

SCHENECTADY CITY SCHOOL DISTRICT

UNLAWFUL DISCRIMINATION & HARASSMENT COMPLAINT PROCEDURE

ADMINISTRATIVE REGULATION

In accordance with District policies, the District prohibits discrimination and harassment in admission or access to, or treatment or employment in, its programs and activities on the basis of race, color, sex, national origin, citizenship status, ethnicity, military status, disability, marital status, sexual orientation, genetic predisposition or carrier status, age, religion or protected religious activity, creed, and any other basis protected by applicable federal, state or local law. This prohibition includes, but is not limited to, classifications protected under Section 504 of the Rehabilitation Act of 1973 ("Section 504"), Title IX of the Education Amendments of 1992 ("Title IX"), the Americans with Disabilities Act ("ADA"), and Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended.

The Superintendent of Schools has established this procedure whereby a complaint related to alleged unlawful discrimination and harassment (including complaints brought under Section 504 and/or Title IX) may be quickly and smoothly resolved. Students (and/or parents on behalf of such students) and employees of the District are eligible to participate in this complaint procedure.

COMPLAINTS/RESOLUTION PROCEDURE

The resolution of complaints by students or employees alleging unlawful discrimination and harassment (including sexual harassment) shall be dealt with in the manner described below.

1. Definitions

Under this procedure, the following definitions shall be used.

- a. Complainant shall mean a student or employee who alleges that he or she has been discriminated against or harassed on the basis of race, color, sex, national origin, citizenship status, ethnicity, military status, disability, marital status, sexual orientation, genetic predisposition or carrier status, age, religion or protected religious activity, creed, and/or any other basis protected by applicable federal, state or local law.
- b. Complaint shall mean any alleged violation of the District's policies prohibiting unlawful discrimination and harassment.
- c. Compliance Officer shall mean the employee(s) designated by the Board of Education to coordinate efforts to comply with and carry out responsibilities under this Administrative Regulation.

The following individuals are designated as the Compliance Officers:

Compliance Officer(s) for Student Complaints of Unlawful Discrimination and Harassment:

District Director for Student Services

Compliance Officer(s) for Employee Complaints of Unlawful Discrimination and Harassment:

District Director of Human Resources

- d. Representative shall mean any person designated by the complainant as her/his counsel or to act on her/his behalf.
- e. Sexual Harassment shall mean unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature when:
 - 1. submission to that conduct is made either explicitly or implicitly a term or condition of an employee's employment or a student's education or participation in school-sponsored activities; or
 - 2. submission to or rejection of such conduct by an individual is used as a factor in decisions affecting an employee's employment or a student's education or participation in school-sponsored activities; or
 - 3. the conduct has the purpose or effect of unreasonably interfering with an employee's work performance or a student's academic performance or participation in school-sponsored activities, or creating an intimidating, hostile or offensive working or educational environment.
- f. Unlawful Discrimination and Harassment shall mean discrimination and harassment on the basis of race, color, sex, national origin, citizenship status, ethnicity, military status, disability, marital status, sexual orientation, genetic predisposition or carrier status, age, religion or protected religious activity, creed, and any other basis protected by applicable federal, state or local law. Unlawful harassment occurs when the work or education environment becomes intimidating, hostile or offensive as a result of conduct that has the purpose or effect of unreasonably interfering with an employee's work performance or a student's academic performance or participation in school-

sponsored activities.

- g. Hostile Environment shall mean an educational or work environment which is both subjectively and objectively perceived as abusive, intimidating, or threatening, as a result of sexual or other unlawful harassment. Relevant considerations include the frequency or severity of the conduct or communications, whether or not physical contact has occurred and the relationship of the alleged victim and harasser. An isolated incident, unless extremely severe, usually will not give rise to a hostile environment.

2. Stage 1: Compliance Officer

- a. Within thirty (30) days after the events giving rise to the complaint, the complainant shall file a written complaint, utilizing the form attached hereto, with the Compliance Officer. The Compliance Officer may informally discuss the complaint with the complainant. All students and employees of the District shall cooperate fully with the Compliance Officer in such an investigation.
- b. In the alternative, a student may bring an oral complaint to the attention of a teacher or building principal, who will then orally notify the Compliance Officer. The Compliance Officer shall determine whether a written complaint should be initiated. When necessary, the Compliance Officer shall assist the student in completing the attached complaint form.
- c. Any employee who believes that a student is the victim of sexual or other unlawful discrimination or harassment shall orally notify the Compliance Officer, who shall determine whether a written complaint should be filed on behalf of the student.
- d. When the alleged victim and/or the alleged harasser is a student, the student's parents will be notified of and receive a copy of the written complaint.
- e. As soon as possible, but not later than ten (10) school days after receipt of the complaint, the Compliance Officer shall make a finding in writing that there has or has not been a violation of the District's policies prohibiting sexual harassment or other unlawful discrimination and harassment. In the event that the Compliance Officer finds that there has been a violation, she/he shall propose a resolution of the complaint. When the victim and/or the harasser is a student, the student's parents will be notified of the proposed resolution and receive a copy of the Compliance Officer's report.
- f. If the complainant is not satisfied with the finding of the Compliance Officer, or with the proposed resolution of the complaint, then the complainant may, within fifteen (15) days after she/he has received the Compliance Officer's report, file a written request for review by the

Superintendent.

- g. In the event that the complaint concerns the Compliance Officer, the complainant may begin at Stage 2, or the teacher/building principal shall refer a student's oral complaint to the Superintendent of Schools.

3. Stage 2: Superintendent of Schools

- a. The Superintendent of Schools may request that a complainant, the Compliance Officer, a student or any member of the District's staff present a written statement to her/him setting forth any information that such person has relating to the complaint and the facts surrounding it.
- b. The Superintendent shall notify all parties concerned as to the time and place where an informal meeting will be held where such parties may appear and may present oral and written statements supplementing their positions in the case. Such meeting shall be held as soon as possible, but no later than fifteen (15) days after the receipt of the appeal by the Superintendent.
- c. As soon as possible, but not later than fifteen (15) days after the meeting, the Superintendent shall render her/his determination in writing. Such determination shall include a finding that there has or has not been a violation of the District's policies prohibiting sexual harassment or other unlawful discrimination and harassment and also a proposal for equitably resolving the complaint.
- d. If the complainant is not satisfied with the determination of the Superintendent, then the complainant may, within fifteen (15) days after its receipt, file with the Clerk of the Board of Education a written request for review by the Board.
- e. In the event that the complaint concerns the Superintendent of Schools, the complainant may appeal the Stage 1 decision of the Compliance Officer directly to the Board of Education.

4. Stage 3: Board of Education

- a. When a request for review by the Board has been made by a complainant, the Superintendent shall submit all written statements and other written materials concerning the case to the President of the Board.
- b. The Board shall notify all parties concerning the time and place when a hearing will be held in Executive Session. Such hearing will be held as soon as possible, but not later than fifteen (15) days after the receipt of the

complainant's request. All parties concerned shall have the right to present

further statements and evidence at such hearing, and to be accompanied by a representative.

- c. The Board shall render a decision, in writing, to the parties as soon as possible, but not later than fifteen (15) days from the date on which the hearing was concluded.

5. Retaliation

All students and staff have the right to be free from retaliation or reprisal for bringing a good faith complaint of sexual or other unlawful discrimination and harassment under this policy. Any student or staff member who believes that he or she has been retaliated against should bring his or her concern to the attention of the Compliance Officer or Superintendent.

6. Knowingly Makes False Accusations

Employees and/or students who knowingly make false accusations against another individual as to allegations of harassment may also face appropriate disciplinary action.

SEXUAL OR OTHER UNLAWFUL DISCRIMINATION AND HARASSMENT
COMPLAINT FORM

(Please print)

Complainant's Name: _____

Complainant's Position: _____

I. FACTS OF INCIDENT

Name(s) of Alleged Harasser(s), if Known: _____

Date(s) & Place(s) of Incident(s): _____

Description of Discriminatory or Harassing Conduct: _____

Witness(es) Name(s), if Known: _____

II. PRIOR REPORTING OF INCIDENT

Have the incident(s) been reported before? ____Yes ____No

If "Yes," then when? _____ To whom? _____

What was the resolution? _____

Reason(s) for dissatisfaction: _____

Complainant's Signature _____ Date _____

III. COMPLIANCE OFFICER CONTACT INFORMATION:

FOR STUDENTS:

Andrea Tote-Freeman
District Director for Student Services
Resources
108 Education Drive
Mont Pleasant Middle School
Schenectady, New York 12303

518-881-3412

FOR EMPLOYEES:

Christina Mahoney
District Director of Human
108 Education Drive
Mont Pleasant Middle School
Schenectady, New York 12303

518-881-2000, x40133

FOR BOTH STUDENTS AND EMPLOYEES

These are confidential email addresses for the compliance officers

Discrimination&HarassmentComplaints@schenectady.k12.ny.us

or DiscHarass@schenectady.k12.ny.us