

Title

ANTI-HARASSMENT IN THE SCHOOL DISTRICT

Policy

3420

SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE SCHOOL DISTRICT

The Niagara Falls Board of Education is committed to providing an environment free from discrimination and harassment. Accordingly, the Board prohibits discrimination and harassment on the basis of disability, race, color, religion, national origin, sex, sexual orientations, age, or other legally protected category. Such actions and occurrences are prohibited regardless of whether they take place on School District premises or at school-sponsored events, programs, or activities held at other locations.

Prohibited Conduct

Determinations as to whether conduct or occurrences constitute discrimination or harassment for the purposes of this Policy will be made consistent with applicable law. Such determinations may depend upon a number of factors, including but not limited to: the particular conduct or occurrence at issue, the ages of the parties involved, the context in which the conduct or occurrence takes place, the relationship of the parties to one another, the category or characteristic that is alleged to have been the basis for the action or occurrence, and other considerations as are necessary and consistent with law. The characterizations and examples below are intended to serve as a general guide for individuals in determining whether to file a complaint of discrimination or harassment, and should not be construed to add or limit the rights individuals and entities possess as a matter of law.

Discrimination is, generally, the practice of conferring or denying privileges on the basis of membership in a legally protected class. Discriminatory actions may include, but are not limited to: refusing to promote or hire an individual on the basis of his/her membership in a protected class, denying an individual access to facilities or educational benefits on the basis of his/her membership in a protected class or impermissibly instituting policies or practices that disproportionately and adversely impact members of a protected class.

Harassment generally consists of subjecting an individual, on the basis of his/her membership in a protected class, to conduct and/or communications that are sufficiently severe, pervasive, or persistent as to have the purpose or effect of: creating an intimidating hostile, or offensive environment; substantially or unreasonably interfering with an individual's work or a student's educational performance, opportunities, benefits, or well-being; or otherwise adversely affecting an individual's employment or educational opportunities.

Harassment can include unwelcome verbal, written, or physical conduct which offends, denigrates, or belittles an individual because of his/her membership in a protected class. Such conduct includes, but is not limited to: derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name calling, graffiti, innuendo, gestures, physical contact, stalking, threatening, bullying, extorting, or the display or circulation of written materials or pictures.

Civil Rights Compliance Officer

The District will designate one or more individuals to serve as a Civil Rights Compliance Officer. The Civil Rights Compliance Office will be responsible for coordinating the District's efforts to comply with and carry out its responsibilities regarding non-discrimination and anti-harassment, including investigations of complaints alleging discrimination, harassment, or the failure of the District to comply with its obligations under relevant non-discrimination and anti-harassment laws and regulations (e.g., the Americans with Disabilities Act, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973).

Prior to the beginning of each school year, the District shall issue an appropriate public announcement or publication which advises students, parents/guardians, employees and other relevant individuals of the District's established grievance procedures for resolving complaints of discrimination and harassment. Included in such announcement or publication will be the name, address, telephone number, and email address of the Civil Rights Compliance Officer(s).

The Civil Rights Compliance Officer for the District is:

Administrator for Human Resources
Ms. Maria Massaro
630 – 66th Street
Niagara Falls, New York 14304
(716) 286 – 4225
mmassaro@nfschools.net

Investigation of Complaints and Grievances

The School District will act to promptly, thoroughly, and equitably investigate all complaints, whether verbal or written, of discrimination and/or harassment based on any of the characteristics described above, and will promptly take appropriate action to protect individuals from further discrimination or harassment. In the event an anonymous complaint is filed, the District will respond to the extent possible.

It is essential that any individual who is aware of a possible occurrence of discrimination or harassment immediately report such occurrence. All reports will be directed or forwarded to the District's designated Civil Rights Compliance Officer(s). Such complaints are recommended to be in writing, although verbal complaints of discrimination or harassment will also be promptly investigated in accordance with applicable law and District policy and procedure. In the event the Civil Rights Compliance Officer is the alleged offender, the report will be directed to another Civil Rights Compliance Officer, if the District has designated another individual to serve in such a capacity, or to the Superintendent of Schools.

To the extent possible, all complaints will be treated as confidential as possible. Disclosure may, however, be necessary to complete a thorough investigation of the charges and/or notify law enforcement officials. Also, a written record of the investigation and any action taken will, however, be established. Additionally, parents of students accused of or subjected to possible discrimination and/or harassment may be notified by the appropriate administrator of such occurrence and/or allegations as appropriate. The complainant, the alleged perpetrator, and any witness will be directed to refrain from talking about the investigation while it is pending.

If an investigation reveals that discrimination or harassment has occurred, the District will take immediate corrective action as warranted. Such action will be taken in accordance with applicable laws and regulations, as well as any and all relevant codes of conduct, District policies and administrative regulations, collective bargaining agreements, and/or third-party contracts.

If the complainant attempts to withdraw his/her complaint, the Civil Rights Compliance Officer will determine, with the assistance of any individual or entity designated to investigate the complaint, whether the withdrawal request was caused by retaliatory behavior, harassment, undue pressure, or fear of such actions. In the event the Civil Rights Compliance Officer determines the withdrawal request was not prompted by the above factors, he/she will document the complainant's reasons for the withdrawal, ask the complainant to sign the documentation, and terminate the investigation, provided such action is not inconsistent with the District's legal obligations. If the request to withdraw the complaint is the result of retaliatory behavior, harassment, undue pressure, or the fear of such actions, or if the investigation must be carried out to ensure compliance with relevant District obligations, the investigation will continue and interim measures will be taken to protect the alleged victim, the complainant, and witnesses, as appropriate.

Complaint and Grievance Procedures

All complaints of discrimination and/or harassment will be investigated in a prompt, thorough, and equitable fashion, consistent with the following procedures.

1) An employee, student, or any third party who believes that he/she has been subjected to any type of discrimination or harassment, or has knowledge of an occurrence of discrimination or harassment, may file a complaint with his/her immediate supervisor, the school principal or other individual in charge of his/her building, or the District's Civil Rights Compliance Officer. All complaints will ultimately be directed to the Civil Rights Compliance Officer, who will coordinate the District's investigation into the allegations of discrimination and/or harassment. If the Civil Rights Compliance Officer is the individual suspected of engaging in discrimination or harassment, the complaint will be directed to another Civil Rights Compliance Officer, if the District has designated an additional individual to serve in such capacity, or to the Superintendent.

The District recognizes that discrimination and harassment of students is a sensitive issue and that students may choose to inform any trusted staff member of suspected discrimination or harassment. Staff members who receive such complaints will immediately inform the Civil Rights Compliance Officer. Where appropriate, the Civil Rights Compliance Officer may seek the assistance of the relevant Dignity Act Coordinator in investigating, responding to, and remedying student complaints of discrimination and/or harassment.

Complaints of discrimination and/or harassment may be made verbally or in writing. Complainants will be encouraged to fill out a complaint form provided by the District. The District will, however, investigate all complaints of discrimination and/or harassment regardless of the form in which those complaints are made. Victims and/or witnesses should attempt to provide as much detail as possible when making such complaints.

2) Where appropriate, the District may appoint legal counsel or other appropriate third parties to

participate in the investigation of a complaint. The appointment of such individuals or entities does not relieve the Civil Rights Compliance Officer from his/her obligation to coordinate the District's compliance with relevant laws and regulations.

3) Within three (3) business days of receiving the complaint, the Civil Rights Compliance Officer will notify the complainant, in writing, that his/her complaint has been received. The designated Civil Rights Compliance Officer, or the individual or entity assigned to investigate the allegations of discrimination and/or harassment, will begin such investigation promptly.

4) In conducting an investigation, the Civil Rights Compliance Officer, or the individual or entity assigned to investigate the allegations of discrimination and/or harassment, will, as appropriate: collect and review all relevant documents; interview the complainant, the accused, and any witnesses presented by either the complainant or the accused; review relevant files and video; and collect and review other evidence as appropriate. Interviews of the complainant, the alleged victim, and the accused will be conducted separately.

5) Upon completing the investigation, the Civil Rights Compliance Officer, or the individual or entity assigned to investigate the allegations of discrimination and/or harassment, will promptly submit a written report detailing his/her/its findings to the Superintendent. While timelines for investigating complaints of discrimination and/or harassment will vary depending upon the scope and complexity of the matter, it is anticipated that most reports will be submitted within approximately sixty (60) calendar days from the receipt of the complaint.

6) The Civil Rights Compliance Officer, or the individual or entity assigned to investigate the allegations of discrimination and/or harassment, will inform the Superintendent if extenuating circumstances require more than sixty (60) calendar days for the investigation to be completed. Written notification will also be provided to all parties regarding the need for additional time.

7) Within thirty days after the written report is sent to the Superintendent, the complainant and the accused will be informed, in writing, of the investigator's findings as to whether or not discrimination and/or harassment occurred. If complainant and the accused disagree with the District's findings, they may file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR), 32 Old Slip, 26th Floor, New York, NY 10005-2500.

8) At any time in the complaint process, an employee, student or any third party may choose to file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR), 32 Old Slip, 26th Floor, New York, NY 10005-2500.

9) If the investigation results in a finding that discrimination and/or harassment did occur, the appropriate school official will take prompt action in accordance with the terms of District Policy and regulations, the District Code of Conduct, federal and state law and regulations, and/or any applicable contract or collective bargaining agreement.

After an investigation has concluded, either party may submit to the Civil Rights Compliance Officer additional information that was previously unavailable and would materially impact the investigator's findings. The District, in its sole discretion, will determine whether and to what extent such information will be considered, and whether additional action should be taken.

The Superintendent will inform the Board of Education of the results of each investigation of discrimination and/or harassment.

The above procedures do not prohibit the District from taking interim steps to prevent discrimination and/or harassment. Such steps may include, but are not limited to; separating the complainant and/or the alleged victim from the accused in a way minimizes the burden on the complainant and the alleged victim. Moreover, the filing of a complaint, and/or the rendering of a decision regarding the complaint shall in no way prohibit, prevent or limit an individual from taking appropriate legal action in accordance with state and federal law.

All investigations will be conducted in a manner consistent with state and federal law and regulation, applicable collective bargaining agreements, and the District Code of Conduct.

Finding That Discrimination and/or Harassment Occurred: Corrective Action

If the District's investigation reveals that an individual or entity was discriminated against or harassed, immediate corrective action will be taken. Should the offending individual be a school employee, appropriate remedial and/or disciplinary measures will be applied, including but not limited to termination of the offender's employment, in accordance with contractual and legal guidelines. Should the offending individual be a student, appropriate remedial and/or disciplinary measures will be applied, including but not limited to suspension, in accordance with applicable law, regulation, and the Code of Conduct.

Vendors/contractors and other individuals who do business with the District, who have been found to violate the terms of this policy by engaging in prohibited conduct will be subject to appropriate sanctions up to and including loss of District business. School volunteers who are found to have violated this policy may face loss of volunteer status.

Should the offending individual be a visitor, guest or other third party, any corrective action deemed appropriate will be taken, including but not limited to expulsion from District premises and/or school activities/events under the control and supervision of the District.

Knowingly Makes False Accusations

Any employee or student who *knowingly* makes false accusations against another individual as to allegations of discrimination or harassment will face appropriate disciplinary action.

Prohibition of Retaliatory Behavior

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of discrimination and/or harassment. Complaints of retaliation may be directed to the Civil Rights Compliance Officer. In the event the Civil Rights Compliance Officer is the alleged offender, the report will be directed to another Civil Rights Compliance Officer, if the District has designated another individual to serve in such a capacity, or to the Superintendent.

Where appropriate, follow-up inquiries will be made to ensure that discrimination and/or harassment has not resumed and that those involved in the investigation have not suffered

retaliation.

Additional Provisions

In order to promote familiarity with issues pertaining to discrimination and harassment in the schools, and to help reduce incidents of prohibited conduct, the District will provide appropriate information and/or training to staff and students. As may be necessary, special training will be provided for individuals involved in the investigation of discrimination and/or harassment complaints.

A copy of this policy will be available upon request and will be posted and/or published in appropriate locations and/or school publications.

This policy should not be read to abrogate other District policies and/or regulations or the District Code of Conduct prohibiting other forms of unlawful discrimination, harassment, and/or inappropriate behavior within this District. It is the intention of the District that all such policies and/or regulations be read consistently to provide protection from unlawful discrimination and harassment. However, different treatment of any individual which has a legitimate, legal and nondiscriminatory reason shall not be considered a violation of District policy.

Age Discrimination in Employment Act, 29 USC Section 621
Americans with Disabilities Act, 42 USC Section 12101 et seq.
Section 504 of the Rehabilitation Act of 1973, 29 USC Section 794 et seq.
Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d et seq.
Title VII of the Civil Rights Act of 1964, 42 USC Section 2000e et seq.
Title IX of the Education Amendments of 1972, 20 USC Section 1681 et seq.
Education Law Section 2801(1)
Executive Law Section 290 et seq.

Adoption Date 09272018

Harassment Complaint Form
City School District of the City of Niagara Falls
(District Human Resources Office)

Please complete the Harassment Complaint Form and forward, with supporting documentation as requested to the District’s Civil Rights Compliance Officer, Maria A. Massaro, 630 - 66th Street, Niagara Falls, New York 14304, (716) 286-4225, mmassaro@nfschools.net. Attached to this form is District Policy #3420, Non-Discrimination and Anti-Harassment in the School District.

Name of complainant: _____

Position of complainant: _____

Address: _____

Contact Information: Home Phone: _____

(Circle the number preferred)

Cell Phone: _____

Work Phone: _____

Date complaint filed: _____

Name and/or description of alleged harasser: _____

___ An employee, holding the position of _____ at _____

___ A student, grade _____ at _____ (school or location)

___ A parent or community member

___ Other (Specify person's relationship with the District) _____

Basis of this complaint:

___ Race, color, creed, national origin/ethnicity ___ Disability

___ Sex, gender ___ Marital Status

___ Sexual Orientation ___ Partnership Status

___ Sexual Harassment ___ Military/Veteran Status

___ Religion ___ Age

___ Other Harassment ___ Retaliation

Description of alleged harassment/discrimination incident: (If available and pertinent to this claim attach documentation i.e. emails, letters, notes, text messages, phone records, recordings, videos, etc.)

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Date and place of violation(s):

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Witnesses (if any) or others who should be contacted with knowledge important to this investigation, including contact information for each: _____

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Others you may discussed this complaint/incident with, including contact information for each:

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Has this incident/discrimination been previously reported: Yes No

If yes, to whom and when? Whom: _____

When: _____

Describe the remedy, outcome or resolution:

-

Remedy sought by complainant:

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Date Signature of Complainant

NOTE: Refer also to Policies

#6121 -- Sexual Harassment of District Personnel

#6122 -- Complaints and Grievances by Employees

#7550 -- Complaints and Grievances by Students

#7551 -- Sexual Harassment of Students

Adopted: 2/23/12, Revised September 2018