

SEXUAL HARASSMENT OF EMPLOYEES

The Croton-Harmon Union Free School District believes in the dignity of the individual and recognizes the rights of all people to equal employment opportunities in the workplace. In this regard, the District is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment without being subjected to harassment or discrimination in the workplace. It is the District's policy to provide an employment environment free from harassment and discrimination based on race, color, gender, religion, religious creed, sex, familial or marital status, age, national origin or ancestry, physical or mental disability, genetic information/predisposition or carrier status, military or veteran status, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender, pregnancy (including childbirth and related medical conditions, and including medical conditions related to lactation) citizenship, domestic violence victim's status or any other characteristics protected by applicable federal, state or local law. This policy specifically addresses harassment based on sex and retaliation for the exercise of rights under this policy. However, the procedures and guidelines set forth in this policy are equally applicable to complaints of harassment or retaliation related to other forms of harassment.

This Policy applies to all District employees and all personnel in a contractual or other business relationship with the District including, for example, applicants, temporary or leased employees, interns (whether paid or unpaid), independent contractors, vendors, consultants, volunteers and visitors. In the remainder of this Policy, the term "employees" refers to this collective group. This Policy applies with equal force on District property as it does at District-sponsored events, programs, and activities that take place off District premises

What is "Sexual Harassment"?

Included within the types of conduct prohibited by the District is sexual harassment. Sexual harassment is a form of sex discrimination and is unlawful under federal, New York State and local laws. 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. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Sexual harassment includes unwelcome conduct which is of a sexual nature or which is directed at an individual because of that individual's sex when (1) submission to such conduct is made explicitly or implicitly a condition of an individual's employment; (2) submission to or rejection of such condition by an individual is used as the basis for employment decisions; or (3) such conduct has the purpose or effect of unreasonable interfering with an individual's work performance or creating an intimidation, hostile or offensive working environment. This policy prohibits harassment of persons of the same sex or the opposite sex, and covers harassment by managers or supervisors, coworkers, customers, and vendors or suppliers or anyone else in the workplace.

The prohibited sexual harassment includes the following: Unwelcome sexual advances, requests for sexual favors, use of vulgar or obscene language that would offend ordinary sensibilities, unwarranted or uninvited touching, fondling or other bodily contact, threats, derogatory comments, signs, jokes, pranks, intimidation, or other verbal or physical conduct of a sexual nature, where the conduct is so severe and pervasive as to alter the terms of employment for the individual subject to the harassment. It makes no difference if the individual engaging in such conduct is “just joking” or “teasing” or “playful.”

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

Examples of the types of acts that may constitute sexual harassment include:

- Physical acts of a sexual nature such as: touching, pinching, poking, patting, kissing, hugging, or brushing against another employee’s body
- Sexual assault, sexual battery, molestation or attempts to commit these actions
- Unwanted sexual advances or propositions
- Sexually-oriented gestures, noises, remarks, or jokes, or comments about a person’s sexuality or sexual experiences
- Sexual or discriminatory displays or publications in the workplace, such as pictures, posters, calendars, objects, or other materials that are sexually demeaning or pornographic
- Sex stereotyping, including references to personality traits or other matters that express displeasure or disgust based on ideas or perceptions about how individuals of a particular sex should look or act
- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender expression, gender identity, or the status of being transgender

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business, at employer-sponsored events, or other occasions outside of work, *i.e.*, not in the workplace. Calls, texts, emails, and social media usage containing inappropriate messages, language, pictures, videos or graphics may also constitute or contribute to unlawful workplace harassment, even if they occur away from the workplace, on personal devices, or during non-work hours.

What is “Retaliation”?

Retaliation includes any conduct, whether or not in the workplace or employment-related, which might deter a reasonable person from making or supporting a charge of discrimination or harassment and is directed at someone who engages in protected activity. Protected activity

includes opposing a discriminatory practice, making a good faith report of a suspected violation of this policy, filing a harassment complaint, participating in an investigation or proceeding of such a report or complaint, or encouraging a fellow employee to make a report. 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. Complaints of retaliation should be brought directly to the Title IX Coordinator. Such complaints will be promptly investigated and corrective actions taken as appropriate, in accordance with this policy.

Reporting Sexual Harassment

Any employee who has a complaint regarding discrimination or harassment must notify the District's Title IX Coordinator of any such activity. Managers who receive complaints or observe inappropriate conduct are to report this information immediately to the Title IX Coordinator. If possible, anyone who witnesses such conduct should tell the alleged harasser that their actions are not welcome and should stop.

Prompt reporting of all complaints is strongly encouraged. All employees should be aware that appropriate resolution of complaints and effective remedial action oftentimes is possible only when complaints are promptly filed.

Reports of sexual harassment may be made verbally or in writing. All employees are encouraged to use the District's "Complaint of Alleged Discrimination" form, but using the form is not required. Regardless of whether being made verbally or in writing, a report of sexual harassment should be as detailed as possible and include the names of the individual(s) involved, any witness(es) to the harassment, direct quotes and/or evidence (*e.g.*, notes, e-mails, digital recordings, etc.) of the harassment. Individuals who report sexual harassment on behalf of another person should state clearly that the complaint is being made on another person's behalf.

Upon receipt of an oral or written complaint, the Title IX Coordinator should endeavor to contact promptly the complainant to confirm that the complaint has been received. If the complainant does not receive such confirmation promptly, she/he is encouraged to contact the Title IX Coordinator or his/her supervisor or the supervisor to whom the complaint was made to ensure its receipt.

In addition to being subject to discipline if they engaged in sexually harassing conduct or retaliation themselves, supervisors and department heads will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue. Supervisors and department heads will also be subject to discipline for engaging in any retaliation.

Investigation of Sexual Harassment

All reports, complaints or other information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will

be conducted in a timely and thorough manner commensurate with the nature of the complaint, and will be confidential to the extent possible. To the extent complaints made under this Policy implicate criminal conduct, the District may be required by law to contact and cooperate with the appropriate law enforcement authorities

In conducting an appropriate and impartial investigation, the District will provide appropriate notice of the allegations to anyone who is the subject of a harassment complaint and an opportunity to provide a response to the allegations. Complainants and witnesses will be provided with an appropriate opportunity to present relevant information including documents relevant to the investigation. The District will maintain a written record of the investigation. The District may adapt and modify the investigatory procedure, in its discretion, based on the nature of the complaint and the conduct at issue.

The District shall maintain a written record of all complaints of discrimination and/or harassment for a period of at least three years. The District shall also document the steps taken with regard to investigations, as well as conclusions reached and remedial action taken, if any. The District shall also maintain these documents for, at a minimum, three years. The District's records regarding alleged discrimination and harassment shall be maintained separate and apart from personnel records in a secure and confidential location.

All employees and other individuals covered under this Policy may be required to cooperate, as needed, in an investigation of suspected sexual harassment. Employees and other individuals who participate in any investigation are protected from retaliation. All persons involved in the reporting and investigation of harassment are obligated to keep the information pertaining to the investigation confidential to the maximum extent possible, to protect the privacy of those involved in the investigation and to allow the District to conduct an objective and appropriate investigation. During the pendency of any investigation being conducted pursuant to this policy, interim remedial measures may be taken if appropriate and necessary.

If the District determines that this policy has been violated, it will take effective remedial action commensurate with the circumstances. While disciplinary action may be appropriate in certain instances, punitive measures are not the exclusive means for responding to prohibited discrimination or harassment. Any employee who has been found by the District to have harassed another employee in violation of this policy may receive education, training, counseling, warnings, discipline, or other measures designed to prevent future violations of this policy. Disciplinary action may include: warnings, suspension, or discharge from employment or such disciplinary action as may be permitted by applicable collective bargaining agreements and law. If it is concluded that a non-employee has subjected an employee or other person protected by this policy to conduct in violation of this policy, prompt and effective action will be taken to stop the harassment and deter any future harassment, which may include being barred from District property.

The District will notify the individual who was subject to the reported conduct and the person who filed the complaint of the conclusion of the results of its investigation, and will follow up with that individual as appropriate under the circumstances. The District will also notify the accused party or parties of the results of the investigation.

Following a finding of sexual harassment, victims will be periodically interviewed by the appropriate supervisory personnel to ensure that the harassment has not resumed and that no retaliatory action has occurred. In the discretion of the district, these follow-up interviews will continue for an appropriate period of time. A report will be made of any victim's response.

Legal Protections and External Remedies

Employees are encouraged to use the internal complaint procedure the District has established for resolution of any harassment concerns. In addition to the procedures described in this Policy, individuals may choose to pursue legal remedies with the following governmental entities:

The New York State Division of Human Rights (SDHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 *et seq.*, which prohibits sexual harassment in employment in New York State, and protects employees, and other individuals working in an employer's workplace. A complaint alleging a violation of the Human Rights Law may be filed either with the SDHR, subject to a one-year statute of limitations, or in New York State Supreme Court, subject to a three-year statute of limitations.

If unlawful discrimination is found after a hearing, the SDHR or the court may award relief, which may include requiring the employer to take action to stop the harassment, to redress the damage caused, including reversing an unlawful employment action, and paying monetary damages, attorneys' fees, and civil fines. The SDHR can be contacted at (888) 392-3644 or at www.dhr.ny.gov.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces federal antidiscrimination laws, including Title VII of the 1964 Civil Rights Act (codified as 42 U.S.C. § 2000e *et. seq.*). An employee must file a complaint with the EEOC within 300 days from the conduct giving rise to the complaint. The EEOC investigates complaints, and may pursue a claim in federal court on behalf of the complaining party, or issue a Right to Sue Letter that allows an individual to pursue his/her claims in federal court. Federal courts may award remedies if discrimination is found to have occurred. The EEOC can be contacted by calling 1-800-669-4000 (1-800-669-6820 (TTY)), or at their website: www.eeoc.gov or via email at info@eeoc.gov. If an individual files an administrative complaint with the DHR, the DHR may file the complaint with the EEOC to preserve the individual's right to proceed in federal court.

Contact the Local Police Department

In addition to submitting a complaint or report to the District, if the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. In these situations, you should contact the local police department where the conduct occurred.

Cross-ref:

[0100](#), Non-Discrimination and Equal Opportunity
9010, Equal Employment Opportunity
9020.2-E, Sexual Harassment of Employees Exhibit

Ref:

[42 USC §§2000e-2000e-17](#)

[29 USC §206](#)

Executive Order 11246

[New York State Constitution Article I §11](#)

[Executive Law §296](#)

[Labor Law § 201\(g\)](#)

[Model Sexual Harassment Policy, New York State Department of Labor \(issued Oct. 1, 2018\)](#)

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