

POLICY

1998 6121

Revised 2009, 2011, 2014, 2015, 2016
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SUBJECT: SEXUAL HARASSMENT OF DISTRICT PERSONNEL

It is the policy of the Minisink Valley Central School District to prohibit sexual harassment and/or gender based harassment in the workplace. To that end, all officers, supervisory personnel and employees of the School District shall be given a copy of this policy and be provided with training regarding its terms, procedures, protections and penalties.

Definitions

Sexual harassment is defined as discrimination against a person of a different or the same sex because of their actual or perceived sex and/or gender and regarding quid pro quo sexual harassment or that which creates a sexually hostile work environment.

Quid pro quo sexual harassment is that which threatens the loss of employment or a change in working conditions, including, promotion, demotion, work assignment, extra-earnings opportunities and extra assignments based upon submission to demands for sexual favors.

Sexual harassment that creates a hostile work environment is either pervasive and/or severe conduct that involves unwelcome: sexual advances; sexual violence, sexual conduct that constitutes a crime; sexual touching; indecent exposure of a sexual nature; pervasive sexual remarks, comments, displayed materials, printed materials, electronic media or jokes. The determination of a hostile work environment shall be objective, based upon the viewpoint of a reasonable person and subjectively perceived to be so by the complainant.

Gender based harassment is defined as pervasive and/or severe conduct intended to intimidate or demean a person or persons of the same or opposite gender or conduct that which treats a person of that gender differently in the workplace because of his or her gender and/or failure to conform to gender stereotypes.

The District is committed to providing a workplace that is free from sexual harassment. Sexual harassment in the workplace is against the law and will not be tolerated. When the District determines that an allegation of sexual harassment is credible, it will take prompt and appropriate corrective action.

What Is Sexual Harassment?

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a) An employment decision affecting that individual is made because the individual submitted to or rejected the unwelcome conduct; or
- b) The unwelcome conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or abusive work environment.

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Certain behaviors, such as conditioning promotions, awards, training or other job benefits upon acceptance of unwelcome actions of a sexual nature, are always wrong.

Unwelcome actions such as the following are inappropriate and, depending on the circumstances, may in and of themselves meet the definition of sexual harassment or contribute to a hostile work environment:

- a) Sexual pranks, or repeated sexual teasing, jokes, or innuendo, in person or via email;
- b) Verbal abuse of a sexual nature;
- c) Touching or grabbing of a sexual nature;
- d) Repeatedly standing too close to or brushing up against a person;
- e) Repeatedly asking a person to socialize during off-duty hours when the person has said no or has indicated he/she is not interested (supervisors in particular should be careful not to pressure their employees to socialize);
- f) Giving gifts or leaving objects that are sexually suggestive;
- g) Repeatedly making sexually suggestive gestures;
- h) Making or posting sexually demeaning or offensive pictures, cartoons or other materials in the workplace;
- g) Off-duty, unwelcome conduct of a sexual nature that affects the work environment.

A victim of sexual harassment can be a man or a woman. The victim can be of the same sex as the harasser. The harasser can be a supervisor, co-worker, other Department employee, or a non-employee who has a business relationship with the District.

Title IX/VII Officer

The District's Title IX/VII Officer is the Assistant Superintendent for Human Resources and is charged with investigating and/or overseeing the investigation of sexual or gender based harassment complaints. The District's Title IX/VII Officer can be reached by calling (845) 355-5810 or by mail: PO Box 217, Slate Hill, NY 10973 and by email at the following email address: Mike Giardina <mgiardina@minisink.com>

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Procedure

Any employee who believes that he or she or another employee has been subjected to sexual harassment or gender based harassment by an officer, supervisor, business invitee, student or by another employee is encouraged to address the matter with the District's Title IX/VII Officer, who shall promptly conduct an intake interview and explain the following options for resolution:

- a) Registering a complaint verbally or in writing; or
- b) Engaging in voluntary facilitated mediation to arrive at a resolution of the matter (this shall not be utilized when allegations involve sexual violence or sexual assault); or
- c) Placing the District on notice of the objectionable conduct without seeking a resolution through the complaint process or mediation.

The intake Title IX/VII Officer will also explain that the complaining employee and those participating in the investigation shall not be subject to retaliation or retribution by reason of making the complaint or participating and that confidentiality shall be maintained throughout the process by all involved, except as necessary to assure fair and due process. The complaining employee and participating employees and/or students should be encouraged to immediately notify the Title VII Officer if they feel they are being retaliated against. Where feasible, complainants will be separated from the alleged harasser to allow for a full and fair investigation and to prevent ongoing harassment during the pendency of the investigation.

Complaints

All complaints shall be received in writing or reduced to writing by an intake Title IX/VII Officer, who shall personally or by reference to a designee on the Board's approval list conduct a full and fair impartial investigation of the complaint; which will include providing the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence, make written findings of fact and, where warranted, recommend a resolution to the Superintendent of Schools within 60 calendar days of the initial report received either verbally or in writing. The evidentiary standard used during the investigation is preponderance of the evidence in resolving the complaint. The Superintendent of Schools shall advise the complainant and the subject of the complaint in writing of the disposition of the complaint, that may include:

- a) A finding that this policy has not been violated; or
- b) A finding that this policy has been violated and appropriate corrective, disciplinary and/or other action has been taken.

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Alternates

The Board shall appoint more than one Title IX/VII Officer and several designated Title IX/VII formal complaint investigators. Complainants will have a choice of which Title IX/VII Officer to approach regarding a Title IX/VII complaint. If the complaint is about the Superintendent of Schools, the Board shall stand in the Superintendent's place for review activities as described above with respect to informal and formal complaints.

The Superintendent shall take such further action necessary to reasonably deter and prevent the reoccurrence of any further acts prohibited by this policy. Such further action may include:

- a) Separating the harasser and the victim (in a way that does not adversely impact the victim's educational program);
- b) Providing an escort to ensure that a student is able to safely move between classes and activities;
- c) Providing counseling to the target and/or harasser;
- d) Disciplinary action against the harasser;
- e) Reviewing any disciplinary action taken against the complainant to determine if there was a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined;
- f) Providing education and training on sex and/or gender based harassment;
- g) Directing the victim in writing to immediately report any new concerns or incidences of harassment and/or retaliation by the perpetrator(s) or others;
- h) Providing a written directive to those involved in the investigation/allegations of the prohibitions against further harassment and/or retaliation against the victim and others for their role in cooperating in the investigation.

Appeal of Formal Complaints

If a complaint has not been processed to a satisfactory disposition by the Superintendent within 60 calendar days of when the complaint is received in writing by the Title IX/VII Officer, unless longer following request by the Title IX/VII Officer and/or investigator this timeline has been extended by the Superintendent with the written consent of the complainant, the complainant or

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alleged perpetrator(s) may appeal in writing to the Board for disciplinary action to be taken or disciplinary proceedings to be commenced, where necessary. The Board shall render a written decision on such an appeal within 30 calendar days. In cases in which the Board serves as an alternate, there shall be no internal appeals process.

Confidentiality

The District's Title IX Officer(s), the Superintendent of Schools and the Board of Education shall, to the maximum extent possible, maintain as confidential the transaction(s) underlying the proceedings or complaint, the outcome of a mediated agreement and action taken, other than formal discipline. The subject of the proceedings or complaint, however, shall be informed of the identity of the person who commenced the proceedings or complaint in order to provide fair and due process.

Consequences

Any officer, supervisor or employee who violates this policy shall be subject to corrective action up to and including termination of office or employment, with due process provided as appropriate.

Any complaint that is determined to have been processed maliciously or in bad faith, shall be deemed to be in violation of this policy and may give rise to disciplinary consequences against the complainant.

Any complaint that involves allegations which constitute or may constitute criminal behavior, will be immediately and directly referred to law enforcement personnel. Such a referral shall not relieve the District of its obligations to investigate and remediate such conduct.

Training

The District shall provide appropriate written notice and preventative training to students, staff, school law enforcement and volunteers regarding awareness and reporting/investigating sexual and gender based harassment and sensitivity to issues involving sexual and gender based harassment, including condemnation of such conduct, the sanctions for harassment and preventive measures to help reduce incidents of sexual and gender based harassment.

Distribution of Policy

A copy of this policy and its procedures for investigating sexual and/or gender based harassment complaints shall be available on the District's website and or electronically and distributed to all officers, supervisory personnel, and employees of the District. This policy shall be disseminated and reviewed during staff orientations, mailings and upon receipt of complaints.