

ROSLYN UNION FREE SCHOOL DISTRICT

PROHIBITION AGAINST SEXUAL HARASSMENT

Policy 0110

The Board of Education is committed to providing an educational and working environment that promotes respect, dignity and equality and that is free from all forms of sexual harassment. To this end, the Board of Education 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 School District. Sexual harassment can occur between persons of all ages and genders. Sexual harassment can occur staff to staff, student to student, staff to student, student to staff, male to female, female to male, male to male or female to female.

Definitions

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

“Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditions the provision of an aid, benefit, or service of the school on an individual’s participation in unwelcome sexual conduct (e.g., “quid pro quo” harassment);
2. Unwelcome conduct that a reasonable would determine to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity; or
3. “Sexual assault,” “dating violence,” “domestic violence,” or “stalking.”

“Sexual assault” means physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. A person may be incapable of giving consent due to age, drug or alcohol use, or an intellectual or other disability. Sexual violence includes, but is not limited to, acts such as rape, sexual assault, sexual battery and sexual coercion. All such acts of sexual violence are forms of sexual harassment.

“Dating violence” means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

“Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

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“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

Title IX Coordinator and Compliance Officers

The Board of Education has designated a Title IX Coordinator who is authorized to coordinate the School District’s efforts and compliance with its Title IX responsibilities. The School District shall notify through its website all students, parents or legal guardians of students, and all unions, of the name or title, office address, e-mail address, and telephone number of the Title IX Coordinator.

The School District also has designated two (2) Compliance Officers (or more where appropriate), one (1) of each gender who charged as the School District’s investigators for sexual harassment complaints.

Sexual Harassment Reporting

Individuals who believe that they have been sexually harassed by an employee, student, or third party in violation of the School District’s policies are encouraged to notify the School District through the Title IX Coordinator. Allegations of sexual harassment may be reported in person, by mail, by telephone, or by e-mail, using the contact information for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, for the Title IX Coordinator.

Whenever any employee becomes aware of sexual harassment (or allegations of sexual harassment), the employee must report such conduct to the Title IX Coordinator.

Resolution of Allegations of Sexual Harassment

Informal Resolutions. Informal resolutions may involve direct communication by the Complainant with the Respondent or communication through a representative, including, but not limited to a selected colleague, faculty member or staff member, or the Title IX Coordinator. In handling of informal complaints, concerns or inquiries about alleged acts, omissions, improprieties, and/or broader systemic problems, third-parties should listen, offer options, facilitate resolutions, informally investigate, or otherwise examine the issues independently and impartially and seek an appropriate resolution. If the matter cannot be satisfactorily resolved through such informal communications, a formal complaint should be initiated. The Complainant has the right, at any time prior to agreeing to a resolution, to end the informal process and file a formal complaint. Allegations of employee sexual harassment of a student cannot be resolved informally; such allegations must be completed through the formal resolution process.

Formal Resolutions. Formal resolutions of alleged incidents of sexual harassment require a Statement of Complaint. Formal complaints should be filed as soon as possible after the date of the alleged misconduct. Formal complaints should be submitted to the Title IX Coordinator at

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300 Harbor Hill Rd, Roslyn, NY 11576, (516) 801-5020, TitleIX@roslynschools.org or if the Title IX Coordinator is the party involved in the incident, to the Superintendent of Schools. All members of the School District's community have an obligation to make sure that complaints about sexual harassment (including retaliation) are directed to the Title IX Coordinator (or other appropriate administrative personnel) for prompt investigation and evaluation.

Statement of Complaint

A Statement of Complaint may be filed by the individual that alleges to be the victim of conduct that could constitute sexual harassment or by any third party, including parents and guardians of a Complainant (such parents and guardians have the legal right to act on behalf of the Complainant). Third parties do not become Complainants (or Respondents) by filing a Statement of Complaint.

The Statement of Complaint must be written and include the following information: (i) the full name and address of Complainant; (ii) the name of Respondent(s) and Complainant's relationship to the Respondent (i.e. Respondent is student, faculty member, staff member, etc.); (iii) a clear and concise statement of the facts that constitute the alleged sexual harassment (or retaliation), including pertinent dates and sufficient information to identify any other individuals who can provide information; (v) a statement by Complainant verifying that the information supporting the allegations of discrimination is true and accurate to the best of Complainant's knowledge; and (vi) Complainant's signature (physical or digital signature or such other means that indicates that the Complainant is the person filing the formal complaint). In addition, the Complainant must attach all documentation supporting the occurrence of the incident to the Statement of Complaint. The Statement of Complaint may initially be filed orally, but the Complainant must within three (3) calendar days submit a written Statement of Complaint. At the time of filing the Statement of Complaint, the Complainant must be participating in or attempting to participate in the education program or activity of the School District with which the formal complaint is filed.

The School District may investigate an alleged sexual harassment claim when a formal complaint is not submitted by the Complainant when the Title IX Coordinator (or the Superintendent of Schools) determines that an investigation is necessary in order to meet the school's obligations under this policy. If the Title IX Coordinator (or the Superintendent of Schools) signs a formal complaint, he/she will not be considered the Complainant or otherwise a party in the investigation.

Throughout the complaint and investigation process, personally identifiable information about parties involved in the complaint will be treated as confidential and only shared with persons with a specific need to know, subject to the Family Educational Rights to Privacy Act.

Supportive Measures

The Title IX Coordinator must promptly contact the Complainant after becoming aware of an allegation of sexual harassment to discuss the availability of supportive measures. Supportive measures are non-disciplinary and non-punitive individualized services offered as appropriate, as

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reasonably available, and without fee or charge to any party before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to education programs or activities at the School District without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the school community, or deter sexual harassment.

As appropriate, supportive measures may include, but are not be limited to:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of class or clinical schedules
- Restrictions on contact between the Parties (“No Contact Orders”)
- Changes in class locations
- Leaves of absence

Any decisions regarding supportive measures shall be made by the Title IX Coordinator, in consultation with relevant school administrators and the party requesting supportive measures. It is not necessary to file a formal complaint under this policy, participate in the adjudication process, or file a criminal complaint in order to request supportive measures from the School District. Complainants may request supportive measures even in cases where the Complainant has requested that no investigation be undertaken, or the Complainant or Respondent has declined to participate in School District’s disciplinary proceedings or the criminal process.

Failure to comply with certain supportive measures, such as a No Contact Order or other measures taken to separate the parties in academic, employment, or extracurricular settings, may be a violation of the Code of Student Conduct and may lead to additional disciplinary action.

Right to Proceed with a Criminal Investigation

The Complainant will be notified by the Title IX Coordinator in writing of his/her right to proceed with a criminal investigation and a Title IX complaint (school investigation) simultaneously. This notification will make clear that the School District is responsible for conducting an investigation of all complaints of Title IX, independent of any investigation conducted by a law enforcement authority or other agency (a “criminal authority”), and that the School District’s investigation will not be delayed by any investigation by such criminal authority unless expressly required by such criminal authority. The School District will immediately resume the school’s investigation when permissible (i.e., after criminal authority fact finding is completed).

Appointment of Investigator

Upon receipt of a properly completed Statement of Complaint involving a claim of sexual harassment, the Superintendent of Schools will appoint within three (3) business days an investigator (the “Investigator”). The Investigator must be either a Compliance Officer or a third-party (subject to the approval of the Board of Education). In the event the Superintendent of School has a conflict of interest, the Investigator will be appointed by the Board of Education.

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The Superintendent of Schools (or the Board of Education, when applicable) will not allow conflicts of interest, real or perceived, with an Investigator handling the investigation. If a real or perceived conflict of interest arises, the Superintendent of Schools (or the Board of Education, when applicable) will appoint a different Compliance Officer or third-party to participate in the investigation process.

Notification of Complaint and Notice of Allegations

The Investigator will review the circumstances of the complaint and issue a Notice of Allegations to the Complainant (and parents, if a student) and Respondent (and parents, if a student) (the “parties”). Such notice will occur as soon as practicable, but no more than five (5) days after the School District receives the Statement of Complaint, absent extenuating circumstances or if the School District needs more time to gather all required information for the notice. All notifications with respect to sexual harassment claim will be completed through the School District email for parties that are student and employees, and by other reasonable means if the parties are neither.

The Notice of Allegations will include the following:

- A copy of this Sexual Harassment Policy;
- The allegations potentially constituting sexual harassment, including sufficient details of the allegations needed to enable parties to prepare for an initial interview. Sufficient details include the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, to the extent such information is known at the time the Notice of Allegations is issued;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the investigation process;
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the School District does not intend to rely in reaching a determination regarding responsibility, and evidence that either tends to prove or disprove the allegations, whether obtained from a party or other source; and
- A statement that the School District’s policies prohibit knowingly making false statements or knowingly submitting false information during the investigation process.

If, in the course of an investigation, the School District decides to investigate allegations that are not included in the initial Notice of Allegations and are otherwise covered under the School District’s policies, the Investigator will issue an updated Notice of Allegations to notify the parties of the additional allegations being investigated. The Investigator will provide the parties with sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

Responding to Notice of Allegations

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Respondents will have ten (10) calendar days to respond to the complaint and the allegations in the Notice of Allegations. When a Respondent denies the allegations in the Statement of Complaint, the Investigator based on the totality of evidence collected to date, must make a determination of the validity of the complaint and determine whether a formal investigation is necessary and appropriate. The determination of the validity of the complaint will be judged by the standard of a reasonable person and will be promptly completed – typically within thirty (30) days of the filing of the Statement of Complaint.

Dismissal of Formal Complaint

Mandatory Dismissal: Formal complaints must be dismissed if any of the following elements are met, in the reasonable determination of the Investigator:

- The conduct is alleged to have occurred outside of the United States;
- The conduct is not alleged to have occurred in a School District education program or activity; or
- The alleged conduct, if true, would not constitute sexual harassment as defined in this policy.

Discretionary Dismissal: The Investigator may dismiss a formal sexual harassment complaint, or any specific allegations raised within that formal complaint, at any time during the investigation, if:

- A Complainant notifies the Investigator in writing that he/she would like to withdraw the formal complaint or any allegations raised in the formal complaint;
- The Respondent is no longer enrolled at or employed by the School District; or,
- If specific circumstances prevent the Investigator from gathering evidence sufficient to reach a determination regarding the formal complaint or allegations within the formal complaint.

Either party may appeal this dismissal determination using the process outlined in “Appeal of Dismissal of Formal Complaint,” below.

Notice of Dismissal: Upon reaching a decision that the formal complaint or any specific allegation within the formal complaint will be dismissed under this policy, the Investigator will promptly send written notice of the dismissal, including the reason for the dismissal and information on the appeals process, simultaneously to the parties.

Appeal of Dismissal of Formal Complaint: Where all or part of a formal complaint is dismissed, either party may file an appeal of that decision within three (3) days of receipt of the Notice of Dismissal by filing a written appeal utilizing the Title IX Grievance process described below. The only permitted grounds to appeal a dismissal prior to an investigation are: (i) conflict or bias by the Investigator who issued the Notice of Dismissal, or (ii) error in the conclusion that the Statement of Complaint does not fall within the scope of this policy.

Time Frames for Investigating Complaints

The School District does not limit the time for submitting a report of sexual harassment conduct prohibited by this policy. However, the School District’s ability to investigate and respond effectively may be reduced with the passage of time.

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The School District will endeavor to resolve every sexual harassment complaint in a fair, impartial, and timely manner. The School District recognizes that each case has its own unique circumstances, and that time frames for each stage of the process may vary depending on the details of a case and at certain times of the academic year (for example, during breaks, study periods, or final exams). Time frames may be extended for informal resolution or other good cause as necessary to ensure the integrity and completeness of the process. Other reasons for an extension of time frames include, but are not limited to: compliance with a request by law enforcement; accommodation of the availability of witnesses; accounting for exam periods, school breaks or vacations; and/or accounting for complexities of a specific case, including the number of witnesses and volume of information provided by the parties. The School District will notify the parties in writing of any extensions of time frames and the reason for the extension.

Sexual Harassment Investigations

Formal investigations into allegations of sexual harassment will be conducted by the Investigator.

The School District will only investigate formal complaints when the alleged sexual harassment occurs in the School District's education program or activity, against a person in the United States. Education program or activity includes locations, events, or circumstances over which the School District exercised substantial control over both the Respondent and the context in which the sexual harassment occurs.

The purpose of the investigation is to establish whether there has been a violation of the School District's sexual harassment policies. The School District, and not the parties, has the burden of gathering evidence.

The Investigator has the responsibility to interview all parties who may have relevant information to the complaint (as identified by the Complainant or the Respondent). The Investigator will provide an equal opportunity for the parties to identify witnesses, including fact and expert witnesses, as part of the investigation process. The Investigator may interview fact and expert witnesses or collect a notarized written statement from them in lieu of a live interview. The Investigator will provide, to any individual whose participation is invited or expected, written notice at least five (5) days in advance, of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for such individual to prepare to participate. The Investigator will also notify all witnesses in sexual harassment related formal complaints and that they may bring one Advisor (as defined below) to each interview. While the Advisor may attend any investigatory meeting/interview, the Advisor cannot represent the party during any such meeting/interview, unless otherwise granted permission by the Investigator. It is the responsibility of the Investigator to weigh the credibility of all individuals interviewed and to determine the weight of information received during the course of the investigation.

The investigation process will include a review of all relevant evidence, which may include review of photographs, computer files, email accounts, phones, texts, voice mail records, social

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media accounts, and other records. Notwithstanding the foregoing, the Investigator shall not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the School District obtains that party's voluntary, written consent to do so. The investigator should also consult the Committee on Special Education when either Complainant or Respondent is a disabled student receiving special education services under an IEP or section 504/Americans with Disabilities Act accommodations to understand the degree to which the student's disability either caused or is affected by the alleged violation. In addition, due process procedures required for persons with disabilities under state and federal law shall be followed.

Prior to completion of the sexual harassment investigation, the parties will have an equal opportunity to review and respond to the evidence obtained through the investigation that directly relates to the allegations in the formal complaint. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation. The parties will have ten (10) days to review such evidence and submit a written response by email to the investigator(s). If a party does not provide the Investigator with a response within ten (10) days, it will be assumed such party reviewed all of the evidence and chose not to respond. The Investigator will consider the parties' written responses before completing the investigation report and making a recommendation. The Investigator will provide copies of each parties' written responses to all other parties.

Evidence that will be available for inspection and review by the parties in sexual harassment investigations will be any evidence that is directly related to the allegations raised in the Statement of Complaint. It will include any (i) evidence that is relevant, even if that evidence does not end up being relied upon by the School District in making a determination regarding responsibility; and (ii) inculpatory or exculpatory evidence (meaning evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

The parties must submit any evidence they would like the Investigator to consider before the parties' time to inspect and review evidence begins. Prior to obtaining access to any evidence, the parties and to the extent allowed Advisors must sign an agreement not to disseminate any of the evidence obtained during the investigation. In addition, prior to obtaining access to any evidence, the parties and to the extent allowed Advisors must also sign an agreement not photograph or otherwise copy any of the evidence obtained during the investigation without the expressed written approval of the Investigator.

Investigation Report

At the conclusion of the investigation, the Investigator will prepare an investigation report (the "Investigation Report") that fairly summarizes relevant evidence. The Investigation Report is not required to catalog all evidence obtained by the Investigator, but only to provide a fair summary of that evidence. Only relevant evidence (including both inculpatory and exculpatory – tending

to prove or disprove the allegations) will be referenced in the Investigation Report. The Investigation Report may detail a time-line of the case and summarize relevant supporting documentation. The report may also include the Investigator's assessment of individual credibility. Any information or evidence deemed irrelevant will be kept as part of the case file and stored in a secure database but will not appear in the Investigation Report. The Investigator may redact irrelevant information from the Investigation Report when that information is contained in documents or evidence that is/are otherwise relevant.

The Investigator will send the report to the Complainant, Respondent, and their Advisors (where relevant), and allow them an equal opportunity to review and respond to the report within ten (10) calendar days. If parties do not provide the Investigator with a response within ten (10) calendar days, it will be assumed they reviewed the Investigation Report and chose not to respond. Upon receipt of a response to the report from either party, the Investigator may, but is not required to, amend the Investigation Report, if deemed necessary. The Investigator will then provide the complete Investigation Report (the "Final Report"), including each party's responses, to the Complainant, Respondent, their advisors (where relevant), and the Case Decision-Maker (as defined below).

Weighing of Evidence and Determination

Oversight. The Case Decision-Maker is responsible for the existence of a sexual harassment violation and sanctions. The role of the Case Decision-Maker shall be filled by the Superintendent of Schools or his or her designee. In no circumstance will the Case Decision-Maker have served as the Title IX Coordinator, Investigator, or party's advisor in the same case, nor may the Case Decision-Maker serve as a voting member of the Grievance Board (see below) in the same case. The Case Decision-Maker will not have any conflict of interest or bias in favor of or against Complainant or Respondent generally, or in favor of or against the parties in a particular case. The Case Decision-Maker will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Complainant, and maintaining respect for decorum.

Right of Written Cross-Examination. The Complainant and the Respondent shall each of a limited right to cross-exam the other and witnesses after receipt of the Final Report. Such cross-examination will be conducted through written questions and answers as follows.

1. No less than ten (10) calendar days nor more than thirty (30) calendar days after receipt of the Final Report by the Case Decision-Maker, the Case Decision-Maker shall provide simultaneous written notice to the Complainant and Respondent requesting each party to submit written, relevant questions that a party wants asked of any party or witness within ten (10) calendar days of such written notice (such additional questions, hereafter referred to as the "Post Investigation Questions"). If parties do not provide the Case Decision-Maker with any Post Investigation Questions within ten (10) calendar days of the written notice, it will be assumed they chose not to respond and had no questions.

2. The Case Decision-Maker will review the Post Investigation Questions and send all relevant questions (in the sole discretion of the Case Decision-Maker) to the relevant party (Complainant, Respondent or witness) for a response.
3. The party (Complainant, Respondent or witness) for receiving the Post Investigation Questions have ten (10) calendar days of receipt of the questions to submit a response to the Case Decision-Maker. Any party (Complainant, Respondent or witness) receiving the Post Investigation Questions that does not respond will be subject to disciplinary action.
4. The Case Decision-Maker will forward upon receipt the answers to all the Post Investigation Questions to both the Complainant and Respondent.
5. As necessary and in the sole judgment of the Case Decision maker, the Complainant and Respondent may allow for additional, limited follow-up questions from each party. Any follow-up questions allowed must follow the process and timeline outlined for the initial Post Investigation Questions.

Right of Case Decision-Maker to Request Information. Upon completion of the Post Investigation Questions, the Case Decision-Maker shall review the Final Report, the Post Investigation Questions and answers and other evidence collected throughout the investigation. After reviewing such information, the Case Decision-Maker may submit additional questions to the parties, witnesses and the Investigator (the “Decision-Maker Questions”). The Case Decision-Maker may set reasonable time limits for answering such follow-up questions, if any.

Determination Regarding Responsibility: The School Districts uses the “Clear and Convincing” standard for finding responsibility in sexual harassment complaints. The “clear and convincing standard” means that the evidence presented by the appealing student must be highly and substantially more probable to be true than not and the trier of fact must have a firm belief or conviction in its factuality.

General Considerations for Evaluating Testimony and Evidence: Determinations regarding responsibility may be based in part, or entirely, on written, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Case Decision-Maker.

The Case Decision-Maker shall not draw inferences regarding a party’s or witness’ credibility based on the party’s or witness’ status as a Complainant, Respondent, or witness, nor shall they base their judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party’s or witness’ testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

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The Case Decision-Maker will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by this policy, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be afforded lower weight than testimony regarding direct knowledge of specific facts that occurred. Other forms of testimony, such as expert testimony and character testimony, will be afforded lower weight relative to the testimony of fact witnesses.

Where a party's or witness' conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Case Decision-Maker may draw an adverse inference as to that party's or witness' credibility.

Components of the Determination Regarding Responsibility: The written determination regarding responsibility (the "Determination") will be issued simultaneously to all parties through the School District email, or other reasonable means, as necessary. The Determination will include:

- Identification of the allegations potentially constituting sexual harassment violations;
- A description of the procedural steps taken from the receipt of the formal complaint through the Determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and written cross examinations;
- Findings of fact supporting the determination;
- For each allegation: (i) a statement of, and rationale for, a determination regarding responsibility; (ii) a statement of, and rationale for, any disciplinary sanctions the School District imposes on the Respondent; and (iii) a statement of, and rationale for, whether remedies designed to restore or preserve equal access to the School District's education program or activity will be provided by the School District to the Complainant; and
- The procedures and permitted reasons for appeal (described below in "Appeal"), including the Appeals Officer's information.

In all cases, no actions may be undertaken by the School District that restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

Time-line of Determination Regarding Responsibility: If there are no extenuating circumstances, the determination regarding responsibility and sanctions, if applicable, will be issued by the Case Decision-Maker within thirty (30) days of receipt of the final response to the Decision-Maker Questions or if no Decision Maker Questions were requested, within thirty (30) days of receipt of the final response to the Post Investigation Questions.

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Finality of the Determination Regarding Responsibility: The determination regarding responsibility becomes final either on the date that the School District provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and time-line outlined in “Appeals” below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

Note that pursuant to federal law, if the Case Decision-Maker does not find that a student-Respondent committed an act of forcible sexual violence, the Complainant may only be advised of sanctions imposed against the student Respondent that directly relate to the Complainant.

Sanctions and Other Remedial Measures:

The Case Decision-Maker will impose sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the School District’s handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of the sexual harassment.

The Case Decision-Maker will consider the recommended sanction and will consult the appropriate Title IX Coordinator to obtain information about sanctions imposed in similar cases. However, the Case Decision-Maker will determine the appropriate sanctions to impose.

In making the Determination, the Case Decision-Maker will consider relevant factors, including, if applicable: (i) facts and circumstances surrounding the event at issue, (ii) the nature of the prohibited conduct at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, etc.); (iii) the circumstances concerning the issue of consent (such as force, threat, coercion, intentional incapacitation, etc.); (iv) state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.); (v) the impact of the offense on the Complainant; (vi) the Respondent’s prior disciplinary history; (vii) the safety of the School District’s community; and (viii) precedent established by previous sanctions.

Sanctions for Student Respondents: For students, sanctions imposed under this policy will be comprised of an “inactive sanction” and, where appropriate, “active sanctions”.

An inactive sanction is an official School District sanction such as a reprimand, probation, disciplinary suspension, expulsion or dismissal. In instances where it is determined that a student misconduct resulting in the suspension or dismissal is of both an intentional and egregious nature, the conduct sanction may be recorded on the student’s official transcript with a transcript notation.

An “active sanction” is designed to remedy the effects of the misconduct and/or prevent its recurrence and may or may not be imposed as part of the sanction. Examples of active sanctions include:

- Restitution: Repayment to the School District or to an affected party for damages resulting from a violation of this policy.

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- Restorative: Programs, projects, or assignments designed to mitigate the harm done to the affected parties and restore the School District community. Restorative sanctions may include (but are not limited to) educational service, letters of apology, and restorative justice practices.
- Educational Service Hours: Service to a community organization to be completed by a specified date. Location and projects for completion of educational service must be approved by the Case Decision-Maker.
- Informal Resolution: Students may be referred to nontraditional means of conflict resolution. These sanctions may vary case to case.
- Educational: Programs, projects, or assignments designed to educate a student or student organization about the consequences of their actions and to impart skills that may help the student avoid future violations.

The following sanctions also may be imposed in a matter under this policy, in addition to (but not in lieu of) the inactive sanction:

- Changing the Respondent's academic schedule;
- Revocation of honors or awards;
- Restricting access to the School District facilities or activities (including student activities and school organizations);
- Issuing a No Contact Order to the parties or requiring that such an order remain in place;
- Dismissal or restriction from employment; and/or
- Ban from school grounds/buildings/events.

In addition to any sanction, the School District may also recommend counseling or other support services for the Respondent.

Sanctions for Employee Respondents: For employees, sanctions may include discipline up to and including termination of employment, consistent with the terms of all policies concerning personnel actions. In addition to any sanction, the School District may also recommend counseling or other support services for the Respondent.

Sanctions for Third-Party Respondents: In cases in which the Respondent is not a College student or employee, the Case Decision-Maker will determine an appropriate sanction within the scope of the School District's authority.

Appeals of Findings

Either party involved in a formal sexual harassment complaint process may appeal the decision through the following grievance process. Such an appeal may only be filed as a result of any of the following (i) procedural irregularity that affected the outcome of the matter; (ii) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or (iii) the Title IX Coordinator, investigator, or Case Decision-Maker had a conflict of interest or bias that affected the outcome of the matter. No disciplinary sanctions or other actions may be imposed for until the right of appeal has expired.

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Disagreement with the finding or sanctions is not, by itself, grounds for appeal. The fact that any criminal charges based on the same conduct were dismissed, reduced, or resolved in favor of the Respondent does not require, and will not necessarily result in, a change in the disciplinary decisions and/or sanctions.

The submission of an appeal stays any sanctions for the pendency of an appeal. Supportive measures remain available during the pendency of the appeal.

The Board of Education will act as the Appeals Board. Each member of the Board of Education that will serve on the Appeals Board will be free of conflict of interest and bias, and no member of the Appeal Board may have served as Investigator, Title IX Coordinator, or Case Decision-Maker in the same matter.

The appealing Party must submit the appeal in writing to the Board of Education within three (3) days after receiving the Case Decision-Maker's written decision or a notice of dismissal. The time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal. Failure to submit a written appeal within the three (3) day period forfeits the right to appeal under this policy, regardless of the outcome of the other party's appeal (if submitted). If either the Complainant or Respondent submits an appeal, the Title IX Coordinator will as soon as practicable notify the other party in writing that an appeal has been filed and the grounds of the appeal. The non-appealing party may submit a written response within three (3) days after notice of an appeal. If both the Complainant and Respondent appeal, the appeals will be considered concurrently.

Appeals are decided upon the record of the original proceeding and any written information submitted by any of the parties as part of the Appeal. As such, the Appeals Board may review the Final Report, the Determination and other investigative evidence (as they determine in their sole discretion). In addition, the Appeals Board may solicit written clarification on any issue raised on appeal from the Case Decision-Maker assigned to the case, the Title IX Coordinator, the Investigator, the Complainant, or the Respondent. The Appeal Board shall not substitute their own judgment for the decision of the original Case Decision-Maker or attempt to rehear the case.

Following the Appeal Board's review of all information they will either (i) affirm the finding and sanction originally determined; (ii) affirm the finding and modify the sanction; or (iii) remand the case for a new hearing. Sanctions should only be modified if they are found to be clearly disproportionate to the gravity of the violation and/or precedent for similar offenses. Cases should only be remanded for a new hearing if the specified procedural errors were so substantial they effectively denied the respondent or complainant a fair hearing, new information merits a new hearing, or a conflict of interest or bias is found to have affected the outcome.

Legal Protections and External Remedies

As stated above, sexual harassment is not only prohibited by the School District but is also

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prohibited by state, federal, and, where applicable, local law. Complainants are advised that the School District's internal investigatory procedures do not toll the time within which claims are required to be filed pursuant to federal, state or local law.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court. Complaining internally to the School District does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR. DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov. Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable

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cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Title IX

Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

The U.S. Department of Education's Office for Civil Rights (OCR) is responsible for the enforcement of Title IX. OCR evaluates, investigates, and resolves complaints alleging sex discrimination. OCR also conducts proactive investigations, called compliance reviews, to examine potential systemic violations based on sources of information other than complaints.

For assistance related to Title IX or other civil rights laws, please contact OCR at OCR@ed.gov or 800-421-3481, TDD 800-877-8339.

Dignity for All Students Act

The Dignity for All Students Act (DASA), codified as N.Y. Education Law, Art. 2, § 10 et seq., protects all students from harassment, bullying and discrimination while on school grounds and during school activities based on numerous protected classes, including, but not limited to sexual orientation, gender (including gender identity and expression), and sex. A complaint alleging a violation of DASA may be made to one of the School District's Dignity Act Coordinators and/or any staff member in accordance with the School District's policy.

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Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

Discipline/Penalties

Any individual who violates the sexual harassment policy by engaging in prohibited sexual harassment will be subject to appropriate disciplinary action. Sexual harassment by employees is considered employee misconduct. Disciplinary measures available to school authorities include, but are not limited to the following:

Students: Discipline may range from a reprimand up to and including suspension from school, to be imposed consistent with the student conduct and discipline policy and applicable law.

Employees: Discipline may range from a warning up to and including termination, to be imposed consistent with all applicable contractual and statutory rights. Discipline may also be imposed upon management and administrators who knowingly allow prohibited behavior(s) to continue.

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

Vendors: Penalties may range from a warning up to and including loss of School District business.

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

In recognition of the trauma experienced by individuals who believe they have been sexually harassed, the Complainant will be referred to an appropriate local counseling service or the Employee Assistant Program.

Complaint Records

Upon written request, Complainants should receive a copy of any resolution reports filed by the Title IX Coordinator concerning his/her complaint. Upon substantiation, copies should also be filed with the employment records of both the Complainant and Respondent.

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Training

In addition, training programs shall be established for students and employees to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment including but not limited to the following:

1. All students and employee shall be informed of this policy in student and employee handbooks and student registration materials. The policy shall be posted on the School District's website and in prominent locations at each school.
2. All new employees shall receive information about the policy and procedures concerning the prohibition against sexual harassment at new employee orientation. All other employees shall be provided information at least once a year regarding this policy and school district's commitment to a harassment-free learning and working environment. Principals, Title IX Coordinator, Investigators and other administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment shall receive a yearly training on this policy, procedures and related legal developments.
3. Program directors and principals in each school shall be responsible for informing students and staff on a yearly basis of the terms of this policy, including procedures established for investigation and resolution of complaints, general issues surrounding sexual harassment, the rights and responsibilities of students and employees, and the impact of sexual harassment on the Complainant.

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.

Annual employee training programs shall be interactive and include: (i) an explanation of sexual harassment consistent with guidance issued by the NYS Department of Labor and the NYS Division of Human Rights; (ii) examples of conduct that is unlawful sexual harassment; (iii) information on federal and state laws about sexual harassment and remedies available to Complainants of sexual harassment; and (iv) information concerning employees' right to make complaints and all available forums for investigating complaints.

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This policy shall be posted in a prominent place in each School District facility, on the School District's website and shall also be published in student registration materials, student, parent and employee handbooks, and other appropriate school publications.

Cross Ref: Policy 5300 Code of Conduct
Policy 0100 Equal Opportunity
Policy 0115 Dignity for All Students

Ref: Education Amendments of 1972, Title IX, 20 U.S.C. §1681 *et seq.*
Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 *et seq.*

Revision date: December 10, 2020
Adoption date: February 7, 2019

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Policy 0110 - E-1

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form to report alleged incidents of sexual harassment. This form is for both students and employees.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Title IX Coordinator. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another matter, your employer 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>

ROSLYN UNION FREE SCHOOL DISTRICT Roslyn, New York

COMPLAINT FORM FOR REPORTING SEXUAL HARASSMENT

Your Information

Name: _____

Name of Student (for parents/guardians): _____

Address: _____

Home or Cell Phone: _____

Email: _____

School (for students): _____

Grade/Class (for students): _____

Work Address: (for employees): _____

Work Phone (for parents/guardians/employees): _____

Job Title: (for employees): _____

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

SUPERVISOR INFORMATION (for employees)

Immediate Supervisor's Name: _____

Title: _____

Work Phone: _____

Work Address: _____

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Policy 0110 - E-1

COMPLAINT INFORMATION (for all persons making a complaint)

1. Your complaint of Sexual Harassment is made against:

Name: _____

Job Title (if an employee): _____

Grade/Class (if a student): _____

School Address/Work Location (if known): _____

Phone (if known): _____

Relationship to you (please circle one below):

(For Employees)

Supervisor / Subordinate / Co-Worker / Student / Other

(For Students)

Teacher / Other staff member / Other student / Other

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

3. Date(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 with the investigation.

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5. Have you previously complained or provided information (verbal or written) about sexual harassment or related incidents. Yes ____ No _____

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 contact information.

Print Name: _____

Signature: _____

Date: _____

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Policy 0110 - E-2

**ROSLYN UNION FREE SCHOOL DISTRICT
Roslyn, New York**

**SEXUAL HARASSMENT
FORMAL APPEAL FORM**

Name and position of complainant _____

Date of appeal _____

Date of original complaint _____

Name of alleged respondent _____

Have there been any prior appeals? _____

If yes: When: _____

To Whom: _____

Description of decision being appealed _____

Why is the decision being appealed? _____

Supervisor/Compliance Officer Signature

Date

Complainant Signature

Date