

# **DISCRIMINATION AND ANY FORM OF HARASSMENT REPORTING and INVESTIGATION PROCEDURE**

Revised 2/20/2015

Any individual who believes that he/she has been subjected to discrimination or harassment or who is made aware of and/or witnesses any possible occurrence of discrimination or harassment shall report such incident or occurrence as soon as possible after the alleged incident occurs in order to help the District effectively and promptly investigate and resolve the complaint. Victims and/or witnesses should attempt to provide as much detail as possible when making such reports. Individuals may request and use the **TST BOCES Report of Discrimination and/or Sexual or other Form of Harassment** form.

All parties will be assured that complaints will remain as confidential as possible, and will be disclosed only when necessary to effectively investigate the complaint and/or as required by law. 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 witnesses will be directed to refrain from talking about the investigation while it is pending.

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.

## **Stage One 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 or student 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 building 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. 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.
2. 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.
3. 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.

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4. 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.
5. 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.
6. 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.
7. 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, the complainant and the accused. 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 no more than sixty (60) calendar days from the receipt of the complaint.
8. 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.
9. The Complainant, once notified of the findings, will within seven (7) calendar days:
  - a. Accept the decision, in writing, to the Compliance Officer: or
  - b. Disagree with the decision, in writing, to the Compliance Officer.\*(Failure of the Complainant to respond will be interpreted as acceptance of the decision)\*
10. 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 regulation, 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 that 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.

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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 an 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 the District's non-discrimination and anti-harassment policy and/or its administrative guidelines 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 District policy and/or administrative guidelines 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.

## **Finding That Discrimination and/or Harassment Did Not Occur**

If at any level/stage of investigation of alleged discrimination and/or harassment, a determination is made that discrimination and/or harassment did not occur, the Civil Rights Compliance Officer will so notify the parties involved and the Superintendent.

However, even if a determination is made that discrimination and/or harassment did not occur, the Superintendent/designee reserves the right to initiate student and staff training to help ensure the school community is committed to preventing and addressing discrimination and/or harassment.

## **Stage Two Complaint and Grievance Procedures:**

A complaint or grievance can be elevated to the second stage, the District Superintendent (or his/her designee) for review by:

- a) The Civil Rights Compliance Officer or;
  - b) The Complainant,
    - i. If it is necessary to bypass the Civil Rights Compliance Officer or;
    - ii. After completion of the Stage One Procedure
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- 1) The District Superintendent (or his/her designee) will schedule a meeting within two weeks (14 calendar days) of receipt of the request with the Complainant (who may be accompanied by his or her parent(s) or guardian, if the Complainant is a minor), the Civil Rights Compliance Officer, and any other employees the Civil Rights Compliance Officer deems appropriate.
  - 2) The District Superintendent (or his/her designee) will render a final decision within one week (7 calendar days) after the scheduled meeting. The complainant, the accused, and the Civil Rights Compliance Officer will receive copies of the decision.

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**Other Channels for Filing Complaints:**

Complaints of discrimination based upon sex and disability may be filed with other agencies. Since each agency has its own rules on deadlines for filing complaints, please check each agency to determine its particular rules for filing complaints. The Complainant may file a complaint of discrimination with the:

New York Enforcement Office  
Office for Civil Rights  
U.S. Department of Education  
32 Old Slip, 26<sup>th</sup> Floor  
New York, New York 10005-2500  
Phone: 646-428-3900 Fax: 646-428-3843 E-mail: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

As detailed in Section 310 of the New York State Education Law and Part 275 of the Regulations of the Commissioner of Education, "Any person conceiving himself aggrieved may appeal or petition to the Commissioner of Education... The address is:

New York State Commissioner of Education  
The New York State Education Department  
Washington Avenue  
Albany, New York 12234

**Although it is not legally required, complainants are encouraged to follow the school district's grievance procedures before filing a complaint through the channels listed above.**