The District, (hereinafter "The District"), is committed to maintaining a workplace free from harassment on the basis of sex, gender and/or sexual orientation (“sexual harassment” or “harassment”). Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the District’s commitment to a discrimination-free work environment. Sexual harassment is against the law and all employees have the legal right to a workplace free from sexual harassment, and are urged to report sexual harassment by filing a complaint internally with the District. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

The District’s policy applies to all employees, including all staff, administrators, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, regardless of immigration status, and, to the extent required by applicable law, certain “non-employees” (which includes contractors, subcontractors, vendors, consultant and other persons providing services to the District pursuant to a contract, or their employees). In this Policy, the term “employees” refers to this collective group.

This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination). Contractors, vendors and other non-employees who engage in sexual harassment shall be subject to enforcement including but not limited to termination of their contract with the District.

Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the District to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of any level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

**DEFINING SEXUAL HARASSMENT**

*What Is “Sexual Harassment?”*  
Sexual harassment is a form of sex discrimination and 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 includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:
- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment; or
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex or gender. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’s job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

**Examples of Sexual Harassment**
Workplace- and school-related conduct that the District considers unacceptable and which may constitute sexual harassment includes, but is not limited to, the following:
- Physical acts of a sexual nature, such as:
  - Touching, pinching, spanking, patting, kissing, hugging, grabbing, brushing against another employee’s body or poking another employee’s body parts, cornering or blocking an individual, standing too close;
  - Unwelcome and sexually offensive physical pranks or touching of an individual's clothing, such as hazing and initiation, "streaking," "mooning," "wedgies" (pulling underwear up at the waist so it goes in between the buttocks), bra-snapping, skirt "flip-ups," "spiking" (pulling down someone's pants or swimming suit); pinching; placing hands inside an individual's pants, shirt, blouse, or dress, etc.;
  - Unwelcome or offensive public sexual display of affection, including kissing, hugging, making out, groping, fondling, petting, inappropriate touching of one's self or others (e.g., pinching, patting, grabbing, poking), sexually suggestive dancing, and massages; and/or
  - Rape, sexual battery, molestation/abuse or attempts to commit these assaults.
- Unwanted sexual advances, invitations or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target’s job performance evaluation, a promotion or other job benefits or detriments, including but not limited to those in exchange for promotions, preferences, favors, selection for job assignments, etc., or when accompanied by implied or overt threats concerning the target's work or school evaluations, other benefits or detriments; and/or
  - Subtle or obvious pressure for unwelcome sexual activities.
• Unwelcome leers, stares, gestures, or slang that are sexually suggestive; sexually degrading or derogatory or imply sexual motives or intentions.
• Any unwelcome communication that is sexually suggestive, sexually degrading or derogatory or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual jokes; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings lists;" howling, catcalls, and whistles; sexually graphic computer files, messages or games, etc.
• Stereotyping when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
• Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  • Clothing with sexually obscene or sexually explicit slogans or messages; and/or  
    o Displaying pictures, videos, 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.
• Hostile actions or other unwelcome behavior against an individual because of that individual's sex, sexual orientation, gender identity or the status of being transgender, such as:
  o Interfering with, destroying or damaging a person's workstation, equipment, supplies or other personal property, sabotaging or otherwise interfering with the individual’s ability to perform the job; and/or  
    o Disparaging remarks, slurs, jokes about or aggression toward an individual because the person displays mannerisms or a style of dress inconsistent with stereotypical characteristics of the person’s sex or gender.
• Bullying, yelling, ostracizing, name-calling, taunting, teasing, ridiculing that is sexually suggestive or explicit, sexually degrading or derogatory, implies sexual intentions, or that is based on sexual stereotypes or sexual orientation, gender identity or expression.

For purposes of this regulation, action or conduct shall be considered unwelcome and unwanted if the employee or non-employee did not request or invite it and regarded the conduct as undesirable or offensive. Simple teasing, offhand comments or a minor isolated incident may or may not constitute sexual harassment; however, if such behavior is so frequent or severe that it creates a hostile or offensive work environment or results in an adverse employment decision (such as the victim being fired or demoted), such behavior shall constitute sexual harassment.

For the avoidance of doubt, behavior may constitute actionable harassment under this District policy even if such behavior does not technically constitute harassment under certain local, state or Federal laws.

**Who can be a target of sexual harassment? Who can be a harasser?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Sexual Harassers can be a teacher, administrator, superior, a subordinate, a coworker or anyone in the workplace including a student, parent of a student, independent contractor, contract worker, vendor, client, customer or visitor.
Where can sexual harassment occur?
Unlawful sexual harassment is not limited to the physical workplace or classroom itself. It can occur while employees are traveling for business or at District-sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

RETALIATION
No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The District will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the District who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees or non-employees working in the workplace who believe they have been subject to such retaliation should inform an Administrator. All employees or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

REPORTING HARASSMENT

Preventing sexual harassment is everyone’s responsibility. The District cannot prevent or remedy sexual harassment unless it knows about it. Any employee or non-employee who has been subjected to any behavior that may constitute sexual harassment, or who witnesses or becomes aware of sexual harassment of others, is encouraged to report such behavior immediately. Delays in making a report can limit the ability of the District to address the conduct. Reports should be made as follows:

- If the target of the complaint is (i) an employee or non-employee that is associated with a particular building (e.g., a teacher at one school) or (ii) a student, the complaint should be filed with the Building Principal or Director.
• If the target of the complaint is (i) an employee or non-employee that is associated with two or more buildings, (ii) a District-wide employee or vendor, or (iii) a Building Principal or Director, or if the person filing the report is not sure who the harasser is or their role with the District, the complaint should be filed directly with the Assistant Superintendent for Human Resources or their Designee.

• If the target of the complaint is the Assistant Superintendent for Human Resources, the complaint should be filed directly with the Superintendent of Schools or their Designee.

• If the target of the complaint is Counsel to the Board, the complaint should be filed directly with the Superintendent of Schools, who shall promptly inform the Board of such event.

• If the target of the complaint is the Superintendent of Schools, the complaint should be filed directly with the President of the Board of Trustees of the Board of Education and Counsel to the Board, who shall promptly inform the entire Board of such event.

• If the target of the complaint is a member of the Board of Trustees, the complaint should be filed directly with Counsel to the Board, who shall promptly inform all necessary parties to address such complaint consistent with Board policies on misconduct by Board Trustees and applicable law.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee’s behalf. Harassment complaints represent confidential personnel matters. For this reason, note that harassment complaints shall be made by personally delivered complaint rather than email, since District email is considered a public environment with no privacy expectations.

Employees or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

**SUPERVISORY RESPONSIBILITIES**

All Building Principals, Directors, and other District Administrators/Supervisors who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to investigate and report such suspected sexual harassment to the Assistant Superintendent for Human Resources or to the Superintendent of Schools, Sexual Harasser is the Assistant Superintendent for Human Resources.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, Building Principals, Directors, and other District Administrators/Supervisors may be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Building Principals, Directors, and other District Administrators/Supervisors may also be subject to discipline for engaging in any retaliation.
INVESTIGATION OF SEXUAL HARASSMENT COMPLAINTS

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be timely and thorough, commenced and completed as soon as practicable. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The District will not tolerate retaliation against employees who file complaints, support another’s complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of a complaint, Building Principals, Directors, other District Administrators/Supervisors, the Assistant Superintendent for Human Resources or their Designee will conduct a review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant, reassignment), as appropriate.
- Consult with the Assistant Superintendent for Human Resources and/or District legal counsel as appropriate.
- If the complaint is verbal, encourage the individual to complete the “Complaint Form” in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting and ask the individual to sign. If the individual refuses to sign, denote the same on the form and proceed with the investigation.
- Take steps to obtain and preserve evidence relevant to the investigation.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a confidential file of the investigation (such as a letter, memo), which contains the following:
  - A written summary of the current investigation including a finding
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determinations.
- Implement any corrective actions.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.
LEGAL PROTECTIONS

Sexual harassment is not only prohibited by the District but is also prohibited by state, federal, and, where applicable, local law. It may constitute a crime. Aside from the internal process at the District, employees may also choose to pursue legal remedies with other appropriate governmental agencies. While a private attorney is not required to file a complaint with a governmental agency, victims of sexual harassment may seek the legal advice of an attorney. Nothing in this Policy is intended to, or shall be construed to, prohibit a victim of sexual harassment from pursuing recourse in a non-District forum. Be advised that filing a complaint with the District may not extend your time to file with another governmental agency or a separate lawsuit.

By way of example only and not limitation, other potential laws that may be implicated by behaviors described as sexual harassment may include:

- State and local rape and sexual assault laws. Contact the Mount Vernon City Police Department at (914) 665-2500. Call 9-1-1 in the event of an emergency.
- The New York Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq. Contact the New York Division of Human Rights (DHR). Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint.
- Federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). Contact the EEOC at 1-800-669-4000 (TTY: 1-800-669-6820), via their website at www.eeoc.gov or via email at info@eeoc.gov.