

POLICY PROHIBITING SEXUAL HARASSMENT,
DISCRIMINATORY HARASSMENT AND DISCRIMINATION
AND TITLE IX GRIEVANCE PROCEDURES

I. GENERAL STATEMENT OF POLICY

It is the policy of the Cleveland Municipal School District to maintain educational and work environments free from Sexual Harassment and from Discriminatory Harassment or Discrimination on the basis of any individual's sex, race, color, national origin, religion, age, sexual orientation, gender identity, genetic information, military status, disability, or any other characteristic protected by law.

This policy applies to all students and employees of the Cleveland Municipal School District.

The District prohibits any and all forms of Sexual Harassment, Discriminatory Harassment, and Discrimination by faculty, staff, students or any person with whom our faculty, staff or students interact in an educational or work environment as defined by this policy.

Any verbal, nonverbal, or physical conduct that discriminates against or harasses, disrupts, or interferes with another's educational or working environment or creates an intimidating, offensive, or hostile educational or working environment, is unacceptable and will not be tolerated.

The District will promptly investigate all complaints, formal or informal, verbal or written, of sexual harassment, discriminatory harassment, or discrimination.

Employees or students who engage in behavior in violation of this policy shall be subject to disciplinary action.

Retaliation is prohibited. No faculty member, staff member, or student may penalize, intimidate, or retaliate against a student or employee because he/she submits a claim; assists or participates in an investigation, proceeding or hearing regarding a complaint filed pursuant to this policy or because he/she has opposed conduct in violation of this policy.

II. DEFINITIONS OF PROHIBITED CONDUCT

a. Sexual Harassment:

Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature may constitute sexual harassment when:

- i. Submission to such conduct is made, either explicitly or implicitly, a term or condition of education, employment or participation in District activities; or
- ii. Submission to, or rejection of, such conduct by an individual is used as the basis for educational or employment decisions affecting such individual; or

- iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's educational or work performance or creating an intimidating, hostile or offensive environment.

Examples of sexually related conduct may include, but are not limited to, unwanted sexual advances; demands for sexual favors in exchange for favorable treatment, academic advancement, or continued employment; repeated sexual jokes, flirtations, advances or propositions; verbal abuse of a sexual nature; graphic verbal commentary relating to an individual's body, sexual prowess or sexual deficiencies; coerced sexual activities; any unwanted physical contact; sexually suggestive or obscene comments or gestures; or displays of sexually suggestive or obscene objects or pictures.

Sexually related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe or pervasive as to create an objectively hostile or abusive educational or work environment and that it causes the person who believes he or she has been harassed to subjectively perceive the environment to be abusive or hostile.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in Ohio Revised Code 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.

b. Discriminatory Harassment:

Verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of their sex, race, color, national origin, religion, age, sexual orientation, gender identity, genetic information, military status, disability, or any other characteristic protected by law, and that:

- a. Has the purpose or effect of creating an intimidating, hostile, or offensive educational or work environment; or
- b. Has the purpose or effect of unreasonably interfering with an individual's educational or work performance; or

- c. Otherwise adversely affects an individual's educational or employment opportunities.

c. Discrimination:

Any behavior, expression, or activity that stigmatizes or victimizes individuals or groups of people because of their personal attributes, including sex, race, color, national origin, religion, age, sexual orientation, gender identity, genetic information, military status, disability, or any other characteristic protected by law, and that:

- i. Involves an express or implied threat to an individual's educational efforts, participation in school-sponsored extra-curricular activities, terms or conditions of employment, or personal safety; or
- ii. Has the purpose of interfering with an individual's educational efforts, participation in school-sponsored extra-curricular activities, terms or conditions of employment, or personal safety; or
- iii. Creates an intimidating, hostile, demeaning, or offensive educational or work environment.

III. REPORTING

The District is committed to resolving complaints of violations of this policy as quickly and efficiently as possible.

Any student or employee who believes he/she has been subjected to sexual harassment, discriminatory harassment, or discrimination by another person is encouraged, but not required, to notify the offender in an effort to stop the behavior.

If a student or employee believes he/she has been sexually harassed, discriminately harassed, or discriminated against or has knowledge that others have been subjected to such behavior, he/she is should report the incident to the Director of EEO/Title IX Coordinator.

A report can be submitted verbally or in writing.

A written report can be made by completing the Sexual Harassment, Discriminatory Harassment, and/or Discrimination Complaint Form, attached to this policy and available in each school and department, or by e-mail or letter submitted to the Director of EEO/ Title IX Coordinator. Oral reports shall be considered complaints as well. All complaints shall be handled in accordance with District procedure.

VI. INVESTIGATION

Upon receipt of a complaint alleging a violation of this policy, the Director of EEO / Title IX Coordinator shall promptly undertake or authorize investigation. That investigation may be conducted by District officials or by a third party designated by the District. Whether a

particular incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances. In determining whether the alleged conduct constitutes a violation of this policy, the investigating individual may consider:

- a. The nature of the behavior
- b. The relationship between the parties involved
- c. Where the harassment occurred
- d. Any past incidents involving the same individuals
- e. Whether the conduct adversely affects the work environment
- f. The context in which the alleged incidents occurred.

During the course of an investigation under this policy, the investigating individual may conduct interviews with the complainant, alleged victim, alleged offender, any identified witnesses, or any other individuals deemed necessary by the investigating individual, as well as a review of pertinent documents.

An alleged offender will be informed of the allegation(s) the facts surrounding the allegation(s) and will be provided an opportunity to respond to the allegations and to submit evidence in his/her defense for the investigator's consideration.

The District aims to complete all investigations within 60 calendar days of the initial report. However, there may be some investigations that cannot be completed within 60 calendar days. In such cases, the District will communicate to the complainant that the investigation is going to take longer than 60 calendar days and in doing so will indicate when the District believes it will complete the investigation.

After conclusion of the investigative process, the investigating individual shall submit written reports of his/her conclusions to the Director of EEO / Title IX Coordinator. The finding about whether or not there is a violation of this policy will be communicated to the complainant and the alleged offender. However, any sanction imposed will not be communicated with the complainant. Reports to the alleged victim and alleged offender may be conclusory in nature and need not identify witnesses interviewed, statements offered, or evidence collected. The results of the investigation of each complaint filed under these procedures will be reported in accordance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser.

The District's obligation to conduct this investigation shall not be extinguished by the fact that a criminal investigation involving the same or similar allegations is also pending or has been concluded.

IV. SCHOOL DISTRICT ACTION

If a violation of this policy has occurred, the District will take prompt, appropriate action to address the violation. Appropriate actions related to students may include but are not limited to counseling, awareness training, parent-teacher conferences, warning, suspension, exclusion, transfer, or exclusion. Appropriate actions related to employees may include but are not limited to counseling, awareness training, warning, transfer, termination or discharge. District action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, student codes of conduct, state and federal law, and the District's policies on disciplinary action.

The School District will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as possible, consistent with the District's legal obligation to investigate, to take appropriate action, and to conform to any discovery or disclosure obligations.

In the event that the evidence suggests that the violation at issue is also a crime in violation of an Ohio criminal statute, the Director of EEO / Title IX Coordinator shall report the results of the investigation to the appropriate law enforcement agency charged with responsibility for handling such crimes.

Copies of all complaints and the investigations conducted pursuant to this policy shall be maintained for a period in accordance with the state statutes of limitations by the Director of EEO/Title IX Coordinator.

IV. REPRISAL

Submission of a good faith complaint or report pursuant to this policy will not affect the complainant or reporter's educational or work status, environment, or assignments.

Students and employees are prohibited from deliberately making false complaints of sexual harassment, discriminatory harassment, or discrimination. Students and employees found responsible for deliberately making false reports of sexual harassment, discriminatory harassment, or discrimination may be subject to a full range of disciplinary consequences.

Retaliation of any type against any person who reports an alleged violation of this policy, or who testifies, assists, or participates in an investigation or hearing related to such a violation is not tolerated by the District. The District will discipline any student, teacher, administrator or other school personnel who engages in retaliation, including possible termination or expulsion. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

V. ENFORCEMENT

The District has designated the Director of EEO / Title IX Coordinator as the District personnel with responsibility to identify, prevent, and remedy sexual harassment, discriminatory harassment, and discrimination. This individual shall:

- a. Receive complaints of sexual harassment, discriminatory harassment, and discrimination;
- b. Oversee the investigative process;
- c. Be responsible for assessing the training needs of the District's staff;
- d. Arrange for necessary training;
- e. Insure that any investigation is conducted by an impartial investigator who has been trained in the requirements of equal employment opportunity.

The District shall conspicuously post notice of to this policy in its administration buildings and in each school that the District maintains, in a place accessible to students, faculty, administrators, employees, parents and members of the public. This notice shall include the name, mailing address, and telephone number of the Director of EEO / Title IX Coordinator, the mailing address and telephone number of the United States Equal Employment Opportunity Commission and information for accessing this policy online.

A copy of this policy shall appear in the student and employee handbooks and shall be made available upon request of any employee and other interested parties.

The District will develop a method of discussing this policy with employees. Related training will be provided to all administrative personnel and school personnel on an annual basis, and at such other times as the CEO, in consultation with the Director of EEO / Title IX Coordinator, determines is necessary or appropriate.

The CEO or his/her designee shall report to the Board periodically pursuant to Policy CL-Administrative Reports.

CONTACTS:

Director of Equal Employment Opportunity/ Title IX Coordinator

Wayne J. Belock, Esq.
1111 Superior Avenue East, Suite 1800
Cleveland, Ohio 44114
Phone: (216)-838-0070
FAX: (216)-436-5064

Equal Employment Opportunity Commission

Cleveland Field Office
Anthony J. Celebrezze Federal Building
1240 E. 9th Street, Suite 3001
Cleveland, OH 44199
Telephone: 1-800-669-4000

Office for Civil Rights

U.S. Department of Education

1350 Euclid Avenue, Suite 325
Cleveland, OH 44115-1812
Telephone: 216-522-4970
Email: OCR.Cleveland@ed.gov

LEGAL REFERENCES:

Civil Rights Act, Title VI; 42 USC 2000d et seq.
Civil Rights Act, (Amended 1972), Title VII; 42 USC 2000e et seq.
Education Amendments of 1972, Title IX; 20 USC 1681 et seq.
Executive Order 11246, as amended by Executive Order 11375
Equal Pay Act; 29 USC 206
Genetic Information Nondiscrimination Act of 2008; 42 USC 2000ff et seq.
Rehabilitation Act; 29 USC 794
Individuals with Disabilities Education Act; 20 USC 1400 et seq.
Age Discrimination in Employment Act; 29 USC 623
Immigration Reform and Control Act; 8 USC 1324a et seq.
Americans with Disabilities Act Amendments Act of 2008; 42 USC 12101 et seq.
Ohio Const. Art. I, Section 2
ORC Chapter 3323
Chapter 4112
OAC 3301-35-02

THIS IS A REQUIRED POLICY

Adopted: May 29, 2018

SEXUAL HARASSMENT, DISCRIMINATORY HARASSMENT,
AND/OR DISCRIMINATION COMPLAINT FORM

Date of Report _____

Complainant Name _____

Home Address _____

Phone Number _____

Position or Grade _____ Building _____

Date and Time of Alleged Violation _____

Location of Alleged Violation _____

Name of Alleged Offender _____

Position or Grade _____ Building _____

If the alleged violation was directed towards another individual, identify that individual:

Type of Alleged Violation (circle at least one):

Sexual Harassment

Discriminatory Harassment

Discrimination

If Discriminatory Harassment or Discrimination, on the basis of which protected classification is the violation alleged to have occurred (circle at least one):

Race

Sex

Color

National Origin

Religion

Age

Sexual Orientation

Gender Identity

Genetic Information

Military Status Disability

Name of Witnesses, if any, and Description of Involvement _____

Description of the Incident(s) (attach additional pages, if necessary) _____

Your Reaction _____

This complaint is based upon my honest belief that the above-alleged offender has sexually harassed, discriminately harassed, or discriminated against me or another person. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge.

Signature of Complainant _____ Date _____

Please Submit Completed Form to:

Wayne J. Belock, Esq.
Director of Equal Employment Opportunity / Title IX Coordinator
1111 Superior Avenue East, Suite 1800
Cleveland, Ohio 44114

Phone: (216)-838-0070
FAX: (216)-436-5064