

PROHIBITION OF SEXUAL HARASSMENT AND DISCRIMINATION  
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I. Statement of Policy

- A. The New Hartford Central School District (the District) is committed to maintaining a workplace free from harassment and discrimination. This Policy is to comply with the New York State Department of Labor and New York State Division of Human Rights. Sexual harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their sex, gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. While this Policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are similar and are further described in District policies prohibiting harassment, discrimination, and bullying. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This Policy is one component of District commitment to a discrimination-free work environment.
- B. The goal of this Policy is to teach employees to recognize sexual discrimination and to provide the tools to take action when it occurs.
- C. The District Policy applies to all employees, applicants for employment, and interns, whether paid or unpaid, anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone else providing services in the workplace. It also includes persons commonly referred to as independent contractors, gig workers, and temporary workers. Also included are persons providing equipment repair, cleaning services, or any other services through a contract with the District. Clients, customers, constituents, and visitors are also included in this Policy. This Policy will use the term “covered individual” to refer to those individuals who are not direct employees of the District.
- D. Sexual harassment or discrimination can occur between any individuals, regardless of their sex or gender.
- E. Unlawful sexual harassment or discrimination is not limited to the physical workplace itself. It can occur while employees are working remotely, traveling for business, or at District sponsored events or parties. Calls, texts, emails, and social media posts by employees or covered individuals can constitute unlawful

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workplace harassment regardless of where it occurs and whether personal or District devices are used.

- F. Though the focus of this Policy is on sexual harassment and gender discrimination, the New York State Human Rights law protects against discrimination in several protected classes including sex, sexual orientation, gender identity or expression, age, race (including but not limited to hair texture and protective hairstyles), creed, religion, color, national origin, immigration status, citizenship, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, status as a victim of domestic violence, or pregnancy-related conditions. The prevention policies outlined in this Policy, as well as the other District policies that prohibit harassment, discrimination, and bullying, should be considered applicable to all protected classes.

II. Sexual Harassment Definition

- A. Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender. Sexual Harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature when:
1. The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;
  2. Employment depends implicitly or explicitly on accepting such unwelcome behavior; or
  3. Decisions regarding an individual's employment are based on an individual's acceptance of or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.
- B. Hostile Work Environment includes behaviors such as: words, signs, jokes, pranks, intimidation, or physical violence of a sexual nature, or which are directed at an individual because of their sex, gender identity or gender expression.

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Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history can create a hostile work environment. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance. These are merely examples and not an exhaustive list.

- C. Quid Pro Quo Harassment is sexual harassment where a person in authority tries to trade employment benefits such as hiring, promotion, and continued employment for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment.
- D. Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression, and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary.
  - 1. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female.
  - 2. A transgender person is someone whose gender is different than the sex they were assigned at birth.
  - 3. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do.

Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

- E. Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. The New York State Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their sex, gender (perceived or actual), sexual orientation, or gender expression is considered a violation of the District Policy. The intent of the harasser is not relevant to a harassment claim. The impact of the behavior on a person is what counts.

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

G. Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. This list is just a sample of behaviors and should not be considered exhaustive.

1. Physical acts of a sexual nature, such as:
  - a. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or
  - b. Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this Policy. (See, External Remedies Section.)
2. Unwanted sexual comments, advances, or propositions, such as:
  - a. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;
    - i. This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially those industries where hospitality and tips are essential to the customer/employee relationship;
    - ii. Subtle or obvious pressure for unwelcome sexual activities; or
    - iii. Repeated requests for dates or romantic gestures, including gift-giving.
3. Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.
4. Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:

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- a. Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or
  - b. Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- 5. Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - a. Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace;
  - b. This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.
- 6. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:
  - a. Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - b. Sabotaging an individual's work;
  - c. Bullying, yelling, or name-calling;
  - d. Intentional misuse of an individual's preferred pronouns; or
  - e. Creating different expectations for individuals based on their perceived identities:
    - i. Dress codes that impose a greater burden on one gender over another;
    - ii. Leaving parents/caregivers out of meetings.
- H. When a complaint is made, an investigation will happen pursuant to the applicable District policies whenever a complaint is received about discrimination or sexual harassment, or when it otherwise knows of possible discrimination or sexual harassment occurring. The District will conduct a prompt and thorough investigation that is fair to all parties.

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III. Retaliation is Prohibited

- A. Unlawful retaliation is any action by an employer or supervisor that seeks to punish a worker or covered individual for engaging in protected activity. The person engaged in the protected activity is protected from retaliation if the person had a good faith belief that the practices were unlawful even if the alleged harassment does not turn out to rise to the level of a violation of law or Policy. Examples of unlawful retaliation include, but are not limited to:
1. Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
  2. Publicly releasing personnel files;
  3. Refusing to provide a reference or providing an unwarranted negative reference;
  4. Labeling an employee as “difficult” and excluding them from projects to avoid “drama”;
  5. Undermining an individual’s immigration status; or
  6. Reducing work responsibilities, passing over for a promotion, or moving an individual’s desk to a less desirable office location.
  7. Threats of physical violence out of work hours or disparaging someone on social media could also be considered retaliation under this Policy.
- B. Protected activity includes but is not limited to: making or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. Additional protected activities could include:
1. making a complaint of sexual harassment or discrimination, either internally or with any government agency;
  2. testifying or assisting in a proceeding involving sexual harassment or discrimination, making a verbal or informal complaint of harassment or by informing a supervisor or manager of suspected harassment or discrimination; or
  3. encouraging a fellow employee to report harassment.
- C. This anti-retaliation provision is not intended to protect persons making intentionally false charges of harassment or discrimination.
- D. If allegations of retaliation are received by the District in connection with a complaint of sexual harassment or discrimination under this Policy, an

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investigation will be conducted pursuant to this Policy. Possible consequences for a finding of retaliation by an employee against another person for engaging in protected activities shall include, but not be limited to, counseling, discipline, suspension, and/or termination.

#### IV. Bystander Intervention

- A. An employee witnessing harassment as a bystander is encouraged to report it.
- B. A supervisor or manager who witnesses harassment as a bystander is **required** to report it.
- C. There are five (5) standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.
  - 1. Interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
  - 2. Ask a third party to help intervene in the harassment;
  - 3. Record or take notes on the harassment incident to benefit a future investigation;
  - 4. after the incident, check in with the person who has been harassed, see how they are feeling and let them know the behavior was not ok; and
  - 5. Confront the harasser and name the behavior as inappropriate. Physical assault is never an appropriate way to confront harassment.
- D. Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace.

#### V. Reporting Sexual Harassment

- A. Any employee or covered individual is encouraged to report harassing or discriminatory behavior to a supervisor, manager or the District Compliance Coordinator. Anyone who witnesses or becomes aware of potential instances of sexual harassment or discrimination should report such behavior to a supervisor, manager, or the District Compliance Coordinator.
- B. The District Compliance Coordinator is:

Assistant Superintendent for Curriculum and Instruction  
33 Oxford Road  
New Hartford, NY 13413  
Telephone: (315) 624-1274

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Labor Relations Associate  
33 Oxford Road  
New Hartford, NY 13413  
Telephone: (315) 624-1019

#### C. Form of Complaint

1. Reports of sexual harassment may be made verbally, in writing, or by email.
2. A written complaint form is provided as part of the Board Policy Manual as Regulation 8107.1. It is not required that this form be used.
3. Employees who are reporting sexual harassment on behalf of other employees may report verbally, in writing, or by email. If Regulation 8107.1 is used, it should be noted on the form that the complaint is being submitted on behalf of another employee.

#### VI. Administrator and Supervisor Responsibilities

- A. Supervisors and managers have a responsibility to prevent sexual harassment and discrimination. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are required to report such suspected sexual harassment to the District Compliance Coordinator. If Managers and supervisors observe such behavior, they must act.
- B. Supervisors and managers can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. Supervisors and managers can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment or discrimination to continue after they know about it.
- C. Supervisors and managers will also be subject to discipline for engaging in any retaliation.
- D. The District will work with individuals who have experienced harassment or discrimination to ensure the workplace is safe, supportive, and free from retaliation during and after any investigation.



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VII. Reports, Complaints, and Investigations of Sexual Harassment

- A. All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt, thorough, and started and completed as soon as possible. The investigation will be kept confidential to the extent possible.
- B. Employees shall be required to cooperate in an investigation of suspected sexual harassment or discrimination.
- C. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.
- D. While the specific process may vary from case to case, investigations will be done in accordance with the following steps. Upon receipt of a complaint, the District Compliance Coordinator will:
  - 1. Conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take interim action (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate.
  - 2. If a complaint is verbal, a request to the Complainant will be made to complete the written complaint form. If the Complainant does not wish to do so, the District Compliance Coordinator will prepare a complaint form or equivalent documentation based on the verbal reporting;
  - 3. Take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, emails or phone records that may be relevant to the investigation. The Compliance Coordinator or designee will consider and implement appropriate document request, review, and preservation measures, including for electronic communications;
  - 4. Seek to interview all parties involved, including any relevant witnesses;
  - 5. Create written documentation of the investigation which contains the following:
    - i. A list of all documents reviewed and a detailed summary of relevant documents;

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- ii. A list of names of those interviewed with a detailed summary of their statements;
  - iii. A timeline of events;
  - iv. A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and
  - v. The basis for the decision and final resolution of the complaint, together with any remedial measures and/or corrective action(s).
- 6. Keep the written documentation and associated documents in a secure and confidential location;
  - 7. Promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and
  - 8. Inform the complainant of the right to file an external complaint (outside of the District) as outlined later in this Policy.

#### VIII. Review of Compliance Coordinator's Determination

- A. If a party is not satisfied with the determination of the Compliance Coordinator or other designated investigator they may request a review by the Superintendent or their designee.
- B. A request for review by the Superintendent must be made in writing and filed with the Superintendent's office within fourteen (14) calendar days of receiving the written notice of the determination. The person requesting review shall provide a written explanation of their objection(s) to the determination, including the corrective action taken if any. The person requesting review shall limit their submission to their written statements.
- C. The Superintendent will provide the person appealing with a written verification of receipt, the name of the person reviewing the appeal, and an anticipated decision date.

#### IX. Corrective Actions and Remedial Measures

- A. The Superintendent or designee has the discretion to implement immediate corrective action, pending the completion of a fact-finding inquiry, to protect an

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individual when the Superintendent concludes that the circumstances of a particular report warrant that action.

- B. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment or discrimination will depend on the degree of harassment and might include education, counseling, or discipline. It may also lead to suspension or termination when appropriate.
  - 1. An employee found to have engaged in prohibited harassment or discrimination against another person (whether a District employee, District student or member of the public) in the course of their employment will be subject to discipline, up to and including termination. Such decisions will be made and implemented in accordance with this and other District policies, applicable state and federal statutes and regulations, as well as any applicable collective bargaining agreements.
  - 2. Any other person found to have engaged in prohibited harassment or discrimination against another person (whether a District employee, District student or member of the public) while participating in a District activity or on District property may have their future access to District and its activities limited, as deemed appropriate under the circumstances.

X. Notifications and Training

- A. This Policy must be provided to all employees in hard copy or digital form, annually, upon hiring, and posted prominently in work locations and on the District website.
- B. The District shall provide annual training to all staff on the prohibition of sexual harassment and discrimination in the workplace. New hires must also receive training. A copy of the training materials and policy shall be provided either in hardcopy or electronically at the time of training.

XI. Legal Protections and External Remedies

- A. In addition to this and other Policies, District employees and other persons visiting or doing business with the District are protected from discrimination and harassment, including sexual harassment, by New York State and federal law. There also may be applicable local laws.
- B. The New York State Human Rights Law (HRL) prohibits discrimination in employment and public accommodations, including sexual harassment. Your rights can be enforced by a complaint filed with the New York State Division of

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Human Rights (the DHR) or by filing a complaint in the New York State Supreme Court.

1. You may learn more about your rights under the Human Rights Law by calling the Division's toll-free telephone number (888-392-3644) or visiting the Division's website ([www.dhr.ny.gov](http://www.dhr.ny.gov)). DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. Contact the Division via TDD/TTY at 718-741-8300.
  2. Go to [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.
  3. Call the DHR sexual harassment hotline at 1(800) HARASS3 for more information about filing a sexual harassment complaint or access a form at <https://dhr.ny.gov/complaint>. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.
  4. You may file a complaint with the DHR within three years of the event you feel was harassment. You do not need a lawyer to file a complaint with the DHR and there is no cost to do so. The DHR will investigate your complaint and make a determination whether there is probable cause to believe sexual harassment occurred. Probable cause cases receive a public hearing before an administrative law judge. The DHR will provide an attorney. If sexual harassment is found at the hearing, the DHR has the power to award relief. Relief varies but it may include requiring your employer to take action to stop the harassment, or repair the damage caused by the harassment, including paying of monetary damages, punitive damages, attorney's fees, and civil fines.
  5. An individual may not file with the DHR if they have already filed a HRL complaint in state court.
- C. Federal laws, including Title VII of the Civil Rights Act of 1964, also prohibit discrimination in employment and public accommodation, including sexual harassment. Your rights can be enforced by filing a charge of discrimination with the United States Equal Employment Opportunity Commission (EEOC).

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1. You may file a charge with the EEOC within three hundred (300) days of the most recent event you feel was harassment or discrimination. You do not need a lawyer to file a charge with the EEOC.
  2. An employee alleging discrimination at work can file a "Charge of Discrimination." A form is available at <https://www.eeoc.gov/filing-charge-discrimination>
  3. 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 <https://www.eeoc.gov> or via email at [info@eeoc.gov](mailto:info@eeoc.gov).
  4. The EEOC will investigate your charge. If it determines there is reasonable cause to believe that unlawful discrimination occurred, the EEOC will attempt to obtain a remedy on your behalf through a conciliation process. If that is not successful, the EEOC (or Department of Justice in some cases), will decide whether to file a lawsuit. If they decide not to sue, you will be given a Notice of Right to Sue permitting an employee to file a lawsuit in federal court.
  5. If an individual filed an administrative complaint with the New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.
- D. You may start a lawsuit in the state Supreme Court within three years of the event you feel was harassment. You can start a lawsuit yourself (pro se), but it is recommended that you retain a lawyer who is familiar with court procedures.
- E. Many localities enforce laws protecting individuals from sexual harassment and discrimination. Contact the county, city, or town of residence to find out if such a law exists.
- F. Local Police Department: If the harassment involves unwanted physical touching or contact, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

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Legal Ref: NYS Labor Law §201-g

Cross Ref: 1010, Code of Conduct; 0014, Title IX Grievance Process; 0015, Prohibition of Discrimination, Harassment and Bullying Policy; 8204, Rights of Nursing Employees to Express Breast Milk

Adopted: 09/09/25