed to maintaining a workplace free from harassment and discrimination. Sexual harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but the district recognizes that discrimination can be related to or affected by other identities beyond gender. Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, religion, citizenship/immigration status, military status, disability, pre-disposing genetic characteristics, familial status (including pregnancy, childbirth, or related medical condition), marital status, criminal history, or status as a victim of domestic violence. Our different identities impact our understanding of the world and how others perceive us. For example, an individual’s race, ability, or immigration status may impact their experience with gender discrimination in the workplace. While this policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. The purpose of this policy is to teach employees to recognize discrimination, including discrimination due to an individual’s intersecting identities, and provide the tools to take action when it occurs. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This policy is one component of the district’s commitment to a discrimination-free work environment.

#### *A. Goals of this Policy*

Sexual harassment and discrimination are against the law. After reading this policy, employees will understand their right to a workplace free from harassment. Employees will also learn what harassment and discrimination look like, what actions they can take to prevent and report harassment, and how they are protected from retaliation after taking action. The policy will also explain the investigation process into any claims of harassment. Employees are encouraged to report sexual harassment or discrimination by filing a complaint internally with the district. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws. To file an employment complaint with the New York State Division of Human Rights, please visit <https://dhr.ny.gov/complaint>. To file a complaint with the United States Equal Employment Opportunity Commission, please visit <https://www.eeoc.gov/filing-charge-discrimination>.

[The district is also required under the federal Title IX law and its implementing regulations to adopt a grievance procedure for addressing complaints of sex discrimination and sex-based](#)



44 [harassment. The Title IX regulations contain a definition of sex discrimination and sex-](#)  
45 [based harassment, and a standard under which complaints must be assessed, that is different](#)  
46 [from the one in state law and this policy. The district is required to address complaints that](#)  
47 [might constitute sex discrimination and sex-based harassment prohibited under Title IX](#)  
48 [pursuant to its grievance procedure. Because of this, any complaint of sexual harassment](#)  
49 [under this policy \(covered by state law\) should also be reviewed under the district's Title IX](#)  
50 [grievance procedure, either prior to or in tandem with this policy. See policy 0111 and](#)  
51 [regulation 0111-R.](#)

52  
53  
54 **Sexual Harassment and Discrimination Prevention Policy**

- 55
- 56 1. The district's policy applies to all employees, applicants for employment, and interns,  
57 whether paid or unpaid. The policy also applies to additional covered individuals. It  
58 applies to anyone who is (or is employed by) a contractor, subcontractor, vendor,  
59 consultant, or anyone providing services in the district. These individuals include  
60 persons commonly referred to as independent contractors, gig workers, and temporary  
61 workers. Also included are persons providing equipment repair, cleaning services, or  
62 any other services through a contract with the district. For the remainder of this  
63 policy, we will use the term "covered individual" to refer to these individuals who are  
64 not direct employees of the company.  
65
  - 66 2. Sexual harassment is unacceptable. Any employee or covered individual who engages  
67 in sexual harassment, discrimination, or retaliation will be subject to action, including  
68 appropriate discipline for employees. In New York, harassment does not need to be  
69 severe or pervasive to be illegal. Employees and covered individuals should not feel  
70 discouraged from reporting harassment because they do not believe it is bad enough,  
71 or conversely because they do not want to see a colleague fired over less severe  
72 behavior. Just as harassment can happen in different degrees, potential discipline for  
73 engaging in sexual harassment will depend on the degree of harassment and might  
74 include education and counseling. It may lead to suspension or termination when  
75 appropriate.  
76
  - 77 3. Retaliation is prohibited. Any employee or covered individual that reports an incident  
78 of sexual harassment or discrimination, provides information, or otherwise assists in  
79 any investigation of a sexual harassment or discrimination complaint is protected  
80 from retaliation. No one should fear reporting sexual harassment if they believe it has  
81 occurred. So long as a person reasonably believes that they have witnessed or  
82 experienced such behavior, they are protected from retaliation. Any employee of the  
83 district who retaliates against anyone involved in a sexual harassment or  
84 discrimination investigation will face disciplinary action, up to and including  
85 termination. All employees and covered individuals working in the workplace who  
86 believe they have been subject to such retaliation should inform a supervisor,



87 manager, an administrator in the district. All employees and covered individuals who  
88 believe they have been a target of such retaliation may also seek relief from  
89 government agencies, as explained below in the section on Legal Protections.

90  
91 4. Discrimination of any kind, including sexual harassment, is a violation of our  
92 policies, is unlawful, and may subject the district to liability for the harm experienced  
93 by targets of discrimination. Harassers may also be individually subject to liability  
94 and employers or supervisors who fail to report or act on harassment may be liable  
95 for aiding and abetting such behavior. Employees at every level who engage in  
96 harassment or discrimination, including managers and supervisors who engage in  
97 harassment or discrimination or who allow such behavior to continue, will be  
98 penalized for such misconduct.

99  
100 5. The district will conduct a prompt and thorough investigation that is fair to all parties.  
101 An investigation will happen whenever management receives a complaint about  
102 discrimination or sexual harassment, or when it otherwise knows of possible  
103 discrimination or sexual harassment occurring. The district will keep the investigation  
104 confidential to the extent possible. If an investigation ends with the finding that  
105 discrimination or sexual harassment occurred, the district will act as required. In  
106 addition to any required discipline, the district will also take steps to ensure a safe  
107 work environment for the employee(s) who experienced the discrimination or  
108 harassment. All employees, including managers and supervisors, are required to  
109 cooperate with any internal investigation of discrimination or sexual harassment.

110  
111 All employees and covered individuals are encouraged to report any harassment or  
112 behaviors that violate this policy. All employees will have access to a complaint form  
113 to report harassment and file complaints. Use of this form is not required. For anyone  
114 who would rather make a complaint verbally, or by email, these complaints will be  
115 treated with equal priority. An employee or covered individual who prefers not to  
116 report harassment to their manager or employer may instead report harassment to the  
117 New York State Division of Human Rights and/or the United States Equal  
118 Employment Opportunity Commission. Complaints may be made to both the employer  
119 and a government agency.

120  
121 Managers and supervisors are required to report any complaint that they receive, or any  
122 harassment that they observe or become aware of, to the Assistant Superintendent for  
123 PPS. This person must also notify the Title IX Coordinator to determine whether a  
124 Title IX complaint is warranted. If this person is also designated as the Title IX  
125 Coordinator, they must determine whether to proceed under Title IX either instead of  
126 or in addition to this policy.

127 6.  
128

129 7. This policy applies to all employees and covered individuals, such as contractors,  
130 subcontractors, vendors, consultants, or anyone providing services in the workplace,  
131 and all must follow and uphold this policy. This policy must be provided to all  
132 employees in person or digitally through email upon hiring and will be posted  
133 prominently in all work locations. For those offices operating remotely, in addition to  
134 sending the policy through email, it will also be available on the organization's shared  
135 network.

136

### 137 **What Is Sexual Harassment?**

138

139 Sexual harassment is a form of gender-based discrimination that is unlawful under federal,  
140 state, and (where applicable) local law. Sexual harassment includes harassment on the basis  
141 of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity,  
142 and the status of being transgender. Sexual harassment is not limited to sexual contact,  
143 touching, or expressions of a sexually suggestive nature. Sexual harassment includes all  
144 forms of gender discrimination including gender role stereotyping and treating employees  
145 differently because of their gender.

146

147 Understanding gender diversity is essential to recognizing sexual harassment because  
148 discrimination based on sex stereotypes, gender expression and perceived identity are all  
149 forms of sexual harassment. The gender spectrum is nuanced, but the three most common  
150 ways people identify are cisgender, transgender, and non-binary. A cisgender person is  
151 someone whose gender aligns with the sex they were assigned at birth. Generally, this gender  
152 will align with the binary of male or female. A transgender person is someone whose gender  
153 is different than the sex they were assigned at birth. A non-binary person does not identify  
154 exclusively as a man or a woman. They might identify as both, somewhere in between, or  
155 completely outside the gender binary. Some may identify as transgender, but not all do.  
156 Respecting an individual's gender identity is a necessary first step in establishing a safe  
157 workplace.

158

159 Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or  
160 privileges of employment. Harassment does not need to be severe or pervasive to be illegal.  
161 It can be any harassing behavior that rises above petty slights or trivial inconveniences.  
162 Every instance of harassment is unique to those experiencing it, and there is no single  
163 boundary between petty slights and harassing behavior. However, the Human Rights Law  
164 specifies that whether harassing conduct is considered petty or trivial is to be viewed from  
165 the standpoint of a reasonable victim of discrimination with the same protected  
166 characteristics. Generally, any behavior in which an employee or covered individual is  
167 treated worse because of their gender (perceived or actual), sexual orientation, or gender  
168 expression is considered a violation of the district's policy. The intent of the behavior, for  
169 example, making a joke, does not neutralize a harassment claim. Not intending to harass is  
170 not a defense. The impact of the behavior on a person is what counts. Sexual harassment

171 includes any unwelcome conduct which is either directed at an individual because of that  
172 individual's gender identity or expression (perceived or actual), or is of a sexual nature when:  
173

- 174 • The purpose or effect of this behavior unreasonably interferes with an individual's  
175 work performance or creates an intimidating, hostile or offensive work environment.  
176 The impacted person does not need to be the intended target of the sexual harassment.
- 177 • Employment depends implicitly or explicitly on accepting such unwelcome behavior.
- 178 • Decisions regarding an individual's employment are based on an individual's  
179 acceptance to or rejection of such behavior. Such decisions can include what shifts  
180 and how many hours an employee might work, project assignments, as well as salary  
181 and promotion decisions.

182

183 There are two main types of sexual harassment:

184

- 185 • Behaviors that contribute to a hostile work environment include, but are not limited  
186 to, words, signs, jokes, pranks, intimidation, or physical violence which are of a  
187 sexual nature, or which are directed at an individual because of that individual's sex,  
188 gender identity, or gender expression. Sexual harassment also consists of any  
189 unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory  
190 statements which an employee finds offensive or objectionable, causes an employee  
191 discomfort or humiliation, or interferes with the employee's job performance.
- 192 • Sexual harassment also occurs when a person in authority tries to trade job benefits  
193 for sexual favors. This can include hiring, promotion, continued employment or any  
194 other terms, conditions, or privileges of employment. This is also called quid pro quo  
195 harassment.

196

197 Any employee or covered individual who feels harassed is encouraged to report the behavior  
198 so that any violation of this policy can be corrected promptly. Any harassing conduct, even a  
199 single incident, can be discrimination and is covered by this policy.

200

#### 201 *A. Examples of Sexual Harassment*

202

203 The following describes some of the types of acts that may be unlawful sexual harassment  
204 and that are strictly prohibited. This list is just a sample of behaviors and should not be  
205 considered exhaustive. Any employee who believes they have experienced sexual  
206 harassment, even if it does not appear on this list, should feel encouraged to report it:

207

- 208 • Physical acts of a sexual nature, such as:

209

- 210 ○ Touching, pinching, patting, kissing, hugging, grabbing, brushing against another  
211 employee's body, or poking another employee's body.

- 212 ○ Rape, sexual battery, molestation, or attempts to commit these assaults, which may be  
213 considered criminal conduct outside the scope of this policy (please contact local law  
214 enforcement if you wish to pursue criminal charges).  
215
- 216 ● Unwanted sexual comments, advances, or propositions, such as:  
217
  - 218 ○ Requests for sexual favors accompanied by implied or overt threats concerning the  
219 target's job performance evaluation, a promotion, or other job benefits.
  - 220 ○ Subtle or obvious pressure for unwelcome sexual activities.
  - 221 ○ Repeated requests for dates or romantic gestures, including gift-giving.  
222
- 223 ● Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a  
224 person's sexuality, sexual experience, or romantic history which create a hostile work  
225 environment. This is not limited to interactions in person. Remarks made over virtual  
226 platforms and in messaging apps when employees are working remotely can create a  
227 similarly hostile work environment.  
228
- 229 ● Sex stereotyping, which occurs when someone's conduct or personality traits are judged  
230 based on other people's ideas or perceptions about how individuals of a particular sex  
231 should act or look:  
232
  - 233 ○ Remarks regarding an employee's gender expression, such as wearing a garment  
234 typically associated with a different gender identity.
  - 235 ○ Asking employees to take on traditionally gendered roles, such as asking a woman to  
236 serve meeting refreshments when it is not part of, or appropriate to, her job duties.  
237
- 238 ● Sexual or discriminatory displays or publications anywhere in the workplace, such as:  
239
  - 240 ○ Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading  
241 materials, or other materials that are sexually demeaning or pornographic. This  
242 includes such sexual displays on workplace computers or cell phones and sharing  
243 such displays while in the workplace.  
244
- 245 ● This also extends to the virtual or remote workspace and can include having such  
246 materials visible in the background of one's home during a virtual meeting.  
247
- 248 ● Hostile actions taken against an individual because of that individual's sex, sexual  
249 orientation, gender identity, or gender expression, such as:  
250 ○ Interfering with, destroying, or damaging a person's workstation, tools or  
251 equipment, or otherwise interfering with the individual's ability to perform the  
252 job.  
253 ○ Sabotaging an individual's work.  
254 ○ Bullying, yelling, or name-calling.



- 255 ○ Intentional misuse of an individual’s preferred pronouns.
- 256 ○ Creating different expectations for individuals based on their perceived
- 257 identities:
- 258     ▪ Dress codes that place more emphasis on women’s attire.
- 259     ▪ Leaving parents/caregivers out of meetings.
- 260

261 *B. Who Can be a Target of Sexual Harassment?*

262

263

264 Sexual harassment can occur between any individuals, regardless of their sex or gender.  
265 Harassment does not have to be between members of the opposite sex or gender. New York  
266 Law protects employees and all covered individuals described earlier in the policy. Harassers  
267 can be anyone in the workplace. A supervisor, a supervisee, or a coworker can all be  
268 harassers. Anyone else in the workplace can also be harassers including an independent  
269 contractor, contract worker, vendor, client, student, volunteer, parent, community member,  
270 board member, or visitor.

271  
272 Sexual harassment does not happen in a vacuum and discrimination experienced by an  
273 employee can be impacted by biases and identities beyond an individual’s gender. For  
274 example:

- 275
- 276 • Placing different demands or expectations on 2 different women employees from
- 277 different racial backgrounds can be both racial and gender discrimination.
- 278 • An individual’s immigration status may lead to perceptions of vulnerability and
- 279 increased concerns around illegal retaliation for reporting sexual harassment.
- 280 • Past experiences as a survivor of domestic or sexual violence may lead an individual
- 281 to feel re-traumatized by someone’s behaviors in the workplace.
- 282

283 Individuals bring personal history with them to the workplace that might impact how they  
284 interact with certain behavior. It is especially important for all employees to be aware of how  
285 words or actions might impact someone with a different experience than their own in the  
286 interest of creating a safe and equitable workplace.

287

288 *C. Where Can Sexual Harassment Occur?*

289

290 Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while  
291 employees are traveling for business or at employer or industry sponsored events or parties.  
292 Calls, texts, emails, and social media usage by employees or covered individuals can  
293 constitute unlawful workplace harassment, even if they occur away from the workplace  
294 premises, on personal devices, or during non-work hours.

295  
296 Sexual harassment can occur when employees are working remotely from home as well. Any  
297 behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or

298 unable to meet their job requirements constitute harassment even if the employee or covered  
299 individual is at home when the harassment occurs. Harassment can happen on virtual meeting  
300 platforms, in messaging apps, and after working hours between personal cell phones.

301

302 **Retaliation**

303

304 Retaliation is unlawful and is any action by an employer or supervisor that punishes an  
305 individual upon learning of a harassment claim, that seeks to discourage a worker or covered  
306 individual from making a formal complaint or supporting a sexual harassment or  
307 discrimination claim, or that punishes those who have come forward. These actions need not  
308 be job-related or occur in the workplace to constitute unlawful retaliation. For example,  
309 threats of physical violence outside of work hours or disparaging someone on social media  
310 would be covered as retaliation under this policy.

311

312 Examples of retaliation may include, but are not limited to:

313

- 314 • Demotion, termination, denying accommodations, reduced hours, or the assignment of  
315 less desirable shifts.
- 316 • Publicly releasing personnel files.
- 317 • Refusing to provide a reference or providing an unwarranted negative reference.
- 318 • Labeling an employee as “difficult” and excluding them from projects to avoid  
319 “drama”.
- 320 • Undermining an individual’s immigration status.
- 321 • Reducing work responsibilities, passing over for a promotion, or moving an  
322 individual’s desk to a less desirable office location.

323

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

327

- 328 • Made a complaint of sexual harassment or discrimination, either internally or with any  
329 government agency.
- 330 • Testified or assisted in a proceeding involving sexual harassment or discrimination  
331 under the Human Rights Law or any other anti-discrimination law.
- 332 • Opposed sexual harassment or discrimination by making a verbal or informal  
333 complaint to management, or by simply informing a supervisor or manager of  
334 suspected harassment.
- 335 • Reported that another employee has been sexually harassed or discriminated against;  
336 or
- 337 • Encouraged a fellow employee to report harassment.

338

339 Even if the alleged harassment does not turn out to rise to the level of a violation of law, the  
340 individual is protected from retaliation if the person had a good faith belief that the practices

341 were unlawful. However, the retaliation provision is not intended to protect persons making  
342 intentionally false charges of harassment. Intentionally false or malicious complaints of  
343 sexual harassment may result in corrective or disciplinary action taken against the  
344 complainant.

345

346 **Reporting Sexual Harassment**

347

348 Everyone must work toward preventing sexual harassment, but leadership matters.  
349 Supervisors and managers have a special responsibility to make sure employees feel safe at  
350 work and that workplaces are free from harassment and discrimination. Any employee or  
351 covered individual is encouraged to report harassing or discriminatory behavior to a  
352 supervisor, manager or administrator. Anyone who witnesses or becomes aware of potential  
353 instances of sexual harassment should report such behavior to a supervisor, manager, or the  
354 Director of Human Resources

355

356 Reports of sexual harassment may be made verbally or in writing. A written complaint form  
357 is attached to this policy if an employee would like to use it, but the complaint form is not  
358 required. Employees who are reporting sexual harassment on behalf of other employees may  
359 use the complaint form and should note that it is on another employee's behalf. A verbal or  
360 otherwise written complaint (such as an email) on behalf of oneself or another employee is  
361 also acceptable.

362

363 Employees and covered individuals who believe they have been a target of sexual harassment  
364 may at any time seek assistance in additional available forums, as explained below in the  
365 section on Legal Protections.

366

367 **Supervisory Responsibilities**

368

369 Supervisors and managers have a responsibility to prevent sexual harassment and  
370 discrimination. All supervisors and managers who receive a complaint or information about  
371 suspected sexual harassment, observe what may be sexually harassing or discriminatory  
372 behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are  
373 required to report such suspected sexual harassment to the Director of Human Resources.  
374 Managers and supervisors should not be passive and wait for an employee to make a claim of  
375 harassment. If they observe such behavior, they must act.

376

377 Supervisors and managers can be disciplined if they engage in sexually harassing or  
378 discriminatory behavior themselves. Supervisors and managers can also be disciplined for  
379 failing to report suspected sexual harassment or allowing sexual harassment to continue after  
380 they know about it.

381

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

383

384 While supervisors and managers have a responsibility to report harassment and  
385 discrimination, supervisors and managers must be mindful of the impact that harassment and  
386 a subsequent investigation has on victims. Being identified as a possible victim of harassment  
387 and questioned about harassment and discrimination can be intimidating, uncomfortable and  
388 re-traumatizing for individuals. Supervisors and managers must accommodate the needs of  
389 individuals who have experienced harassment to ensure the workplace is safe, supportive,  
390 and free from retaliation for them during and after any investigation.

391

392 **Bystander Intervention**

393

394 Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor  
395 or manager that is a bystander to harassment is required to report it. There are five standard  
396 methods of bystander intervention that can be used when anyone witnesses harassment or  
397 discrimination and wants to help.

398

- 399 1. A bystander can interrupt the harassment by engaging with the individual being  
400 harassed and distracting them from the harassing behavior.
- 401 2. A bystander who feels unsafe interrupting on their own can ask a third party to help  
402 intervene in the harassment.
- 403 3. A bystander can record or take notes on the harassment incident to benefit a future  
404 investigation.
- 405 4. A bystander might check in with the person who has been harassed after the incident,  
406 see how they are feeling and let them know the behavior was not ok.
- 407 5. If a bystander feels safe, they can confront the harassers and name the behavior as  
408 inappropriate. When confronting harassment, physically assaulting an individual is  
409 never an appropriate response.

410

411 Though not exhaustive, and dependent on the circumstances, the guidelines above can serve  
412 as a brief guide of how to react when witnessing harassment in the workplace. Any employee  
413 witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that  
414 is a bystander to harassment is required to report it.

415

416 **Complaints and Investigations of Sexual Harassment**

417

418 All complaints or information about sexual harassment will be investigated, whether that  
419 information was reported in verbal or written form. An investigation of any complaint,  
420 information, or knowledge of suspected sexual harassment will be prompt, thorough, and  
421 started and completed as soon as possible. The investigation will be kept confidential to the  
422 extent possible. All individuals involved, including those making a harassment claim,  
423 witnesses, and alleged harassers deserve a fair and impartial investigation.

424

425 Any employee may be required to cooperate as needed in an investigation of suspected  
426 sexual harassment. The district will take disciplinary action against anyone engaging in



427 retaliation against employees who file complaints, support another's complaint, or participate  
428 in harassment investigations.

429  
430 The district recognizes that participating in a harassment investigation can be uncomfortable  
431 and has the potential to retraumatize an employee. Those receiving claims and leading  
432 investigations will handle complaints and questions with sensitivity toward those  
433 participating.

434  
435 While the process may vary from case to case, investigations will be done in accordance with  
436 the following steps. Upon receipt of a complaint, the responding administrator:

- 437
- 438 1. Will conduct a prompt review of the allegations, assess the appropriate scope of the  
439 investigation, and take any interim actions (for example, instructing the individual(s)  
440 about whom the complaint was made to refrain from communications with the  
441 individual(s) who reported the harassment), as appropriate. If the complaint is verbal,  
442 request that the individual completes the complaint form in writing. If the person  
443 reporting prefers not to fill out the form, the administrator taking the complaint will  
444 prepare a complaint form or equivalent documentation based on the verbal reporting.  
445
  - 446 2. Will take steps to obtain, review, and preserve documents sufficient to assess the  
447 allegations, including documents, emails or phone records that may be relevant to the  
448 investigation. The responding administrator will consider and implement appropriate  
449 document request, review, and preservation measures, including for electronic  
450 communications.  
451
  - 452 3. Will seek to interview all parties involved, including any relevant witnesses.  
453
  - 454 4. Will create a written documentation of the investigation (such as a letter, memo or  
455 email), which contains the following:
    - 456 a. A list of all documents reviewed, along with a detailed summary of relevant  
457 documents.
    - 458 b. A list of names of those interviewed, along with a detailed summary of their  
459 statements.
    - 460 c. A timeline of events.
    - 461 d. A summary of any prior relevant incidents disclosed in the investigation, reported or  
462 unreported; and
    - 463 e. The basis for the decision and final resolution of the complaint, together with any  
464 corrective action(s).
  - 465
  - 466 5. Will keep the written documentation and associated documents in a secure and  
467 confidential location.  
468

- 469 6. Will promptly notify the individual(s) who reported the harassment and the  
470 individual(s) about whom the complaint was made that the investigation has been  
471 completed and implement any corrective actions identified in the written document.  
472
- 473 7. Will inform the individual(s) who reported of the right to file a complaint or charge  
474 externally as outlined in the next section.  
475

476 The district will retain the written documentation described above for a period of three years.  
477

478 **Appeals**

479  
480 Either party who is not satisfied with the outcome of the investigation may appeal to the  
481 Superintendent by submitting a written request within 15 calendar days of receiving  
482 notification of the outcome. The Superintendent will review the documentation from the  
483 initial complaint and will hold an informal hearing within 15 calendar days of the receipt of  
484 the appeal, where all involved parties may appear. The Superintendent will make a  
485 determination in writing within 15 calendar days of the hearing and notify the complainant  
486 and alleged harasser in writing of the determination, or that additional time is needed to  
487 complete the appeal.  
488

489 If the Superintendent is the subject of the complaint, the appeal must be filed with the Board  
490 President, who will refer the complaint to a trained investigator not employed by the district.  
491

492 **Legal Protections and External Remedies**

493  
494 Sexual harassment is not only prohibited by the district, but it is also prohibited by state,  
495 federal, and, where applicable, local law.  
496

497 The internal process outlined in the policy above is one way for employees to report sexual  
498 harassment. Employees and covered individuals may also choose to pursue legal remedies  
499 with the following governmental entities. While a private attorney is not required to file a  
500 complaint with a governmental agency, you may also seek the legal advice of an attorney.  
501

502 *A. New York State Division of Human Rights*

503  
504 The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 et seq.,  
505 applies to all employers in New York State and protects employees and covered individuals,  
506 regardless of immigration status. A complaint alleging violation of the Human Rights Law  
507 may be filed either with the New York State Division of Human Rights (DHR) or in New  
508 York State Supreme Court.  
509

510 Complaints of sexual harassment filed with DHR may be submitted any time within three  
511 years of the harassment. If an individual does not file a complaint with DHR, they can bring

512 a lawsuit directly in state court under the Human Rights Law, within three years of the  
513 alleged sexual harassment. An individual may not file with DHR if they have already filed a  
514 HRL complaint in state court.

515  
516 Complaining internally to the district does not extend your time to file with DHR or in court.  
517 The three years are counted from the date of the most recent incident of harassment.

518  
519 You do not need an attorney to file a complaint with DHR, and there is no cost to file with  
520 DHR.

521  
522 DHR will investigate your complaint and determine whether there is probable cause to  
523 believe that sexual harassment has occurred. Probable cause cases receive a public hearing  
524 before an administrative law judge. If sexual harassment is found at the hearing, DHR has the  
525 power to award relief. Relief varies but it may include requiring your employer to take action  
526 to stop the harassment, or repair the damage caused by the harassment, including paying of  
527 monetary damages, punitive damages, attorney's fees, and civil fines.

528  
529 DHR's main office contact information is: NYS Division of Human Rights, One Fordham  
530 Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit:  
531 [www.dhr.ny.gov](http://www.dhr.ny.gov).

532  
533 Go to [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint with DHR. The  
534 website has a digital complaint process that can be completed on your computer or mobile  
535 device from start to finish. The website has a complaint form that can be downloaded, filled  
536 out, and mailed to DHR as well as a form that can be submitted online. The website also  
537 contains contact information for DHR's regional offices across New York State.

538  
539 Call the DHR sexual harassment hotline at 1(800) HARASS3 for more information about  
540 filing a sexual harassment complaint. This hotline can also provide you with a referral to a  
541 volunteer attorney experienced in sexual harassment matters who can provide you with  
542 limited free assistance and counsel over the phone.

543  
544 *B. The United States Equal Employment Opportunity Commission*

545  
546 The United States Equal Employment Opportunity Commission (EEOC) enforces federal  
547 anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C.  
548 § 2000e et seq. An individual can file a complaint with the EEOC anytime within 300 days  
549 from the most recent incident of harassment. There is no cost to file a complaint with the  
550 EEOC. The EEOC will investigate the complaint and determine whether there is reasonable  
551 cause to believe that discrimination has occurred. If the EEOC determines that the law may  
552 have been violated, the EEOC will try to reach a voluntary settlement with the employer. If  
553 the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain  
554 cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue

555 permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable  
556 to determine if federal employment discrimination laws may have been violated, or believes  
557 that unlawful discrimination occurred by does not file a lawsuit.

558

559 Individuals may obtain relief in mediation, settlement, or conciliation. In addition, federal  
560 courts may award remedies if discrimination is found to have occurred. In general, private  
561 employers must have at least 15 employees to come within the jurisdiction of the EEOC.

562

563 An employee alleging discrimination at work can file a "Charge of Discrimination." The  
564 EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC  
565 by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov)  
566 or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

567

568 If an individual filed an administrative complaint with the New York State Division of  
569 Human Rights, DHR will automatically file the complaint with the EEOC to preserve the  
570 right to proceed in federal court.

571

#### 572 *C. Local Protections*

573

574 Many localities enforce laws protecting individuals from sexual harassment and  
575 discrimination. An individual should contact the county, city or town in which they live to  
576 find out if such a law exists. For example, employees who work in New York City may file  
577 complaints of sexual harassment or discrimination with the New York City Commission on  
578 Human Rights. Contact their main office at Law Enforcement Bureau of the NYC  
579 Commission on Human Rights, 22 Reade Street, 1st Floor, New York, New York; call 311 or  
580 (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

581

#### 582 *D. Contact the Local Police Department*

583

584 If the harassment involves unwanted physical touching, coerced physical confinement, or  
585 coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal  
586 charges are encouraged to contact their local police department.

587

#### 588 *E. Contact the District's Title IX Coordinator*

589

590 The district is required to address instances of sex discrimination and sex-based harassment  
591 which could be prohibited under Title IX and its regulations. Employees are encouraged to  
592 contact the district's Title IX Coordinator with complaints of sex discrimination and sex-  
593 based harassment.

594

#### 595 **Notice and Training**

596



597 The district will provide all existing employees with either a paper or electronic copy of the  
598 district's sexual harassment policy and regulation and will provide the same to new  
599 employees before the employee starts their job. These materials will be provided in English  
600 and in an employee's primary language, for those languages for which the NYS Department  
601 of Labor has provided a translated template policy.

602  
603 All new employees will receive training on this policy and regulation at new employee  
604 orientation or as soon as possible after starting their job, unless they can demonstrate that  
605 they have received equivalent training within the past year from a previous employer. All  
606 other employees will be provided with training at least once a year regarding this policy and  
607 the district's commitment to a harassment-free working environment. Principals and other  
608 administrative employees who have specific responsibilities for investigating and resolving  
609 complaints of sexual harassment will receive yearly training on this policy, regulation and  
610 related legal developments. Training will be provided in English and in an employee's  
611 primary language, for those languages for which the NYS Department of Labor has provided  
612 translated model training.

613  
614 Annual employee training programs will be interactive and include: (i) an explanation of  
615 sexual harassment consistent with guidance issued by the NYS Department of Labor and the  
616 NYS Division of Human Rights; (ii) examples of conduct that is unlawful sexual harassment;  
617 (iii) information on federal and state laws about sexual harassment and remedies available to  
618 victims of sexual harassment; (iv) information concerning employees' right to make  
619 complaints and all available forums for investigating complaints; and (v) address the conduct  
620 and responsibilities of supervisors.

## 621 **Conclusion**

622  
623  
624 The policy outlined above is aimed at providing district employees and covered individuals  
625 an understanding of their right to a discrimination and harassment free workplace. All  
626 employees should feel safe at work. Though the focus of this policy is on sexual harassment  
627 and gender discrimination, the New York State Human Rights law protects against  
628 discrimination in several protected classes including sex, sexual orientation, gender identity  
629 or expression, age, race, creed, color, national origin, military status, disability, pre-disposing  
630 genetic characteristics, familial status, marital status, criminal history, or domestic violence  
631 survivor status. The prevention policies outlined above should be considered applicable to all  
632 protected classes.

633  
634 [Cross-ref:](#)  
635 [9111, Sex Discrimination and Sex-Based Harassment Under Title IX](#)

636  
637 Ref:  
638 Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 et seq.  
639 Executive Law §296  
640 Executive Law §296-d (prohibition of sexual harassment of employees and non-employees)  
641 Labor Law §201-g (required workplace sexual harassment policy and training)  
642 Civil Practice Law and Rules §§5003-b (nondisclosure agreements optional); 7515 (mandatory arbitration prohibited)  
643 General Obligations Law §5-336 (nondisclosure agreements optional)

## DEER PARK

0110.2

- 644 *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)
- 645 *Burlington Industries v. Ellerth*, 524 U.S. 742 (1998)
- 646 *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)
- 647 *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986)
- 648
- 649
- 650 First Reading: September 26, 2023
- 651 Adoption Date: October 10, 2023
- 652 First Reading: September 10, 2024
- 653
- 654

2  
3  
4 **SEX DISCRIMINATION AND SEX-BASED HARRASSMENT UNDER**  
5 **TITLE IX**

6  
7 The district does not discriminate on the basis of sex and prohibits sex  
8 discrimination in all of its education programs and activities, as required by Title IX  
9 and its regulations. Such discrimination includes sex-based harassment. This policy  
10 and related procedures apply to all students, employees, and applicants for  
11 employment.

12  
13 Discrimination on the basis of sex includes discrimination on the basis of sex  
14 stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation,  
15 and gender identity.

16  
17 *Title IX Coordinator*

18  
19 The district will designate at least one employee as Title IX Coordinator to receive  
20 complaints of sex-based discrimination and harassment and coordinate the district's  
21 efforts to comply with Title IX and its regulations. If the district has more than one  
22 Title IX Coordinator, the district will designate one to have ultimate oversight over  
23 the district's Title IX responsibilities and ensure compliance with the law and its  
24 regulations.

25  
26 Students, employees and applicants may contact the Title IX Coordinator to make  
27 complaints about sex discrimination and sex-based harassment.

28  
29 *Grievance Procedures*

30  
31 The district will adopt, publish, and implement grievance procedures, consistent  
32 with the requirements of Title IX regulations, that provide for the prompt and  
33 equitable resolution of complaints made by students, employees, or other individuals  
34 who are participating or are attempting to participate in the district's programs or  
35 activities, or by the Title IX Coordinator, alleging any action that would be  
36 prohibited by Title IX or its regulations.

37  
38 *Notice*

39  
40 The district will provide notice of nondiscrimination, this policy, and its grievance  
41 procedures, to district students, the parents/guardians/other legal representatives of  
42 students, employees, applicants for employment, and collective bargaining  
43 units. The notice will include:

- 44  
45 1. A statement of nondiscrimination;  
46 2. A prohibition of discrimination;  
47 3. That questions about Title IX can be referred to the Title IX Coordinator, the  
48 U.S. Office of Civil Rights, or both;  
49 4. The name and contact information of the Title IX coordinator(s);  
50 5. How to locate this policy;

- 51 6. The district’s Title IX grievance procedure;
- 52 7. How to report information about conduct that may be sex discrimination
- 53 under Title IX; and
- 54 8. How to make a complaint of sex discrimination under Title IX and its
- 55 regulations.

56  
57 The district’s notice of nondiscrimination will be posted on its website and in each  
58 handbook, catalog, announcement, bulletin, and application form which are  
59 available to people who are entitled to notice, or otherwise used in connection with  
60 the recruitment of employees. However, due to the size or format of those  
61 publications, the district may instead include a statement that the district prohibits  
62 sex discrimination in its education programs and activities, that individuals may  
63 report concerns or questions to the Title IX Coordinator, and the location of the full  
64 notice on the district’s website.

65  
66 *Employee Requirements*

67  
68 All employees (except those designated as “confidential” under Title IX and those  
69 who have been personally subjected to conduct which may constitute sex  
70 discrimination under Title IX) are required to notify the Title IX Coordinator if they  
71 have information about conduct that reasonably may constitute sex discrimination  
72 under Title IX and its regulations.

73  
74 *Supportive Measures*

75  
76 The district will offer supportive measures to complainants or respondents in cases  
77 alleging sex discrimination and sex-based harassment, as required by Title IX’s  
78 regulations. Supportive measures may include, but are not limited to:

- 79
- 80 1. Counseling;
- 81 2. Extensions of deadlines and other course-related adjustments;
- 82 3. Escorts while on school grounds or activities;
- 83 4. Increased security and monitoring of certain areas of the district;
- 84 5. Restrictions on contact applied to one or more parties;
- 85 6. Leaves of absence;
- 86 7. Changes in class, work, or extracurricular or any other activity, regardless of
- 87 whether there is or is not a comparable alternative; and
- 88 8. Training and education programs related to sex-based harassment.

89  
90 *Emergency Removals and Administrative Leave*

91  
92 The district may remove a respondent from the district’s education program or  
93 activity on an emergency basis. To do so, the district must perform an individualized  
94 safety and risk analysis, determine that an imminent and serious threat to the health  
95 or safety of a complainant or any student, employee, or other person justifies  
96 removal, and provide the respondent with notice and opportunity to challenge the  
97 decision immediately following the removal. Any such removal will be in



98 accordance with the district's responsibilities under the Individuals with Disabilities  
99 Education Act, Section 504 of the Rehabilitation Act, the Americans with  
100 Disabilities Act, and state Education Law section 3214.

101  
102 The district may also place an employee respondent on administrative leave while  
103 the Title IX grievance process is pending. Any such leave will be in accordance with  
104 the district's responsibilities under the Individuals with Disabilities Education Act,  
105 Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, state  
106 Education Law section 3020-a, and state Civil Service Law Section 75.

107  
108 *Pregnancy and Related Conditions*

109  
110 Under Title IX regulations, "pregnancy or related conditions" means:

- 111
- 112 1. Pregnancy, childbirth, termination of pregnancy, or lactation;
  - 113 2. Medical conditions related to pregnancy, childbirth, termination of  
114 pregnancy, or lactation; or
  - 115 3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or  
116 related medical conditions.

117  
118 The district will not discriminate against students, employees, or applicants for  
119 employment based on their current, potential, or past pregnancy or related  
120 conditions.

121  
122 Under the Title IX regulations, the district has specific responsibilities regarding  
123 students who are pregnant or have related conditions:

- 124
- 125 1. Providing the student with the contact information of the Title IX  
126 Coordinator (required of all employees who are informed by the student or  
127 their legal representative of their pregnancy or related condition);
  - 128 2. Informing the student (and, if applicable, their legal representative who  
129 informed the Title IX Coordinator of the pregnancy or related conditions) of  
130 their rights under the Title IX regulations and the district's nondiscrimination  
131 notice;
  - 132 3. Making reasonable modifications, based on the student's needs and in  
133 consultation with the student, as long as they do not fundamentally alter the  
134 district's education program or activity (including but not limited to: health  
135 or lactation breaks, absences, online/homebound instruction, time  
136 extensions, sitting/standing, access to water, counseling, physical space or  
137 supply changes, elevator access, or changes to policies, practices or  
138 procedures);
  - 139 4. Allowing the student to voluntarily access separate programs and activities  
140 which are comparable to those offered to students who are not pregnant or  
141 have related conditions;
  - 142 5. Allowing the student to voluntarily take a leave of absence and to be  
143 reinstated to their academic and extracurricular (if possible) status when they  
144 return.

- 145 6. Providing access to a lactation space (other than a bathroom, which is clean,  
146 shielded from view, and free from intrusion from others) to express breast  
147 milk or breastfeed (if students are permitted to bring their children to the  
148 district’s program or activity);
- 149 7. Only requiring supporting documentation that is necessary and reasonable  
150 for the district to determine the reasonable modifications to make;
- 151 8. Providing medical services comparable to what the district would provide for  
152 other temporary medical conditions; and
- 153 9. Only requiring certification from a healthcare provider that the student is  
154 physically able to participate in the district’s education program or activity  
155 if: (a) a certain level of physical ability or health is necessary for  
156 participation; (b) all students participating in the class, program or activity  
157 are required to provide such certification; and (c) the information is not used  
158 as a basis for prohibited discrimination.

159  
160 The Title IX regulations require the district to provide reasonable break time and  
161 access to a lactation space for employees to express breast milk or breastfeed (if  
162 employees are permitted to bring their children to the district’s program or activity)  
163 as needed. Employees have specific rights to express breast milk under federal and  
164 state laws. See policy district policy 9520.6, Policy on the Rights of Employees to  
165 Express Breast Milk in the Workplace, for more information.

166  
167 *Training*

168  
169 The district will ensure that all employees receive training related to their duties  
170 under Title IX promptly upon hiring or change of position, and annually  
171 thereafter. Such training will include the district’s obligation to address sex  
172 discrimination, the scope of conduct that constitutes sex discrimination and sex-  
173 based harassment, and employee notification requirements under Title IX.

174  
175 Personnel in positions with additional responsibilities under Title IX will receive  
176 training specific to those responsibilities. Those positions include investigators,  
177 decisionmakers, persons who implement the district’s grievance procedures or can  
178 modify or terminate supportive measures, informal resolution facilitators (if the  
179 district offers informal resolution), and Title IX Coordinator(s) and designees.

180  
181 *Students with Disabilities*

182  
183 For students with disabilities who are either a complainant or respondent for a Title  
184 IX complaint, the Title IX Coordinator will consult with members of a student’s IEP  
185 or placement team to determine how to comply with the Individuals with  
186 Disabilities Education Act and/or Section 504 of the Rehabilitation Act of 1973.

187  
188 *Recordkeeping*

189  
190 The district will maintain for at least seven years:

191

- 192 1. All records documenting the information resolution or grievance procedures
- 193 for all complaints of sex discrimination, and the resulting outcome;
- 194 2. All records documenting the actions the district took in response to
- 195 notifications received by the Title IX Coordinator about conduct that
- 196 reasonably may constitute sex discrimination; and
- 197 3. All materials used to provide training under Title IX, which must be made
- 198 available to members of the public upon request.

199

200 *Related Laws and Policies*

201

202 Sex discrimination and sex-based harassment are also prohibited under other district  
 203 policies cross-referenced below. Complaints of sex-based discrimination and  
 204 harassment should be first reported to the Title IX Coordinator. If reported to  
 205 another employee, that employee is required to notify the Title IX Coordinator. If  
 206 the alleged conduct, even if it were true, would not meet the definition or standard  
 207 of sex-based discrimination or harassment under Title IX, the district will proceed  
 208 under other applicable policies. Any information gained during a Title IX  
 209 investigation can be used in the investigation of violations of other policies and  
 210 subsequent imposition of discipline. The Title IX Coordinator will facilitate the  
 211 transfer of information to employees designated to address violations of other  
 212 policies.

213

214 Additionally, if the Title IX coordinator has a reasonable suspicion that the alleged  
 215 harassment involves criminal activity, they must immediately notify the  
 216 Superintendent, who will then contact appropriate law enforcement authorities.

217

- 218 Cross-ref:  
 219 0100. Non-Discrimination and Equal Opportunity  
 220 0110 2. Sexual Harassment in the Workplace  
 221 0115. Student Harassment and Bullying Prevention and Intervention  
 222 5300. Code of Conduct  
 223 9520 6. Policy on the Rights of Employees to Express Breast Milk in the Workplace

224

- 225 Ref:  
 226 20 USC §§1681 et seq.  
 227 34 CFR Part 106

228

229 First Reading: September 10, 2024

230

231

232

233

2  
3  
4 **SEX DISCRIMINATION AND SEX-BASED HARRASSMENT UNDER**  
5 **TITLE IX EXHIBIT - DEFINITIONS**  
6

7 Definitions of the following terms are based on the federal regulations implementing  
8 Title IX (34 CFR §106.2):  
9

10 *Complainant* means:

- 11 1. A student or employee who is alleged to have been subjected to conduct that  
12 could constitute sex discrimination under Title IX or its regulations; or
- 13 2. A person other than a student or employee who is alleged to have been  
14 subjected to conduct that could constitute sex discrimination under Title IX  
15 or its regulations and who was participating or attempting to participate in  
16 the district's education program or activity at the time of the alleged sex  
17 discrimination.

18  
19 *Complaint* means an oral or written request to the district that objectively can be  
20 understood as a request for the district to investigate and make a determination  
21 about alleged discrimination under Title IX or its regulations.  
22

23 *Disciplinary sanctions* means consequences imposed on a respondent following a  
24 determination under Title IX that the respondent violated the district's prohibition  
25 on sex discrimination.  
26

27 *Party* means a complainant or respondent.  
28

29 *Relevant* means related to the allegations of sex discrimination under investigation  
30 as part of these grievance procedures. Questions are relevant when they seek  
31 evidence that may aid in showing whether the alleged sex discrimination occurred,  
32 and evidence is relevant when it may aid a decisionmaker in determining whether  
33 the alleged sex discrimination occurred.  
34

35 *Remedies* means measures provided, as appropriate, to a complainant or any other  
36 person the district identifies as having had their equal access to the district's  
37 education program or activity limited or denied by sex discrimination. These  
38 measures are provided to restore or preserve that person's access to the district's  
39 education program or activity after the district determines that sex discrimination  
40 occurred.  
41

42 *Respondent* means a person who is alleged to have violated the district's prohibition  
43 on sex discrimination.  
44

45 *Retaliation* means intimidation, threats, coercion, or discrimination against any  
46 person by the district, a student, or an employee or other person authorized by the  
47 district to provide aid, benefit, or service under the district's education program or  
48 activity, for the purpose of interfering with any right or privilege secured by Title IX  
49 or its regulations, or because the person has reported information, made a complaint,  
50 testified, assisted, or participated or refused to participate in any manner in an



51 investigation, proceeding, or hearing under the Title IX regulations.

52  
53 *Sex-based harassment* is a form of sex discrimination and means sexual harassment  
54 and other harassment on the basis of sex, including on the basis of sex stereotypes,  
55 sex characteristics, pregnancy or related conditions, sexual orientation, and gender  
56 identity, that is:

- 57 1. Quid pro quo harassment. An employee, agent, or other person authorized by  
58 the district to provide an aid, benefit, or service under the district's education  
59 program or activity explicitly or impliedly conditioning the provision of such  
60 an aid, benefit, or service on a person's participation in unwelcome sexual  
61 conduct;
- 62 2. Hostile environment harassment. Unwelcome sex-based conduct that, based  
63 on the totality of the circumstances, is subjectively and objectively offensive  
64 and is so severe or pervasive that it limits or denies a person's ability to  
65 participate in or benefit from the district's education program or activity (i.e.,  
66 creates a hostile environment). Whether a hostile environment has been  
67 created is a fact-specific inquiry that includes consideration of the  
68 following:
  - 69 a. The degree to which the conduct affected the complainant's ability to  
70 access the district's education program or activity;
  - 71 b. The type, frequency, and duration of the conduct;
  - 72 c. The parties' ages, roles within the district's education program or  
73 activity, previous interactions, and other factors about each party that  
74 may be relevant to evaluating the effects of the conduct;
  - 75 d. The location of the conduct and the context in which the conduct  
76 occurred; and
  - 77 e. Other sex-based harassment in the district's education program or  
78 activity; or
- 79 3. Specific offenses.
  - 80 a. Sexual assault meaning an offense classified as a forcible or  
81 nonforcible sex offense under the uniform crime reporting system of  
82 the Federal Bureau of Investigation;
  - 83 b. Dating violence meaning violence committed by a person:
    - 84 i. Who is or has been in a social relationship of a romantic or  
85 intimate nature with the victim; and
    - 86 ii. Where the existence of such a relationship shall be  
87 determined based on a consideration of the following factors:
      - 88 1. The length of the relationship;
      - 89 2. The type of relationship; and
      - 90 3. The frequency of interaction between the persons  
91 involved in the relationship;
  - 92 c. Domestic violence meaning felony or misdemeanor crimes  
93 committed by a person who:
    - 94 i. Is a current or former spouse or intimate partner of the victim  
95 under the family or domestic violence laws of the jurisdiction  
96 of the district, or a person similarly situated to a spouse of the  
97 victim;



- 98                    ii. Is cohabitating, or has cohabitated, with the victim as a
- 99                    spouse or intimate partner;
- 100                  iii. Shares a child in common with the victim; or
- 101                  iv. Commits acts against a youth or adult victim who is protected
- 102                  from those acts under the family or domestic violence laws of
- 103                  the jurisdiction; or
- 104                  d. Stalking meaning engaging in a course of conduct directed at a
- 105                  specific person that would cause a reasonable person to:
- 106                    i. Fear for the person’s safety or the safety of others; or
- 107                    ii. Suffer substantial emotional distress.
- 108

109 *Supportive measures* means individualized measures offered as appropriate, as  
110 reasonably available, without unreasonably burdening a complainant or respondent,  
111 not for punitive or disciplinary reasons, and without fee or charge to the complainant  
112 or respondent to:

- 113                  1. Restore or preserve that party’s access to the district’s education program or
- 114                  activity, including measures that are designed to protect the safety of the
- 115                  parties or the district’s educational environment; or
- 116                  2. Provide support during the district’s grievance procedures or during an
- 117                  informal resolution process.

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First Reading: September 10, 2024

123  
124



48 as the creation of a hostile environment by conduct or by threats, intimidation  
49 or abuse, including cyberbullying, that

50

51 a. has or would have the effect of unreasonably and substantially  
52 interfering with a student's educational performance, opportunities or  
53 benefits, or mental, emotional or physical well-being;

54 b. reasonably causes or would reasonably be expected to cause a student  
55 to fear for their physical safety;

56 c. reasonably causes or would reasonably be expected to cause physical  
57 injury or emotional harm to a student; or

58 d. occurs off school property and creates or would foreseeably create a  
59 risk of substantial disruption within the school environment, where it  
60 is foreseeable that the conduct, threats, intimidation or abuse might  
61 reach school property. The harassing behavior may be based on any  
62 characteristic, including but not limited to a person's actual or  
63 perceived:

64

65 • Race (including traits historically associated with race, including,  
66 but not limited to, hair texture and protective hairstyles such as but  
67 not limited to braids, locks, and twists),

68 • color,

69 • weight,

70 • national origin,

71 • ethnic group,

72 • religion,

73 • religious practice,

74 • disability,

75 • sex,

76 • sexual orientation, or

77 • gender (including gender identity and expression).

78

79 For the purpose of this definition the term "threats, intimidation or abuse" includes  
80 verbal and non-verbal actions.

81

82 In some instances, bullying or harassment may constitute a violation of an individual's  
83 civil rights. The district is mindful of its responsibilities under the law and in  
84 accordance with district policy regarding civil rights protections.

85

86 In order to streamline the wording of this policy and regulation the term bullying will  
87 be used throughout to encompass harassment, intimidation, cyberbullying and hazing  
88 behaviors.

89

### 90 Prevention

91

92 The school setting provides an opportunity to teach children, and emphasize among  
93 staff, that cooperation with and respect for others is a key district value. A program  
94 geared to prevention is designed to not only decrease incidents of bullying but to help

95 students build more supportive relationships with one another by integrating the  
96 bullying prevention program into classroom instruction. Staff members and students  
97 will be sensitized, through district-wide professional development and instruction, to  
98 the warning signs of bullying, as well as to their responsibility to become actively  
99 involved in the prevention of bullying before overt acts occur.

100

101 Curricular material that raises awareness and sensitivity to discrimination or  
102 harassment and civility in the relationships of people of different races, weights,  
103 national origins, ethnic groups, religions, religious practices, mental or physical  
104 abilities, sexual orientations, sexes or gender expression or identities will be included  
105 in the instructional program K-12.

106

107 In order to implement this program, the Board will designate at its annual  
108 organizational meeting a Dignity Act Coordinator (DAC) for each school in the  
109 district. One of the DAC's will be designated as the district-wide coordinator whose  
110 responsibilities are described in the accompanying regulation. The role of the DAC  
111 is to oversee and enforce this policy in the school to which they are assigned.

112

113 In addition, the Superintendent will establish a district-wide DAC Team as well as  
114 Bullying Prevention Coordinating Committees in each school that will be overseen  
115 by the district-wide DAC. Committees will include representation from staff,  
116 administration, students and parents. The district-wide task force and the school-level  
117 committee will assist the administration in developing and implementing specific  
118 prevention initiatives, including early identification of bullying and other strategies.  
119 In addition, the program will include reporting, investigating, remedying and tracking  
120 allegations of bullying. The accompanying regulation provides more detail on the  
121 specific programs and strategies implemented by the district.

122

### 123 Intervention

124

125 Intervention by adults and bystanders is an important step in preventing escalation  
126 and resolving issues at the earliest stages. Intervention will emphasize education and  
127 skill-building.

128

129 Successful intervention may involve remediation. Remedial responses to bullying  
130 and harassment include measures designed to correct the problem behavior, prevent  
131 another occurrence of the behavior and protect the target. Remediation may be  
132 targeted to the individual(s) involved in the bullying behavior or environmental  
133 approaches which are targeted to the school or district as a whole.

134

135 In addition, intervention will focus upon the safety of the target. Staff is expected,  
136 when aware of bullying, to either refer the student to designated resources for  
137 assistance, or to intervene in accordance with this policy and regulation.

138

139 Provisions for students who do not feel safe at school

140

141 The Board acknowledges that, notwithstanding actions taken by district staff,  
142 intervention may require a specific coordinated approach if the child does not feel  
143 safe at school. Students who do not feel safe at school are limited in their capacity to  
144 learn and reach their academic potential. Staff, when aware of bullying, should  
145 determine if accommodations are needed in order to help ensure the safety of the  
146 student and bring this to the attention of the building principal. The building principal,  
147 other appropriate staff, the student and the student's parent will work together to  
148 define and implement any needed accommodations.

149

150 The district recognizes that there is a need to balance accommodations which enhance  
151 student safety against the potential to further stigmatize the targeted student.  
152 Therefore, each case will be handled individually. The student, parent/guardian, and  
153 school administration will collaborate to establish safety provisions that best meet the  
154 needs of the targeted student. Follow-up discussion and/or meetings will be  
155 scheduled, as needed, to ensure that safety concerns have been adequately addressed  
156 and to determine when and if accommodations need to be changed or discontinued.

157

158 Incident Reporting and Investigation

159

160 Although it can be difficult to step forward, the district can't effectively address  
161 bullying if incidents are not reported. Students who have been bullied, parents whose  
162 children have been bullied or other students or staff who observe bullying behavior  
163 are encouraged and expected to make a verbal and/or written complaint to any school  
164 personnel in accordance with the training and guidelines provided. Staff who observe  
165 or learn of incident(s) of bullying are required, in accordance with State law, to make  
166 an oral report to building principal or DAC within one school day and to fill out the  
167 district reporting form within two school days. Staff who are unsure of the reporting  
168 procedure are expected to ask their supervisors how to proceed. District employees  
169 may be deemed to have permitted unlawful discrimination or harassment if they fail  
170 to report an observed incident, whether or not the target complains.

171

172 At all times, complaints will be documented, tracked and handled in accordance with  
173 the regulations and procedures accompanying this policy, or, if applicable, [0100,  
174 Equal Opportunity and Nondiscrimination, or 0110, Sexual Harassment] and the  
175 district's Code of Conduct. The building principal or DAC will prepare a report for  
176 the Superintendent based on complaints filed.

177

178 The district is also required under the federal Title IX law and its implementing  
179 regulations to adopt a grievance procedure for addressing complaints of sex  
180 discrimination and sex-based harassment. The Title IX regulations contain a  
181 definition of sex discrimination and sex-based harassment, and a standard under  
182 which complaints must be assessed, that is different from the one in state law and  
183 this policy. The district is required to address complaints that might constitute sex  
184 discrimination and sex-based harassment prohibited under Title IX pursuant to its  
185 grievance procedure. Because of this, any complaint of sexual harassment under



186 this policy (covered by state law) should also be reviewed under the district's Title  
187 IX grievance procedure, either prior to or in tandem with this policy. See policy  
188 0111 and regulation 0111-R.

189  
190

191 An equitable and thorough investigation will be carried out by the Building Principal  
192 or DAC in accordance with the accompanying regulation. In addition, the results of  
193 the investigation will be reported back to both the target and the accused as specified  
194 in the accompanying regulation. If either of the parties disagrees with the results of  
195 the investigation, they can appeal the findings in accordance with the regulations that  
196 accompany this policy. Verified bullying incidents that meet the criteria established  
197 by the state will be included in the statewide reporting system when applicable, in  
198 accordance with law and regulation.

199  
200  
201  
202  
203  
204

The Board will receive the annual SSEC (School Safety and Educational Climate)  
report, as well as any other state-required report relevant to bullying and/or school  
climate, for each building and for the district as whole. Based on the review of the  
data, the Board may consider further action, including but not limited to modification  
of this policy and additional training.

205

206 Disciplinary Consequences/Remediation

207

208 While the focus of this policy is on prevention, bullying acts may still occur. In these  
209 cases, offenders will be given the clear message that their actions are wrong and the  
210 behavior must improve. Student offenders will receive in-school guidance in making  
211 positive choices in their relationships with others. If appropriate, disciplinary action  
212 will be taken by the administration in accordance with the district's Code of Conduct,  
213 as applicable. If the behavior rises to the level of criminal activity, law enforcement  
214 will be contacted.

215

216 Consequences for a student who commits an act of bullying will be unique to the  
217 individual incident and will vary in method and severity according to the nature of the  
218 behavior, the developmental age of the student, and the student's history of problem  
219 behaviors, and must be consistent with the district's Code of Conduct.

220

221 Non-Retaliation

222

223 All complainants and those who participate in the investigation of a complaint in  
224 conformity with state law and district policies, who have acted reasonably and in good  
225 faith, have the right to be free from retaliation of any kind.

226

227 Training

228

229 The Board recognizes that in order to implement an effective bullying prevention and  
230 intervention program, professional development is needed. The Superintendent, the  
231 DAC and the DAC Team will incorporate training to support this program in new  
232 teacher orientation and the annual professional development plan, as needed.

233 Training opportunities will be provided for all staff, including but not limited to bus  
 234 drivers, cafeteria and hall monitors and all staff who have contact with students. The  
 235 DAC will be trained in accordance with state requirements and will continue their  
 236 professional development so as to successfully support this policy and program.

237

### 238 Dissemination, Monitoring, Review

239

240 This policy, or a plain language summary, will be published in student registration  
 241 materials, student, parent and employee handbooks, and posted on the district's  
 242 website. A bullying complaint form will be available on the district's website. The  
 243 district will ensure that the process of reporting bullying is clearly explained to  
 244 students, staff and parents on an annual basis.

245

246 Each year, as part of the annual review of the Code of Conduct, this policy will be  
 247 reviewed to assess its effectiveness and compliance with state and federal law. If  
 248 changes are needed, revisions will be recommended to the Board for its consideration.

249

250 The district will ensure that reporting of information to the public in conjunction with  
 251 this policy will be in a manner that complies with student privacy rights under the  
 252 Family Educational Rights and Privacy Act (FERPA).

253

254

255 Cross-ref: 0100, Equal Opportunity and Nondiscrimination  
 256 [0111, Sex Discrimination and Sex-Based Harassment Under Title IX](#)  
 257 4321, Programs for Students with Disabilities  
 258 5300, Code of Conduct  
 259 5710, Violent and Disruptive Incident Reporting  
 260 9700, Staff Development

261

262

263 Ref: Dignity for All Students Act, Education Law, §10 – 18  
 264 Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*  
 265 Title VI, Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*  
 266 Title VII, Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.*; 34 CFR §100 *et seq.*  
 267 Title IX, Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*  
 268 §504, Rehabilitation Act of 1973, 29 U.S.C. §794  
 269 Individuals with Disabilities Education Law, 20 U.S.C §§1400 *et seq.*  
 270 Executive Law §290 *et seq.* (New York State Human Rights Law)  
 271 Education Law §§313(3), 3201, 3201-a  
 272 8 NYCRR 100.2©, (l), (j), (k): 119.6  
 273 *Tinker v. Des Moines Independent Community School Dist.*, 393 US 503, (1969)  
 274 *Doninger v. Niehoff*, 527 F.3d 41 (2nd Cir. 2008)  
 275 *Pollnow v. Glennon*, 594 F.Supp. 220 224 aff'd 757 F.2d. 496  
 276 *Zeno v. Pine Plains* 702 F3rd 655 (2<sup>nd</sup> Cir. 2012)  
 277 *Cuff v. Valley Central School District* F3rd 109 (2<sup>nd</sup> Cir 2012)  
 278 *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999)  
 279 *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998)  
 280 *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)  
 281 *Burlington Industries v. Ellerth*, 524 U.S. 742 (1998)  
 282 *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)  
 283 *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992)  
 284 *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986)  
 285 Appeal of K.S., 43 Ed. Dept. Rep 492  
 286 Appeal of Ravick, 40 Ed. Dept. Rep 262  
 287 Appeal of Orman, 39 Ed. Dept. Rep. 811

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291

First Reading: December 7, 2010  
 Adoption Date: December 21, 2010

## DEER PARK

0115

292 First Reading: June 5, 2012  
293 Adoption Date: June 12, 2012  
294 First Reading: September 24, 2012  
295 Adoption Date: October 23, 2012  
296 First Reading: July 9, 2013  
297 Adoption Date: July 23, 2013  
298 First Reading: July 8, 2014  
299 Adoption Date: August 5, 2014  
300 Adoption Date: August 30, 2016  
301 Adoption Date: July 11, 2017  
302 First Reading: September 4, 2018  
303 Adoption Date: September 25, 2018  
304 Adoption Date: July 9, 2019  
305 Adoption Date: July 7, 2020  
306 First Reading: June 22, 2021  
307 Adoption Date: July 6, 2021  
308 Adoption Date: July 11, 2022  
309 Adoption Date: July 11, 2023  
310 Adoption Date: July 9, 2024  
311 [First Reading: September 10, 2024](#)

## STUDENT HARASSMENT AND BULLYING PREVENTION AND INTERVENTION REGULATION

The Board condemns and strictly prohibits all forms of discrimination, such as harassment, hazing, intimidation and bullying on school grounds, school buses and at all school-sponsored activities, programs and events. Discrimination, harassment, hazing or bullying that takes place at locations outside of school grounds, such as cyberbullying, which can be reasonably expected to materially and substantially interfere with the requirements of appropriate discipline in the operation of the school or impinge on the rights of other students are prohibited, and may be subject to disciplinary consequences.

### Definitions

#### 1. Bullying

Under the amended Dignity for All Students Act bullying and harassment are equivalent and used interchangeably. In order to facilitate implementation, provide meaningful guidance and prevent behaviors from rising to a violation of law, bullying is further understood to be a hostile activity which harms or induces fear through the threat of further aggression and/or creates terror. Bullying may be premeditated or a sudden activity. It may be subtle or easy to identify, done by one person or a group. Bullying often includes the following characteristics:

- Power imbalance - occurs when a bully uses their physical or social power over a target.
- Intent to harm - the bully seeks to inflict physical or emotional harm and/or takes pleasure in this activity.
- Threat of further aggression - the bully and the target believe the bullying will continue.
- Terror - when any bullying increases, it becomes a "systematic violence or harassment used to intimidate and maintain dominance."  
(Barbara Coloroso, *The Bully, The Bullied & The Bystander*, 2003)

There are at least three kinds of bullying: verbal, physical and social/relational.

- Verbal bullying (which can be delivered orally, electronically or in writing) includes name calling, insulting remarks, verbal teasing, frightening phone calls, violent threats, extortion, taunting, gossip, spreading rumors, racist slurs, anonymous notes, etc.
- Physical bullying includes poking, slapping, hitting, tripping or causing a fall, choking, kicking, punching, biting, pinching, scratching, spitting, twisting arms or legs, damaging clothes and personal property, or threatening gestures.
- Social or relational bullying includes excluding someone from a group, isolating, shunning, spreading rumors or gossiping, arranging public

46 humiliation, undermining relationships, teasing about clothing, looks, giving  
47 dirty looks, aggressive stares, etc.

48

49 The New York State Education Department provides further guidance on bullying  
50 and cyberbullying prevention on the following website:  
51 [http://www.p12.nysed.gov/technology/internet\\_safety/documents/cyberbullying.html](http://www.p12.nysed.gov/technology/internet_safety/documents/cyberbullying.html)

52

## 53 2. Discrimination

54

55 Discrimination is the act of denying rights, benefits, justice, equitable treatment or  
56 access to facilities available to all others, to an individual or group of people because  
57 of the group, class or category to which that person belongs (as listed under  
58 *Harassment* as defined below).

59

## 60 3. Harassment

61

62 Harassment has been defined in various ways in federal and state law (including the  
63 penal law) and regulation. The Board recognizes that these definitions are important  
64 standards, but the Board's goal is to prevent behaviors from escalating to violations  
65 of law and, instead, to promote a positive school environment and limit liability. The  
66 Dignity for All Students Act (§§10-18 of Education Law) defines harassment as the  
67 creation of a hostile environment by conduct or by threats, intimidation or abuse,  
68 including cyberbullying, that (a) has or would have the effect of unreasonably and  
69 substantially interfering with a student's educational performance, opportunities or  
70 benefits, or mental, emotional or physical well-being; (b) reasonably causes or would  
71 reasonably be expected to cause a student to fear for their physical safety; (c)  
72 reasonably causes or would reasonably be expected to cause physical injury or  
73 emotional harm to a student; or (d) occurs off school property and creates or would  
74 foreseeably create a risk of substantial disruption within the school environment,  
75 where it is foreseeable that the conduct, threats, intimidation or abuse might reach  
76 school property. The harassing behavior may be based on any characteristic, including  
77 but not limited to a person's actual or perceived:

78

- 79 • Race (including traits historically associated with race, including but not  
80 limited to hair texture and protective hairstyles (such as but not limited to  
81 braids, locks, and twists)),
- 82 • color,
- 83 • weight,
- 84 • national origin,
- 85 • ethnic group,
- 86 • religion,
- 87 • religious practice,
- 88 • disability,
- 89 • sex,
- 90 • sexual orientation, or
- 91 • gender (including gender identity and expression).



- 92       • Gender identity is one’s self-conception as being male or female, as  
93 distinguished from actual biological sex or sex assigned at birth.  
94       • Gender expression is the manner in which a person represents or expresses  
95 gender to others, often through behavior, clothing, hairstyles, activities,  
96 voice or mannerisms.

97  
98 For purposes of this definition, the term "threats, intimidation or abuse" includes verbal  
99 and non-verbal actions.

100

### 101 Hazing

102

103 Hazing is an induction, initiation or membership process involving harassment which  
104 produces public humiliation, physical or emotional discomfort, bodily injury or public  
105 ridicule or creates a situation where public humiliation, physical or emotional  
106 discomfort, bodily injury or public ridicule is likely to occur.

107

### 108 Prevention

109

110 Prevention is the cornerstone of the district’s effort to address bullying and  
111 harassment. The components of such an effort involve the following:

112

- 113       • Following the principles and practices of “*Educating the Whole Child*  
114 *Engaging the Whole School: Guidelines and Resources for Social and*  
115 *Emotional Development and Learning (SEDL) in New York State –*  
116 *Adopted by the Board of Regents July 18, 2011.*” District curriculum will  
117 emphasize developing empathy, tolerance and respect for others.  
118       • Learning about and identifying the early warning signs and precursor  
119 behaviors that may lead to bullying.  
120       • Gathering information about bullying at school directly from students  
121 (through surveys and other mechanisms); analyzing and using the data  
122       • Gathered to assist in decision-making about programming and resource  
123 allocation.  
124       • Establishing clear school wide and classroom rules about bullying  
125 consistent with the district’s code of conduct.  
126       • Training adults in the school community to respond sensitively and  
127 consistently to bullying.  
128       • Raising awareness among adults, through training, of the school  
129 experiences of marginalized student populations (as enumerated in the  
130 *Definitions* section above), social stigma in the school environment,  
131 gender norms in the school environment, and strategies for disrupting  
132 bullying, intimidation, harassment or other forms of violence.  
133       • Providing adequate supervision, particularly in less structured areas such  
134 as in the hallways, cafeteria, school bus and playground.  
135       • Raising parental awareness and involvement in the prevention program  
136 and in addressing problems.

- 137           • Using educational opportunities or curriculum, including, if applicable,  
138           the Individual Educational Program (IEP), to address the underlying  
139           causes and impact of bullying.

140

141       The Superintendent will appoint a district-wide bullying prevention committee,  
142       chaired by the district wide DAC. The committee will include representation from  
143       staff, administration, students and parents. The committee will assist with the  
144       development and implementation of the prevention and intervention program, which  
145       may include the strategies listed above. Building-level committees will be appointed  
146       by the building principal and will include representation from staff, administration,  
147       students and parents associated with that building.

148

#### 149       Role of the Dignity Act Coordinator (DAC)

150

151       The Board of Education will annually designate a staff member, who has been  
152       thoroughly trained in human relations in the areas of race, color, weight, national  
153       origin, ethnic group, religion, religious practice, disability, sexual orientation, gender  
154       (including gender identity and expression), and sex, as the Dignity Act Coordinator  
155       (DAC) for each school, accountable for implementation of this policy. In addition,  
156       one will be designated as the district-wide coordinator who will be responsible for  
157       ensuring equivalency in programming across buildings. The building-level DAC will  
158       be responsible for coordinating and enforcing this policy and regulation in each school  
159       building, including but not limited to coordination of:

160

- 161           • the work of the building-level committees;
- 162           • professional development for staff members and,
- 163           • the complaint process, and
- 164           • management of the Dignity Act's civility curriculum components.

165

#### 166       Incident(s) Reporting

167

168       In order for the Board to effectively enforce this policy and to take prompt corrective  
169       measures, it is essential that all targets and persons with knowledge of bullying report  
170       such behavior immediately to the principal, the principal's designee or the Dignity  
171       Act Coordinator as soon as possible after the incident so that it may be effectively  
172       investigated and resolved. The district will also make a bullying complaint form  
173       available on its website to facilitate reporting. The district will collect relevant data  
174       from written and verbal complaints to allow for systematic reporting.

175

176       Staff who observe or learn of incident(s) of bullying are required, in accordance with  
177       State law, to orally report it to building principal or DAC within one school day and  
178       to fill out the district reporting form within two school days. Staff who are unsure of  
179       the reporting procedure are expected to ask their supervisors how to proceed. District  
180       employees may be deemed to have permitted unlawful discrimination or harassment  
181       if they fail to report an observed incident, whether or not the target complains.

182  
183 Students who are targets of discrimination and harassment may also file a complaint  
184 with the New York State Division of Human Rights (DHR) to allege a violation of  
185 the state Human Rights Law Article 15. Complaints about acts that occurred on or  
186 after 2/15/24 must be filed within three years of the act (complaints about acts that  
187 occurred before 2/15/24 must be filed within one year of the act). Go to  
188 dhr.ny.gov/complaint for more information about filing a complaint with DHR.  
189 Students may alternately file a Human Rights Law complaint in state court.

190  
191 For incidents that involve sex discrimination and/or sex-based harassment, staff must  
192 also notify the Title IX Coordinator to determine whether a Title IX complaint is  
193 warranted. If the Dignity Act Coordinator is also designated as the Title IX  
194 Coordinator, they must determine whether to proceed under Title IX either instead of  
195 or in addition to this policy.

196  
197 The district will thoroughly, promptly and equitably investigate all complaints, formal  
198 or informal, verbal or written. To the extent possible, all complaints will be treated in  
199 a confidential manner, although limited disclosure may be necessary to complete a  
200 thorough investigation.

201  
202 In order to assist investigators, individuals should document the bullying as soon as it  
203 occurs and with as much detail as possible including: the nature of the incident(s);  
204 dates, times, places it has occurred; name of perpetrator(s); witnesses to the  
205 incident(s); and the target's response to the incident.

#### 206 207 Confidentiality

208  
209 It is district policy to respect the privacy of all parties and witnesses to bullying. To  
210 the extent possible, the district will not release the details of a complaint or the identity  
211 of the complainant or the individual(s) against whom the complaint is filed to any  
212 third parties who do not need to know such information. However, because an  
213 individual's desire for confidentiality must be balanced with the district's legal  
214 obligation to provide due process to the accused, to conduct a prompt and thorough  
215 investigation, and/or to take necessary action to resolve the complaint, the district  
216 retains the right to disclose the identity of parties and witnesses to complaints in  
217 appropriate circumstances to individuals with a need to know. The staff member  
218 responsible for investigating complaints will discuss confidentiality standards and  
219 concerns with all complainants.

220  
221 If a complainant requests that their name not be revealed to the individual(s) against  
222 whom a complaint is filed, the staff member responsible for conducting the  
223 investigation will inform the complainant that:

- 224  
225 1. the request may limit the district's ability to respond to the complaint;  
226 2. district policy and federal law prohibit retaliation against complainants and  
227 witnesses;

- 228 3. the district will attempt to prevent any retaliation; and  
 229 4. the district will take strong responsive action if retaliation occurs.

230

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

235

236 Investigation and Resolution Procedure

237

238 A. Initial (Building-level) Procedure

239

240 Whenever a complaint of bullying is received whether verbal or written, it will be  
 241 subject to a thorough preliminary review and investigation. Except in the case of  
 242 severe or criminal conduct, the principal, the principal's designee or the Dignity Act  
 243 Coordinator will make all reasonable efforts to resolve complaints informally at the  
 244 school level. The goal of informal procedures is to end the bullying, prevent future  
 245 incidents, ensure the safety of the target and obtain a prompt and equitable resolution  
 246 to a complaint.

247

248 As soon as possible, but no later than three school days following receipt of a  
 249 complaint, the principal, the principal's designee or the Dignity Act Coordinator will  
 250 begin an investigation of the complaint by:

251

- 252 • Reviewing any written documentation provided by the target(s).
- 253 • Conducting separate interviews of the target(s), alleged perpetrator(s), and  
 254 witnesses, if any, and documenting the conversations.
- 255 • Providing the alleged perpetrator(s) a chance to respond and notify them that  
 256 if objectionable behavior has occurred, it must cease immediately. The  
 257 individual will be made aware of remediation opportunities as well as potential  
 258 disciplinary consequences.
- 259 • Determining whether the complainant needs any accommodations to ensure  
 260 their safety, and following up periodically until the complaint has been  
 261 resolved. Accommodations may include, but are not limited to:

262

- 263 ○ A "permanent" hall pass that allows the student to visit a designated  
 264 adult at any time;
- 265 ○ Access to private bathroom facilities;
- 266 ○ Access to private locker room facilities;
- 267 ○ An escort during passing periods;
- 268 ○ If the student feels unsafe in a specific class, an opportunity for  
 269 individual tutoring or independent study until the case is resolved;
- 270 ○ An opportunity for independent study at home with district-provided  
 271 tutor until the case is resolved;

- 272                   ○ Permission to use personal cell phone in the event that the student feels  
273                   threatened and needs immediate access to parent or guardian;  
274                   ○ Assignment of a bus monitor.

275  
276 The district recognizes that there is a need to balance accommodations which enhance  
277 student safety against the potential to further stigmatize the targeted student.  
278 Therefore, each case will be handled individually, and the student, parent/guardian,  
279 and school administration will collaborate to establish safety provisions that best meet  
280 the needs of the targeted student. Follow-up discussion and/or meetings will be  
281 scheduled, as needed, to ensure that safety concerns have been adequately addressed  
282 and to determine when and if accommodations need to be changed or discontinued.

283  
284 Parents of student targets and accused students should be notified within one school  
285 day of allegations that are serious or involve repeated conduct.

286  
287 Where appropriate, informal methods may be used to resolve the complaint, including  
288 but not limited to:

- 289                   a. discussion with the accused, informing them of the district's policies  
290                   and indicating that the behavior must stop;  
291                   b. suggesting counseling, skill building activities and/or sensitivity  
292                   training;  
293                   c. conducting training for the department or school in which the behavior  
294                   occurred, calling attention to the consequences of engaging in such  
295                   behavior;  
296                   d. requesting a letter of apology to the target;  
297                   e. writing letters of caution or reprimand; and/or  
298                   f. separating the parties.  
299

300  
301 Appropriate disciplinary action will be recommended and imposed in accordance with  
302 district policy, the applicable collective bargaining agreement or state law. The  
303 district will make every effort to attempt to first resolve the misconduct through non-  
304 punitive measures.

305  
306 The investigator will report back to both the target and the accused, within one week  
307 notifying them in writing, and also in person, as appropriate, regarding the outcome  
308 of the investigation and the action taken to resolve the complaint. The actions taken  
309 will be in conformance with the *Remediation/Discipline/Penalties* section of this  
310 regulation. The target will be asked to report immediately if the objectionable  
311 behavior occurs again or if the alleged perpetrator retaliates against them.

312  
313 If a complaint contains evidence or allegations of serious or extreme bullying, or a  
314 civil rights violation, the complaint will be referred promptly to the Superintendent.  
315 The complainant will also be advised of other avenues to pursue their complaint,  
316 including contact information for state and federal authorities.  
317



318 In addition, where the principal, the principal's designee or the Dignity Act  
319 Coordinator has a reasonable suspicion that the alleged bullying incident involves  
320 criminal activity, they must immediately notify the Superintendent, who will then  
321 contact the school attorney, appropriate child protection and, if appropriate, law  
322 enforcement authorities.

323

324 Any party who is not satisfied with the outcome of the initial investigation may  
325 request a district-level investigation by submitting a written complaint to the  
326 Superintendent within 30 days.

327

#### 328 B. District-level Procedure

329

330 The Superintendent or designee will promptly investigate and equitably resolve all  
331 bullying complaints that are referred to them, as well as those appealed to the  
332 Superintendent following an initial investigation. In the event the complaint involves  
333 the Superintendent, the complaint will be filed with or referred to the Board President,  
334 who will refer the complaint to an appropriate independent individual for  
335 investigation.

336

337 The district level investigation should begin as soon as possible but not later than three  
338 school days following receipt of the complaint by the Superintendent or Board  
339 President.

340

341 In conducting the formal district level investigation, the district will endeavor to use  
342 individuals who have received formal training regarding such investigations or that  
343 have previous experience investigating such complaints.

344

345 If a district level investigation results in a determination that bullying did occur,  
346 prompt corrective action will be taken to end the misbehavior in accordance with the  
347 *Remediation/Discipline/Penalties* section of this regulation.

348

349 No later than 30 days following receipt of the complaint, the Superintendent (or in  
350 cases involving the Superintendent, the Board-appointed investigator) will notify the  
351 target and alleged perpetrator, in writing, of the outcome of the investigation. If  
352 additional time is needed to complete the investigation or take appropriate action, the  
353 Superintendent or Board-appointed investigator will provide all parties with a written  
354 status report within 30 days following receipt of the complaint.

355

356 Any party who is not satisfied with the outcome of the district-level investigation may  
357 appeal to the Board of Education by submitting a written request to the Board  
358 President within 30 days.

359

#### 360 C. Board-level Procedure

361

362 When a request for review by the Board has been made, the Superintendent will  
363 submit all written statements and other materials concerning the case to the President  
364 of the Board.

365  
366 The Board will notify all parties concerned of the time and place when a hearing will  
367 be held. Such hearing will be held within 15 school days of the receipt of the request  
368 of the complainant.

369  
370 The Board will render a decision in writing within 15 days after the hearing has been  
371 concluded.

372  
373 The district will retain documentation associated with complaints and investigations  
374 in accordance with Schedule LGS-1.

375  
376 Retaliation Prohibited

377  
378 Any act of retaliation against any person who opposes bullying behavior, or who has  
379 filed a complaint, is prohibited and illegal, and therefore subject to disciplinary action.  
380 Likewise, retaliation against any person who has testified assisted, or participated in  
381 any manner in an investigation, proceeding, or hearing of a bullying complaint is  
382 prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal  
383 or physical threats, intimidation, ridicule, bribes, destruction of property, spreading  
384 rumors, stalking, harassing phone calls, and any other form of harassment. Any person  
385 who retaliates is subject to immediate disciplinary action up to and including  
386 suspension or termination.

387  
388 Remediation/Discipline/Penalties

389  
390 Any individual who violates this policy by engaging in bullying will be subject to  
391 appropriate action, which may include disciplinary action. Remedial responses to  
392 bullying include measures designed to correct the problem behavior, prevent another  
393 occurrence of the behavior, and protect the target of the act. Appropriate remedial  
394 measures may include, but are not limited to:

- 395
- 396 • Restitution and restoration;
  - 397 • Peer support group;
  - 398 • Corrective instruction or other relevant learning or service experience;
  - 399 • Changes in class schedule
  - 400 • Supportive intervention;
  - 401 • Behavioral assessment or evaluation;
  - 402 • Behavioral management plan, with benchmarks that are closely monitored;
  - 403 • Student counseling;
  - 404 • Parent conferences; or
  - 405 • Student treatment or therapy.
- 406

407 Environmental remediation may include, but is not limited to:

408

409 • School and community surveys or other strategies for determining the  
410 conditions contributing to the relevant behavior;

411 • Modification of schedules;

412 • Adjustment in hallway traffic and other student routes of travel;

413 • Targeted use of monitors;

414 • Parent education seminars/workshops;

415 • Peer support groups.

416

417 Disciplinary measures available to school authorities include, but are not limited to  
418 the following:

419

420 Students: Discipline may range from a reprimand up to and including suspension  
421 from school, to be imposed consistent with the Code of Conduct and applicable law.

422

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

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

427

428 Vendors: Penalties may range from a warning up to and including loss of district  
429 business.

430

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

433

#### 434 Policy Dissemination

435

436 All students and employees will be informed of this policy in student and employee  
437 handbooks, on the district website and student registration materials. A poster  
438 summarizing the policy will also be posted in a prominent location at each school.

439

440 All employees will receive information about this policy and regulation at least once  
441 a year.

442

443 Principals in each school will be responsible for informing students and staff on a  
444 yearly basis of the terms of this policy, including the procedures for filing a complaint  
445 and information about the impact of bullying on the target and bystanders.

446

#### 447 Training

448

449 Training needs in support of this bullying prevention and intervention program will  
450 be reflected in the district's annual professional development plan, new teacher  
451 orientation, in curriculum and will be considered in the budget process. The DAC(s),

452 administrative employees and other staff, such as counselors or social workers who  
453 have specific responsibilities for investigating and/or resolving complaints of bullying  
454 will receive yearly training to support implementation of this policy, regulation and  
455 on related legal developments.

456

457

458 First Reading: December 7, 2010

459 Adoption Date: December 21, 2010

460 First Reading: June 5, 2012

461 Adoption Date: June 12, 2012

462 First Reading: September 24, 2012

463 Adoption Date: October 23, 2012

464 First Reading: July 9, 2013

465 Adoption Date: July 23, 2013

466 First Reading: July 8, 2014

467 Adoption Date: August 5, 2014

468 Adoption Date: August 30, 2016

469 Adoption Date: July 11, 2017

470 Adoption Date: July 9, 2019

471 Adoption Date: July 7, 2020

472 First Reading: June 22, 2021

473 Adoption Date: July 6, 2021

474 Adoption Date: July 11, 2022

475 Adoption Date: July 11, 2023

476 Adoption Date: July 9, 2024

477 First Reading: September 10, 2024





46

47 All employers must continue to follow existing federal and state laws, regulations,  
48 and guidance regarding [mealtimes and](#) paid ~~and unpaid~~ break time ~~and meal times~~  
49 regardless of whether the employee uses such time to express breast milk. For  
50 additional information regarding what constitutes a meal period or a break period  
51 under state and federal law, please see the following resources:

52

- 53 • NY Department of Labor Website on Day of Rest, Break Time, and Meal  
54 Periods: [dol.ny.gov/day-rest-and-meal-periods](http://dol.ny.gov/day-rest-and-meal-periods)
- 55 • NY Department of Labor FAQs on Meal and Rest Periods:  
56 [dol.ny.gov/system/files/documents/2021/03/meal-and-rest-periods-](http://dol.ny.gov/system/files/documents/2021/03/meal-and-rest-periods-frequently-asked-questions.pdf)  
57 [frequently-asked-questions.pdf](http://dol.ny.gov/system/files/documents/2021/03/meal-and-rest-periods-frequently-asked-questions.pdf)
- 58 • U.S. Department of Labor FLSA FAQ on Meal and Rest Periods:  
59 [dol.gov/agencies/whd/fact-sheets/22-flsa-hours-worked](http://dol.gov/agencies/whd/fact-sheets/22-flsa-hours-worked)
- 60 • U.S. Department of Labor FLSA Fact Sheet on Compensation for Break  
61 Time to Pump Breast Milk: [dol.gov/agencies/whd/fact-sheets/73-flsa-break-](http://dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers)  
62 [time-nursing-mothers](http://dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers)

63

64 While an employer cannot require that an employee works while expressing breast  
65 milk, ~~nothing in~~ Labor Law 206-c ~~prevents~~ [does not otherwise prevent](#) an employee  
66 from voluntarily choosing to do so [if they want to](#). ~~Time working while expressing~~  
67 ~~breast milk must be compensated.~~

68

69 ~~Un~~Paid breaks provided for the expression of breast milk must be ~~at least twenty~~  
70 ~~30~~ minutes. ~~However, if the designated lactation room where such break will be~~  
71 ~~taken is not close to an employee's work station, the provided break must be at least~~  
72 ~~thirty minutes.~~ An employee must be allowed to [use regular break or meal time to](#)  
73 take a longer unpaid break if needed. Employees may also opt to take shorter unpaid  
74 breaks. Employees who work remotely have the same rights to unpaid time off for  
75 the purpose of expressing breast milk, as all other employees who perform their  
76 work in-person.

77

#### 78 *Making a Request to Express Breast Milk at Work*

79

80 If an employee wants to express breast milk at work, they ~~need to~~ [must](#) give  
81 ~~employers~~ [the employer](#) reasonable advance notice, generally before returning to the  
82 workplace if the employee is on leave. This advance notice is to allow ~~employers~~  
83 [the employer](#) the time to find an appropriate location and adjust schedules if needed.  
84 Employees wishing to request a room or other location to express breast milk in the  
85 workplace should do so by submitting a written request to their direct supervisor or  
86 individual designated by their employer for processing requests. Employers must  
87 respond to this request for a room or other location to express breast milk in writing  
88 within five days. Employers must notify all employees in writing through email or  
89 printed memo when a room or other location has been designated for breast milk  
90 expression.

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135

*Lactation Room Requirements*

In addition to providing the necessary time during the workday, employers must provide a private room or alternative location for the purpose of breast milk expression. The space provided for breast milk expression cannot be a restroom or toilet stall.

The room or other location must:

- Be close to an employee’s work area
- Provide good natural or artificial light
- Be private – both shielded from view and free from intrusion
- Have accessible, clean running water nearby
- Have an electrical outlet (if the workplace is supplied with electricity)
- Include a chair
- Provide a desk, small table, desk, counter or other flat surface

There does not need to be a separate space for every nursing employee. An employer may dedicate a single room or other location for breast milk expression. Should there be more than one employee at a time needing access to a lactation room, an employer may dedicate a centralized location to be used by all employees.

Any space provided for breast milk expression must be close to the work area of the employee(s) using the space. The space must be in walking distance, and the distance to the location should not significantly extend an employee(s) needed break time.

Employers located in shared work areas, such as office buildings, malls and similar spaces may work together to establish and maintain a dedicated lactation room, as long as such space(s) are a reasonable distance from the employees using the room. Each employer utilizing this common space is individually responsible for making sure the room meets the needs of their employees.

If there is not a separate room or space available for lactation, an employer may use a vacant office or other available room on a temporary basis. This room must not be accessible to the public or other employees while an employee is using it for breast milk expression.

As a last resort, an available cubicle may be used for breast milk expression. A cubicle can only be used if it is fully enclosed with a partition and is not otherwise accessible to the public or other employees while being used for breast milk expression. The cubicle walls must be at least seven feet tall to insure the employee’s privacy.

136 To ensure privacy, if the lactation room has a window, it must be covered with a  
137 curtain, blind or other covering. In addition, the lactation space should have a door  
138 equipped with a functional lock. If this is not possible (such as in the case of a fully  
139 enclosed cubicle), as a last resort, an employer must utilize a sign advising the space  
140 is in use and not accessible to other employees or the public.

141  
142 If the workplace has a refrigerator, employers must allow employees to use it to  
143 store breast milk. However, employers are not responsible for ensuring the  
144 safekeeping of expressed milk stored in any refrigerator in the workplace.  
145 Employees are required to store all expressed milk in closed containers and bring  
146 milk home each evening.

147  
148 The space designated for expressing breast milk must be maintained and clean at all  
149 times.

150  
151 If an employer can demonstrate undue hardship in providing a space with the above  
152 requirements, the employer must still provide a room or other location - other than a  
153 restroom or toilet stall - that is in close proximity to the work area where an  
154 employee can express breast milk in privacy, that meets as many of the requirements  
155 as possible. Undue hardship is defined in the statute as “causing significant  
156 difficulty or expense when considered in relation to the size, financial resources,  
157 nature, or structure of the employer’s business.” However, an employer may not  
158 deny an employee the right to express breast milk in the workplace due to difficulty  
159 in finding a location.

160  
161 *New York State Department of Labor Resources*

162  
163 If an employee believes that they are experiencing retaliation for expressing breast  
164 milk in the workplace, or that their employer is in violation of this policy, they  
165 should contact the New York State Department of Labor’s Division of Labor  
166 Standards. Call us at 1-888-52-LABOR, email us at [LSAsk@labor.ny.gov](mailto:LSAsk@labor.ny.gov), or visit  
167 [the nearest Labor Standards office our website at dol.ny.gov/breast-milk-expression-](https://dol.ny.gov/breast-milk-expression-workplace)  
168 [workplace](https://dol.ny.gov/breast-milk-expression-workplace) to **personally** file a complaint.

169  
170 A list of our offices is available at [dol.ny.gov/location/contact-division-labor-](https://dol.ny.gov/location/contact-division-labor-standards)  
171 [standards](https://dol.ny.gov/location/contact-division-labor-standards). Complaints are confidential.

172  
173 *Federal Resources*

174  
175 The federal PUMP Act went into effect in 2023, expanding protections for almost  
176 all employees expressing breast milk at work. Under the PUMP Act, any covered  
177 workers not provided with breaks and adequate space for up to a year after the birth  
178 of a child are able to file a complaint with the U.S. Department of Labor or file a  
179 lawsuit against their employers. For more information, please visit  
180 [dol.gov/agencies/whd/pump-at-work](https://dol.gov/agencies/whd/pump-at-work).

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Ref:  
29 USC §218d (Breastfeeding Accommodations in the Workplace)  
Labor Law §206-c  
First Reading: December 19, 2023  
Adoption Date: January 23, 2024  
First Reading: September 10, 2024