

() Required
(X) Local
() Notice

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

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 11, 2021

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SEXUAL HARASSMENT OF STUDENTS

The Board of Education recognizes that harassment of students on the basis of actual or perceived sex, sexual orientation, and/or gender identity and expression is abusive and illegal behavior that harms targets and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board further recognizes that preventing and remedying such harassment in schools is essential to ensure a healthy, nondiscriminatory environment in which students can learn.

Sexual harassment is a form of sex discrimination and is unlawful under federal and state law. For purposes of this policy, sexual harassment includes harassment on the basis of actual or perceived sex, sexual orientation, and/or gender identity and expression. Sexual harassment of a student can deny or limit the student’s ability to participate in or to receive benefits, services, or opportunities from the school’s program.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s actual or perceived sex, sexual orientation, and/or gender identity and expression, when:

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

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

The Board is committed to providing an educational environment that promotes respect, dignity and equality and that is free from all forms of sexual harassment. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside the district, or outside the school setting if the harassment impacts the individual’s education in a way that violates their legal rights, including when harassment is done by electronic means (including on social media). Sanctions will be enforced against all those who engage in sexual harassment or retaliation, and against district personnel who knowingly allow such behavior to continue.

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

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

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all targets of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The district will promptly investigate all complaints of sexual harassment, either formal or informal, verbal or written according to the Code of Conduct. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation. If the complainant reports that they feel unsafe at school due to the nature of the complaint, the district will determine if accommodations need to be made until the issue is resolved.

If, after appropriate investigation, the district finds that a person has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, contract, district policy and state law.

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

The Superintendent of Schools is directed to develop and implement regulations for reporting, investigating and remedying allegations of sexual harassment. In addition, the Board directs that training be established for students, and annually for employees, to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment. Age-appropriate instructional materials will be incorporated into the curriculum to educate students so that they can recognize and reduce the incidence of sexual harassment.

This policy, or a simplified version, will be posted in prominent places.

Cross-ref: 0115, Student Harassment and Bullying Prevention and Intervention

Ref: Education Amendments of 1972, Title IX, 20 U.S.C. §1681 *et seq.*; 34 CFR 106 *et seq.*
Education Law §§10-18 (The Dignity for All Students Act)
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)
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SEXUAL HARASSMENT OF EMPLOYEES

The Board of Education recognizes that harassment of employees (including all staff, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, regardless of immigration status) and certain non-employees (which includes contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees) on the basis of sex, sexual orientation, and/or gender identity and expression is abusive and illegal behavior that harms targets and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board further recognizes that preventing and remedying such harassment in the workplace is essential to ensure a healthy, nondiscriminatory environment in which employees and non-employees can work productively.

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

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions or privileges of employment. Such harassment need not be severe or pervasive to be unlawful, and can be any harassing conduct that consists of more than petty slights or trivial inconveniences.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex, sexual orientation, gender identity and expression, and transgender status, when:

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

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

The Board is committed to providing a working environment that promotes respect, dignity and equality and that is free from all forms of sexual harassment. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside the district, or outside the work setting if the harassment impacts the individual's employment in a way that violates their legal rights, including when employees and non-employees travel on district business, or when harassment is done by electronic means (including on social media). For employees, sexual harassment is considered a form of employee misconduct. Sanctions will be enforced against all those who engage in sexual harassment or retaliation, and against supervisory and managerial personnel who knowingly allow such behavior to continue.

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

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

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all targets of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The district will promptly investigate all complaints of sexual harassment, either formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation. If the complainant reports that they feel unsafe at work due to the nature of the complaint, the district will determine if accommodations need to be made until the issue is resolved.

If, after appropriate investigation, the district finds that a person has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, contract, district policy and state law. Individual nondisclosure agreements may only be used as permitted by law, described in the accompanying regulation.

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

The Superintendent of Schools is directed to develop and implement regulations for reporting, investigating and remedying allegations of sexual harassment. In addition, the Board directs that training be established for students, and annually for employees, to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment. Age-appropriate instructional materials will be incorporated into the curriculum to educate students so that they can recognize and reduce the incidence of sexual harassment.

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Adoption date: January 11, 2021

SCHALMONT CENTRAL SCHOOL DISTRICT

0110.2-E

SEXUAL HARASSMENT OF EMPLOYEES EXHIBIT

Complaint Form for Reporting Sexual Harassment

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for targets to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form to the best of your ability and submit it to the Director of Pupil Personnel Services or the Assistant Superintendent for Business. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, the district should complete this form, provide you with a copy and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form. For additional resources, visit: <http://www.ny.gov/programs/combating-sexual-harassment-workplace>

YOUR INFORMATION (for all persons making a complaint)

Your Name:

Home Address:

Home or Cell Phone:

Email:

Work Address:

Work Phone:

Job Title:

Preferred Communication Method (please select one): phone, email, mail, in person

SUPERVISOR INFORMATION

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

SCHALMONT CENTRAL SCHOOL DISTRICT

COMPLAINT INFORMATION

- 1. Your complaint of sexual harassment is made against (please include as much information as possible, if known):

Name: _____

Job Title (if an employee): _____

Grade/Class (if a student): _____

School/Work Location: _____

Phone: _____

Relationship to you (please circle one below)

Supervisor Subordinate Co-Worker Students Other: _____

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

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

- 3. Date(s) and location(s) sexual harassment occurred: _____

Is the sexual harassment continuing? ____ Yes ____ No

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

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

5. Have you previously complained about or provided information (verbal or written) about sexual harassment or related incidents to the district?

If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Print Name: _____ Signature: _____ Date: _____

Instructions for the District

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

- Speaking with the complainant
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

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