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SUBJECT: POLICY AGAINST WORKPLACE SEXUAL HARASSMENT

Introduction

The Levittown U.F.S.D. (“District”) is committed to maintaining a workplace that is free from sexual harassment. Sexual harassment is a form of workplace discrimination and will not be tolerated. 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. All employees, applicants for employment, Board members, student teachers, interns, non-employees (as defined below) and other persons conducting business with the District have a legal right to a workplace that is free from sexual harassment.

The District is equally committed to maintaining a workplace that is free from discrimination and other types of prohibited harassment. For more information, please see Policy 3420, Policy Against Workplace Discrimination and Harassment; Policy 6120, Equal Employment Opportunity; and Policy 6122, Complaints and Grievances by Employees.

Policy

This Policy applies to all employees, applicants for employment, Board members, student teachers, interns, non-employees (see definition below), and other persons conducting business with the District, regardless of immigration status, (“covered individuals”) with respect to conduct by other persons, including parents, students and visitors.

For purposes of this Policy, a “non-employee” is an independent contractor, agent or someone who is (or who is employed by) a contractor, subcontractor, vendor, consultant or anyone providing services in the workplace. Non-employees also include temporary workers, persons providing equipment repair, cleaning services or any other service pursuant to a contract, or other relationship with the District.

All covered individuals must follow and uphold this Policy.

Sexual harassment is a form of misconduct and will not be tolerated. Sexual harassment is offensive, a violation of the District’s Policies, unlawful, and may subject the District to liability for harm to targets of sexual harassment. Sexual harassers may also be individually subject to liability.



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Following receipt of a complaint about sexual harassment or of knowledge regarding possible sexual harassment that is occurring or has occurred, the District will conduct a prompt, thorough and confidential investigation that ensures due process for all parties. Appropriate corrective action, subject to any statutory or contractual limitations, will be taken whenever sexual harassment is found to have occurred.

What is “Sexual Harassment?”

Sexual harassment is a form of sex discrimination and is unlawful pursuant to 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 that is of a sexual nature or that is directed at an individual because of his/her sex, sexual orientation, gender expression, gender identity or transgender status when:

- the 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;
- the conduct is made either explicitly or implicitly a term or condition of employment; or
- submission to or rejection of the 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 that are of a sexual nature, or that are directed at an individual because of his/her sex, sexual orientation, gender expression, gender identity or transgender status. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone that are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation or that interfere with his/her job performance.



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

Any covered individual who believes that he/she is being or has been sexually harassed should report the sexual harassment so that any violation of this Policy can be promptly corrected. Any sexually harassing conduct, even a single incident, can be addressed pursuant to this Policy.

Examples of Sexual Harassment

The following describes some of the types of acts that are strictly prohibited and that may constitute unlawful sexual harassment:

- Physical acts of a sexual nature including:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another person’s body or poking another person’s body; and
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions including:
 - 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; and
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person’s sexuality or sexual experience that creates a hostile work environment.
- Sex stereotyping which occurs 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 including:



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- Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes displays on workplace computers, cell phones or other electronic devices and sharing these displays while in the workplace.
- Hostile actions taken against an individual because of his/her sex, sexual orientation, gender expression, gender identity or transgender status, including:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the person's ability to perform the job;
 - Sabotaging a person's work; and
 - Bullying, yelling or name-calling.

Who Can be a Target of Sexual Harassment?

Sexual harassment can occur between or among any individuals, regardless of their sex or gender. New York Law protects covered individuals from sexual harassment. Sexual harassers can be a superior, a subordinate, a co-worker or anyone in the workplace including another covered individual or any other person, including a visitor.

Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can also occur outside of the workplace while covered individuals are traveling for work or at employer sponsored events, programs, activities or parties. Calls, texts, emails, and social media usage can constitute unlawful workplace harassment even if they occur away from the workplace premises, on personal devices or outside of work hours.

Retaliation is Prohibited

Retaliation against anyone who, in good faith, complains, provides information or assists in an investigation of suspected sexual harassment as a witness or otherwise will not be tolerated. Appropriate corrective action, subject to any statutory or contractual limitations, including, but not limited to, disciplinary action, termination of employment and/or termination of any contractual or other relationship with the District will be implemented.



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No covered individual will be subject to adverse action(s) (*e.g.*, being discharged, disciplined, discriminated against; *etc.*) because that person, in good faith, reports an incident of sexual harassment, provides information, or otherwise participates in any investigation of a sexual harassment complaint.

Unlawful retaliation can be any action that could discourage a covered individual 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).

Retaliation is unlawful pursuant to 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, in good faith:

- made a complaint of sexual harassment, either internally or with any antidiscrimination agency;
- testified or assisted in a proceeding involving sexual harassment pursuant to 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 sexual harassment.

Even if the alleged sexual harassment does not rise to the level of a violation of law, the individual is protected from retaliation if he/she had a good faith belief that the practices were unlawful. The retaliation provision is not intended, however, to protect persons making intentionally false charges of sexual harassment.

Any covered individual who believes that he/she has been a target of any acts of retaliation in violation of this Policy should immediately report that conduct to the Title IX Coordinator. If the complaint involves or the individual is hesitant to report to the Title IX Coordinator, the individual should report the conduct to the Superintendent of Schools. If the complaint involves or the individual is hesitant to report to the Superintendent of Schools, the individual should report the behavior to President of the Board of Education. Contact information for these individuals can be found on the District's website.



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Anyone who believes that he/she has been a target of prohibited retaliation may seek legal remedies, as explained below in the section on “Legal Protections and External Remedies.”

Reporting Sexual Harassment

Preventing sexual harassment is everyone’s responsibility. The District cannot prevent or remedy sexual harassment unless we know about it.

All covered individuals are encouraged to report any behavior that may constitute sexual harassment in violation of this Policy to the Title IX Coordinator. If the complaint involves or the individual is hesitant to report to the Title IX Coordinator, the individual should report the behavior to the Superintendent of Schools. If the complaint involves or the individual is hesitant to report to the Superintendent of Schools, the individual should report the behavior to President of the Board of Education. Contact information for these individuals can be found on the District’s website.

Anyone who witnesses or becomes aware of a potential instance of sexual harassment should also report this behavior to one of the above individuals.

Reports of sexual harassment may be made orally or in writing. A form for submission of a written complaint is attached to this Policy, and all covered individuals are encouraged to use this complaint form. If a covered individual reports sexual harassment on behalf of someone else, he/she should use the written complaint form and note that he/she is submitting the complaint on someone else’s behalf.

Anyone who believes that he/she has been a target of prohibited sexual harassment may seek legal remedies, as explained below in the section on “Legal Protections and External Remedies.”

Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason become aware of or suspect that sexual harassment is occurring or has occurred, are **required** to report that suspected sexual harassment to the Title IX Coordinator, irrespective of whether the affected individual files a complaint. If the complaint or information involves the Title IX Coordinator, the supervisor/manager must report the suspected sexual harassment to the Superintendent of Schools. If the complaint or information involves the Superintendent of Schools, the supervisor/manager must report the suspected sexual harassment to the President of the Board of Education. Contact information for these individuals can be found on the District’s website.



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In addition to potentially being subject to appropriate corrective action, subject to any statutory or contractual limitations, if they engage in sexually harassing conduct or retaliation themselves, supervisors and managers will be subject to appropriate corrective action, subject to any statutory or contractual limitations, for failing to report suspected sexual harassment or for otherwise knowingly allowing sexual harassment to continue. Corrective action includes, but is not limited to, disciplinary action or termination of employment.

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in oral or written form. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. All persons involved, including complainants, witnesses and alleged sexual harassers will be afforded due process, as outlined below, to protect their rights to a fair and impartial investigation.

All covered individuals, including supervisors and managers, may be required to cooperate as needed in an investigation of suspected sexual harassment to the extent permitted by law. Anyone who participates in an investigation will not be retaliated against for that reason. The District will not tolerate retaliation against anyone who files a complaint, supports another's complaint or participates in an investigation regarding a violation of this Policy.

While the process may vary from case to case, the following investigation procedure must be followed when there is any indication that sexual harassment has taken, or is taking, place:

- The Title IX Coordinator, or designee, will investigate all complaints of sexual harassment, except as otherwise outlined herein. Third parties may be designated to investigate a complaint or assist with any investigation.
- Upon receipt of a complaint or report of suspected sexual harassment, the Title IX Coordinator, or designee, will conduct an immediate review of the allegations. If the complaint is oral, the Title IX Coordinator, or designee, will encourage the complainant or informant to complete the written complaint form, a copy of which is attached to this Policy. If he or she refuses, the Title IX Coordinator, or designee, will prepare a complaint form based on the oral reporting.
- If documents, emails, phone records or other paper or electronic records are relevant to the allegations, the District will take steps to obtain and preserve them.



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- The Title IX Coordinator, or designee, will request and review all relevant documents, including all electronic communications.
- The Title IX Coordinator, or designee, will interview all parties involved, including any relevant witnesses.
- All records of the investigation will be maintained in a secure and confidential location.
- The Title IX Coordinator, or designee, will notify the individual who complained and the alleged perpetrator of the outcome of the investigation.
- The Title IX Coordinator, or designee, will inform the individual who complained of his/her right to file a complaint or charge externally, as outlined below.
- At the conclusion of the investigation, the Title IX Coordinator, or designee, will report the findings to the Superintendent of Schools. If it is found that prohibited sexual harassment has, in fact, occurred, the Title IX Coordinator, or designee, will make a recommendation to the Superintendent of Schools and appropriate corrective action will be taken.

Corrective Action

Any person, including covered individuals of every level who, upon an investigation in accordance with this Policy, is determined to have engaged in impermissible sexual harassment or retaliation in violation of this Policy, will be subject to appropriate corrective action, subject to any statutory or contractual limitations, including, but not limited to, disciplinary action (*e.g.*, suspension or termination of employment). If the accused is a non-employee or other individual, then other consequences may be implemented up to and including termination of any contractual or other relationship between the District and the non-employee or other individual.

If the accused is a student, appropriate disciplinary measures will be applied up to, and including, suspension in accordance with the District's Code of Conduct and applicable laws and regulations.

Confidentiality

The confidentiality and privacy of all parties involved in a complaint, report or investigation of suspected sexual harassment or retaliation in accordance with this Policy will be respected to the



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extent possible while permitting the District to conduct a thorough investigation of the complaint or report and take appropriate corrective action as necessary.

Bad Faith Claims

If, after investigating a complaint of sexual harassment, it is determined that a person has made a claim of sexual harassment or retaliation in bad faith, or intentionally provided false information regarding a claim of sexual harassment or retaliation, legal action and/or appropriate corrective action including, but not limited to, disciplinary action, termination of employment and/or termination of any contractual or other relationship with the District may be taken against that person, subject to any statutory or contractual limitations.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by the District, but it is also prohibited by State, federal and (where applicable) local law. Aside from the internal process at the District, covered individuals may also choose to pursue legal remedies including, for example, in court and/or with the below governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

New York State Human Rights Law (HRL)

The HRL, codified as N.Y. Executive Law, Art. 15, § 290 *et seq.*, applies to employers in New York State with regard to sexual harassment and protects employees, paid and unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the DHR or in New York State Supreme Court. Complaints with the DHR may be filed any time within one year of the harassment (effective August 12, 2020, three years). If an individual did not file at the DHR, they can sue directly in State court pursuant to the HRL within three years of the alleged harassment. An individual may not file with the DHR if they have already filed a HRL complaint in State court.

Complaining internally to the District does not extend your time to file with the DHR or in court. The one-year and three-year time periods outlined above are counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with the DHR, and there is no cost to file. The DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, the DHR has the authority to



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award relief, which varies but may include requiring an employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorneys' fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400. The contact information for DHR's Nassau County Office is: 50 Clinton Street, Suite 301, Hempstead, New York 11550, (516) 539-6848, www.dhr.ny.gov. Individuals can contact the DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to the DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. You do not need an attorney to file a complaint with the EEOC and there is no cost to file. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov or via email at info@eeoc.gov. If an individual filed an administrative complaint with the DHR, the DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

United States Department of Education Office for Civil Rights (OCR)

OCR enforces Title IX of the federal Education Amendments of 1972 (codified as 20 U.S.C. §§ 1681-1688), which prohibits discrimination on the basis of sex, pregnancy, marital or parental status in employment, recruitment, consideration or selection for employment including recruitment, hiring, promotion, compensation, grants of leaves or benefits, as well as retaliation. Individuals whose



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employment is covered by Title IX can file a complaint with OCR, ordinarily within 180 days of the last act of harassment/discrimination. You do not need an attorney to file a complaint with OCR and there is no cost to file. OCR can be contacted at: 32 Old Slip, 26th Floor, New York, NY 10005-2500, (646) 428-3800.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live or work to find out if one or more of these laws exist.

For example, anyone who lives or works in Nassau County may file complaints of sexual harassment with the Nassau County Human Rights Commission at: 240 Old Country Road, 6th Floor, Suite 606, Mineola, New York 11501, (516) 571-3662.

Contact the Police Department

If the sexual harassment involves physical touching, coerced physical confinement or coerced sexual acts, the conduct may constitute a crime and affected individuals should contact the police department.

Other District Policies

Employee complaints or reports of harassment (based on a status other than sex) or discrimination should be reported pursuant to Policy 3420, Policy Against Workplace Discrimination and Harassment, Policy 6120, Equal Employment Opportunity, and/or Policy 6122, Complaints and Grievances by Employees. Student complaints or reports of harassment, including sexual harassment, discrimination, hazing or bullying should be made pursuant to Policy 7551, Sexual Harassment of Students, or Policy 7550, Dignity for All Students.

Dissemination and Training

This Policy should be posted prominently in all work locations to the extent practicable (for example, in a main office, but not an off-site work location).

All employees will receive sexual harassment prevention training at least annually, during which the District will provide a copy of this Policy and the information presented at the training. The District will also provide a copy of this Policy and the training information to new employees upon hire.



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We trust that everyone will continue to act responsibly to establish a working environment free of sexual harassment. We encourage you at any time to raise any questions you may have about this Policy.

Civil Rights Act of 1991, 42 United States Code (USC) Section 1981(a)
29 Code of Federal Regulations (CFR) Section 1604.11(a)
Education Law Section 2801(1) Executive
Law Sections 296 and 297

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If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Title IX Coordinator. If the complaint involves or you are hesitant to report to the Title IX Coordinator, you may submit this form to the Superintendent of Schools or if it involves the Superintendent of Schools, then you may submit the form to the President of the Board of Education. The contact information for the Title IX Coordinator, Superintendent of Schools and the President of the Board of Education is available on the District's website. This form can be submitted in person or by email. Retaliation against anyone who, in good faith, files a sexual harassment complaint form is prohibited. If you are more comfortable reporting orally or in another manner, the District will complete this form, provide you with a copy of it and follow its Policy Against Workplace Sexual Harassment by investigating the claims.

For additional resources, visit: ny.gov/programs/combating-sexual-harassment-workplace

COMPLAINANT INFORMATION

Name: _____

Work Address: _____

Work Phone: _____

Job Title: _____ Email: _____

Select Preferred Communication Method: Email Phone In person

SUPERVISORY INFORMATION

Immediate Supervisor's Name: _____

Title: _____

Work Phone: _____

Work Address: _____

COMPLAINT INFORMATION

The complaint of Sexual Harassment is made about:

Name: _____

Title: _____

Work Address: _____

Work Phone: _____

Relationship to you: Supervisor Subordinate Co-Worker Other



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1. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

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3. Date(s) sexual harassment occurred: _____

Is the sexual harassment continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

The last question is optional, but may help the investigation.

5. Have you previously complained or provided information (oral or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you retained legal counsel and would like us to work with them, please provide their contact information. _____



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I hereby affirm that the information contained in this complaint is true and correct to the best of my knowledge, information and belief.

Signature: _____ *Date:* _____