

## SEXUAL HARASSMENT OF EMPLOYEES

It is the policy of the Mount Pleasant Cottage School Union Free School District to prohibit sexual harassment and/or gender-based harassment in the workplace consistent with guidance issued by the New York State Department of Labor in consultation with the New York State Division of Human Rights. Sexual harassment is a form of workplace discrimination. To that end, all officers, supervisory personnel and employees of the District shall be given a copy of this policy and be provided with training regarding its terms, procedures, protections and penalties. This policy applies to all employees, applicants for employment, interns (whether paid or unpaid), contractors, persons conducting business with the District, students, their parents and visitors.

### Definitions

**Sexual harassment** is defined as discrimination against a person of a different or the same sex because of their actual or perceived sex and/or gender, sexual orientation or transgender status which creates a hostile learning or school environment, including, but not limited to:

- unwelcome sexual advances;
- requests for sexual favors, and/or other verbal and physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or affects the operation of the workplace; or
- creating an intimidating, hostile, or offensive work environment.

**Quid pro quo sexual harassment** is that which threatens the loss of employment or a change in working conditions, including promotion, demotion, work assignment, extra-earnings opportunities and extra assignments based upon submission to or rejection of unwelcome sexual conduct by an individual.

**Hostile work environment** is unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, affecting the operation of the workplace, or creating an intimidating, hostile, or offensive working environment.

**Gender-based harassment** is defined as pervasive and/or severe conduct intended to intimidate or demean a person or persons of the same or opposite gender or conduct that which treats a person of that gender differently in the workplace because of his or her gender, gender identity and/or gender expression.

The District is committed to providing a workplace that is free from sexual harassment. Sexual harassment in the workplace is against the law and will not be tolerated. When the

District determines that an allegation of sexual harassment is credible, it will take prompt and appropriate corrective action.

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

Certain behaviors, such as conditioning promotions, awards, training or other job benefits upon acceptance of unwelcome actions of a sexual nature, are always wrong.

Actions such as the following are inappropriate and, depending on the circumstances, may in and of themselves meet the definition of sexual harassment or contribute to a hostile work environment:

- Sexual pranks, or repeated sexual teasing, jokes, or innuendo, in person or via electronic/digital communication;
- Verbal abuse of a sexual nature;
- Touching or grabbing of a sexual nature;
- Repeatedly standing too close to or brushing up against a person;
- Repeatedly asking a person to socialize during off-duty hours when the person has said no or has indicated he or she is not interested (supervisors in particular should be careful not to pressure their employees to socialize);
- Giving gifts or leaving objects that are sexually suggestive;
- Repeatedly making sexually suggestive gestures;
- Making or posting sexually demeaning or offensive pictures, cartoons or other materials in the workplace;
- Off-duty, unwelcome conduct of a sexual nature that affects the work environment.

A victim of sexual harassment can be a man or a woman. The victim can be of the same sex as the harasser. The harasser can be a supervisor, co-worker, other department employee, or a non-employee who has a business relationship with the District.

Sexual harassment is not limited to the physical workplace and can occur while traveling on District business or at District sponsored events and activities. Telephone calls, texts, emails and social media usage by employees can constitute workplace harassment even if they occur away from the workplace or before or after work hours.

### **Title VII/IX Officers**

The District's Title VII/IX Officers are the Interim Superintendent of Schools and the Director of Student Services. They are charged with investigating and/or overseeing the investigation of sexual or gender-based harassment complaints. The District's Title VII/IX Officers can be reached by calling 914-769-0456 or by mail: District Office, 1075 Broadway PO Box 8, Pleasantville, NY 10570; or by email at the following email addresses: [sbeovich@mpcsny.org](mailto:sbeovich@mpcsny.org) and [mlee@mpcsny.org](mailto:mlee@mpcsny.org).

### **Procedure**

Any employee who believes that he or she has been subjected to sexual harassment or gender based harassment by an officer, supervisor, business invitee, student or by another employee is encouraged to address the matter with a supervisor or one of the District's Title VII/IX Officers. Any employee who believes that another employee has been subjected to such harassment must report the matter to a supervisor or one of the District's Title VII/IX Officers. A supervisor is required to advise a Title VII/IX Officer of any complaint brought forward. Upon receipt of a complaint, whether filed verbally or in writing, the intake Title VII/IX Officer shall promptly conduct an intake interview and explain the following options for resolution:

- (1) Registering an informal complaint verbally or in writing; or
- (2) Registering a formal complaint verbally or in writing; or
- (3) Engaging in voluntary facilitated mediation to arrive at a resolution of the matter (this shall not be utilized when allegations involve sexual violence or sexual assault); or
- (4) Placing the District on notice of the objectionable conduct without seeking a resolution through the complaint process or mediation.

The intake Title VII/IX Officer will also explain that the complaining employee and those participating in the investigation shall not be subject to retaliation or retribution by reason of making the complaint or participating and that confidentiality shall be maintained throughout the process by all involved, except as necessary to assure fair and due process. The complaining employee and participating employees and/or students shall be encouraged to immediately notify the Title VII/IX officer if they feel they are being retaliated against. Where feasible, complainants will be separated from the alleged harasser to allow for a full and fair investigation and to prevent ongoing harassment during the pendency of the investigation.

### **Informal Complaints**

An informal complaint will be promptly reviewed by an intake Title VII/IX Officer, who shall issue a written report to the Superintendent within seven (7) calendar days. The Superintendent shall take such further action necessary to reasonably deter any further act prohibited by this policy. Such further action may include referring the matter to a Title VII/IX Investigator as if it had been filed as a formal complaint.

### **Formal Complaints**

All formal complaints shall be received in writing or reduced to writing by an intake Title VII/IX Officer who shall, personally or by reference to a designee on the Board's approval list, conduct a full and fair impartial investigation of the complaint, which will include providing the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence, make written findings of fact and, where warranted, recommend a resolution to the Superintendent of schools within thirty (30) calendar days of the initial report received either verbally or in writing. The evidentiary standard used during the investigation for a determination that harassment occurred is a preponderance of the evidence standard. The

Superintendent shall advise the complainant and the subject of the complaint in writing of the disposition of the complaint, that may include:

- (1) A finding that this policy has not been violated; or
- (2) A finding that this policy has been violated and appropriate corrective, disciplinary and/or other action has been taken; or
- (3) That disciplinary action has been taken or, where pre-disciplinary charges must be preferred, that they have been preferred in order to convene a disciplinary hearing.

### **Alternates**

The Board shall appoint more than one Title VII/IX Officers and several designated Title VII/IX formal complaint investigators. Complainant will have a choice of which Title VII/IX Officer to approach regarding a Title VII/IX complaint. If the complaint is about the Superintendent, the Board shall stand in the Superintendent's place for review activities as described above with respect to informal and formal complaints.

The Superintendent shall take such further action necessary to reasonably deter and prevent the recurrence of any further acts prohibited by this policy. Such further action may include:

- (1) Separating the harasser and the victim (in a way that does not adversely impact the victim's employment);
- (2) Providing counseling to the target and/or harasser;
- (3) Disciplinary action against the harasser;
- (4) Reviewing any disciplinary action taken against the complainant to determine if there was a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined;
- (5) Providing education and training on sex and/or gender-based harassment;
- (6) Directing the victim in writing to immediately report any new concerns or incidents of harassment and/or retaliation by the perpetrator(s) or others
- (7) Providing a written directive to those involved in the investigation/allegations of the prohibitions against further harassment and/or retaliation against the victim and others for their role in cooperating in the investigation.

### **Appeal of Formal Complaints**

If a formal complaint has not been processed to a satisfactory disposition by the Superintendent within thirty (30) calendar days of when the complaint is received in writing by the Title VII/IX Officer, unless extended with the written consent of the complainant, following request by the Title VII/IX officer and/or investigator and this timeline has been extended by the Superintendent with the written consent of the complainant, the complainant

or alleged perpetrator(s) may appeal in writing to the Board to address the failure and direct an expedited investigation with report back to the Board within fifteen (15) calendar days. Regarding matters that have been timely investigated to conclusion, a written appeal to the Board must be made by the complainant or the subject of the complaint within thirty (30) calendar days of being informed of the findings upon the allegations in the complaint. The Board shall render a written decision on such an appeal within thirty (30) calendar days. In cases in which the Board serves as an alternate, there shall be no internal appeals process.

### **Confidentiality**

The District's Title VII/IX Officer(s), the Superintendent and the Board shall, to the maximum extent possible, maintain as confidential the transaction(s) underlying the proceedings or complaint, the outcome of a mediated agreement and action taken, other than formal discipline. The subject of the proceedings or complaint, however, shall be informed of the identity of the person who commenced the proceedings or complaint in order to provide fair and due process. Both the complainant and the subject of the complaint shall be given a summary of the findings in the matter of a formal complaint.

### **Consequences**

Any officer, supervisor or employee who violates this policy shall be subject to corrective action up to and including termination of office or employment, with due process provided as necessary.

Any complaint that is determined to have been initiated maliciously or in bad faith, shall be deemed to be in violation of this policy and may give rise to disciplinary consequences against the complainant.

Any complaint that involves allegations which constitute or may constitute criminal behavior, will be immediately and directly referred to law enforcement personnel. Such a referral shall not relieve the District of its obligations to investigate and remediate such conduct.

### **Retaliation**

No person covered by this policy shall be subject to adverse employment action, including being discharged, disciplined, discriminated against, or other adverse action, because he or she reports an incident of sexual harassment, provides information or otherwise assists in any investigation of a sexual harassment complaint. Any employee who retaliates against anyone involved in a sexual harassment investigation will be subject to disciplinary action, up to and including termination. Any employee or non-employee working in the workplace who believes they have been subject to such retaliation should inform a supervisor, Title VII/IX Officer, the Building Principal, Director of Human Resources or the Superintendent. Any such individual who believes they have been a victim of retaliation may also seek compensation in other available forums, as described below under "Legal Protections and External Remedies."

## **Training**

The District shall provide appropriate written notice and preventative interactive training to students, staff, school law enforcement and volunteers regarding awareness and reporting/investigating sexual and gender-based harassment and sensitivity to issues involving sexual and gender-based harassment, including condemnation of such conduct, the sanctions for harassment and preventive measures to help reduce incidents of sexual and gender-based harassment.

## **Legal Protections and External Remedies**

In addition to the internal process set forth in this policy, aggrieved parties may pursue legal remedies with appropriate governmental entities.

**New York State Division of Human Rights (DHR)** - Article 15 of the New York State Executive Law is known as the New York Human Rights Law. It protects all employees, whether paid or unpaid, and non-employees regardless of immigrant status. A complaint alleging a violation of the Human Rights Law may be filed with either the DHR or in New York State Supreme Court. Contact DHR at (888) 392-3644 or visit the DHR website at: [dhr.ny.gov](http://dhr.ny.gov).

**United States Equal Employment Opportunity Commission (EEOC)** - The EEOC enforces federal anti-discrimination laws, including Title VII of the Civil Rights Act of 1964, which prohibits sexual harassment. An employee can file a charge alleging discrimination with the EEOC. Contact EEOC at 1-(800)-669-4000 or visit the EEOC website at: [www.eeoc.gov](http://www.eeoc.gov).

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. Contact Westchester County Human Rights Commission at [humanrights@westchestercountygov.com](mailto:humanrights@westchestercountygov.com).

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

## **Access to Policy**

This policy and its procedures for investigating sexual and/or gender-based harassment complaints shall be available on the District's website and/or electronically and shall be digitally accessible to all officers, supervisory personnel, employees, contractors and volunteers of the District. This policy shall also be disseminated to new hires and reviewed during staff orientations, annual trainings, and upon receipt of complaints.

**Adoption 10/18/18**