

**NORTH COLONIE CENTRAL SCHOOL DISTRICT'S POLICY AGAINST
HARASSMENT (INCLUDING SEXUAL HARASSMENT)
AND DISCRIMINATION AGAINST STUDENTS**

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SECTION 1: PURPOSE

This Policy is intended to ensure that no student of the North Colonie Central School District is denied an equal opportunity to pursue the educational opportunities offered by the District based upon his or her gender. Specifically, this Policy reaffirms the District's commitment to providing educational opportunities free from discrimination and harassment based on race, color, gender, creed, religion, national origin, disability, or sexual orientation. In accordance with Title IX of the Education Amendments of 1972 and other applicable laws prohibiting discrimination, no student of the District may be discriminated against or harassed on the basis of gender. Further, in accordance with District policy, no student of the District may be discriminated against or harassed on the basis of race, color, creed, religion, national origin, disability, or sexual orientation.

A. Scope of Policy: This Policy applies to all students enrolled in the District. This Policy applies to unlawful discrimination, or perceived discrimination, or harassment that is based on race, color, gender, creed, religion, national origin, disability, or sexual orientation of any student of the District. This Policy applies equally to unlawful discrimination or perceived discrimination whether perpetrated or furthered by teachers, staff, administrators, students, or third parties engaged in school-sponsored activities. This Policy applies with equal force on District property as it does at District-sponsored events, programs, and activities.

B. Policy Objectives: By adopting and publishing this Policy, it is the intention of the North Colonie Central School District Board of Education to:

- (1) notify students, parents/guardians, and employees about the types of conduct which constitute discrimination or harassment prohibited by this Policy;
- (2) inform students, parents/guardians, and employees about the complaint procedures established by the District which enable any student who believes (s)he is the victim of discrimination or harassment based on race, color, gender, creed, religion, national origin, disability, or sexual orientation to submit a complaint which will be investigated by the District;
- (3) clearly advise all supervisory staff, administrators, employees, and students that discriminatory treatment or harassment of students based on race, color, gender, creed, religion, national origin, disability, or sexual orientation is strictly prohibited and no such person possesses the authority to harass or discriminate; and
- (4) notify all students and parents/guardians that the District has appointed Compliance Officer(s) who are specifically designated to receive complaints of discrimination or harassment and ensure compliance with this Policy.

NOTE: The Compliance Officer(s) designated to receive and investigate complaints shall be appointed and identified by the Board of Education each year at its Annual Organizational Meeting. The names and office locations of each new Compliance Officer designated to receive and investigate complaints in subsequent years will be listed in the student handbook and on the District's website:

www.northcolonie.org/policymanual/5020.pdf.

This Policy, and the complaint procedures described in this Policy, shall also constitute the District's Grievance Procedures under Title IX of the Education Amendments of 1972 for complaints of gender discrimination within educational institutions receiving federal financial assistance.

SECTION 2: DEFINITIONS:

"Prohibited Discrimination of Students" Prohibited discrimination of students can take the form of any negative treatment of a student by either a fellow student, District employee, or third party engaged in school-sponsored activities which: (a) negatively impacts a student's educational opportunities; *and* (b) is based upon the student's race, color, gender, creed, religion, national origin, disability, or sexual orientation. Prohibited discrimination of students can also take the form of harassment even where there is no tangible impact upon the student's educational opportunities. The phrase "prohibited discrimination" as used in this Policy includes all forms of "prohibited harassment" (defined below).

"Prohibited Harassment" Harassment can constitute a form of prohibited discrimination under this Policy if it is unwelcome, offensive, and has the purpose or effect of unreasonably interfering with a student's educational opportunities, or creating an intimidating, hostile or offensive educational environment. Such harassment of students is prohibited by this Policy if it is based upon race, color, gender, creed, religion, national origin, disability, or sexual orientation. In this regard, individuals subject to this Policy should be mindful that conduct or behavior that is acceptable, amusing or inoffensive to some individuals may be viewed as unwelcome, abusive or offensive to others.

Further, harassment based on a student's gender, called "sexual harassment," is included in this Policy's "prohibited harassment." Sexual harassment can consist of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct of a sexual nature when: (1) submission to that conduct is made a term or condition, either explicitly or implicitly, of obtaining an education; or (2) submission to or rejection of that conduct by an individual is used as a factor in decisions affecting a student's education; or (3) that conduct has the purpose or actual

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effect of substantially or unreasonably interfering with an individual's education by creating an intimidating, hostile or offensive educational environment.

While it is impossible to list all of the possible forms of sexual harassment, it may include, but is not limited to:

- unwelcome verbal harassment of a sexual nature or abuse, including unwelcome sexual advances or flirtations; or
- unwelcome pressure for sexual activity; or
- unwelcome, sexually motivated or inappropriate patting, pinching, or physical contact; or
- unwelcome sexual behavior or words, including demands for sexual favors; or
- unwelcome behavior, verbal or written words or symbols directed at an individual because of gender; or
- unwelcome or offensive electronic displays of a sexual nature (e.g., e-mails or internet displays); or
- the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs that student's enjoyment of educational benefits, climate or opportunities; or
- other behavior which is based on a person's gender, is not welcome, and has the actual effect of creating a hostile learning environment for that individual.

SPECIAL NOTE TO STUDENTS REGARDING SEXUAL HARASSMENT: All students in the North Colonie Central School District should be aware that no fellow student, teacher, coach, administrator, or other individual working for the District has the right to:

- touch you in a sexual way that makes you feel uncomfortable;
- request or force you to have any type of personal relationship;
- make unwelcome sexual remarks about you, your body or your personal life;
- ask, pressure, or force you to have any sexual contact with them;

- engage in any other type of behavior toward you which is prohibited by this Policy.

If another student or an employee of the District does any of the things listed above you should: (1) tell the person who is making you feel uncomfortable to “stop” and let him or her know that the conduct is not welcome; and/or (2) file a written complaint with one of the District’s Compliance Officers in accordance with the complaint procedures described in Section 4, below.

NOTE: Any student who is unsure whether an incident constitutes prohibited discrimination or harassment under this Policy is encouraged to either: (a) contact any one of the Compliance Officers listed in Section 9 of this Policy and on the District’s website, www.northcolonie.org/policymanual/5020.pdf, or a Building Principal; or (b) file a complaint in accordance with Section 4 of this Policy. No adverse actions or discipline will be taken against any student who makes a good faith complaint under this Policy. Therefore, any student who honestly believes (s)he has been subjected to conduct which may be prohibited by this Policy or has witnessed such prohibited conduct, even if (s)he is uncertain about the definitions contained in this Policy, is encouraged to contact a Compliance Officer, a Building Principal, and file a complaint.

SECTION 3: POLICY

The North Colonie Central School District is committed to providing equal educational opportunities to all students of the District. The District regards all forms of prohibited discrimination and harassment, including sexual harassment, as very serious matters. Accordingly, it is the policy of the North Colonie Central School District that:

1. All students be free from prohibited discrimination and harassment, including sexual harassment;
2. All types of prohibited discrimination and harassment, including sexual harassment, which are directed at any student are considered unacceptable conduct and are strictly prohibited; and
3. No District administrator, teacher, coach, employee, student, or third party authorized to engage in a school-sponsored activity has the authority to subject any student to any form of prohibited discrimination or harassment, including sexual harassment.

Given the special nature of the relationship between students and District employees, extreme caution should be exercised by all employees of the District to avoid and prevent any situation involving comments, jokes, or discussions of a sexual nature,

particularly in the presence of students. Discussions involving sexual relations and the human body are part of mandated curriculum in certain areas, (e.g., health education), and are, therefore, not restricted by this Policy. As such, there is no conflict between the District's Policy and the mandates of the District's curriculum. In accordance with this Policy, all District staff who have contact with students are responsible for conducting themselves in a manner which is consistent with this Policy.

Any District employee who observes conduct which (s)he believes may violate this Policy is urged to report such conduct to one of the Compliance Officers listed in Section 9 of this Policy and on the District's website, www.northcolonie.org/policymanual/5020.pdf, a building Principal, or the Superintendent of Schools. Each student is assured, pursuant to Section 6 of this Policy, that retaliation against an individual who makes a complaint or report under this Policy is absolutely prohibited and constitutes, in and of itself, a violation of this Policy.

Any questions regarding the scope or application of this Policy should be directed to one of the Compliance Officers listed in Section 9 of this Policy or the District's website, www.northcolonie.org.

SECTION 4: POLICY ENFORCEMENT

A. Complaint Procedure for Students

1. **Notification Procedure** The District encourages any student who believes (s)he is being subjected to prohibited discrimination or harassment, including sexual harassment, to clearly and promptly notify the offender that his or her behavior is unwelcome. If for any reason a student is uncomfortable talking to the offender directly, or if talking to such person does not successfully end the discrimination or harassment, the student is urged to notify one of the Compliance Officers, a Building Principal or the Superintendent of Schools.

NOTE: Confronting the offender is NOT required. All students have the right to file a good faith complaint without first communicating with the offender.

2. **Making a Complaint** All complaints should be in writing. All students are encouraged to use the District's "Complaint of Alleged Discrimination" form. A copy of this form is attached to this Policy. Additional complaint forms can be obtained from any Principal's office within the District, or from a Compliance Officer, with no questions asked. Because an accurate record of the allegedly objectionable behavior is necessary to resolve a complaint of prohibited discrimination, all complaints should be reduced to writing. If a student has any questions about or difficulty with filling out the complaint form,

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(s)he can obtain assistance from any one of the Compliance Officers or a Principal. All complaints should include: the name of the complaining party, the name of the alleged offender(s), date of the incident(s), description of the incident(s), names of witnesses to the incident(s) and the signature of the complaining party. A student's parent/guardian can also complete and submit a complaint on his or her child's behalf.

Once the student has completed and dated a complaint, with or without the assistance of one of the District's Compliance Officers or Principals, the written complaint should be personally delivered to one of the District's Compliance Officers or Principals or placed in their mailbox.

If for any reason a student is uncomfortable submitting a written complaint to the Principal or Compliance Officer located in the building where that student is generally assigned, the written complaint may be submitted, either by hand delivery or mail, to any one of the Compliance Officers listed in Section 9 below, to any Building Principal, or to the Superintendent of Schools who will then advise a Compliance Officer.

All students filing a complaint will be expected to cooperate with the District's investigation procedures. Students may be accompanied by a relative, guardian, or parent when making a complaint under this Policy or participating in an investigation of such a complaint so long as such attendance does not abridge the privacy rights of the parties involved or compromise the confidential nature of the investigation. If a parent/guardian of a student believes that his or her son or daughter has been subjected to discrimination, (s)he may make a complaint on behalf of his or her child.

B. Time for Reporting a Complaint Prompt reporting of all complaints is strongly encouraged. All students should be aware that appropriate resolution of discrimination complaints and effective remedial action oftentimes is possible only when complaints are promptly filed. Furthermore, complaining parties should be aware that statutes of limitations may constrain the time period for instituting legal actions outside of this Policy.

C. Confidentiality and Privacy In recognition of the personal nature of discrimination complaints and the emotional impact of alleged discrimination, the District shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements of the affected employee(s), and other laws and regulations regarding students. For the protection of all individuals who make complaints or are accused of prohibited discrimination, every witness interviewed during an investigation under this Policy will be advised of the confidentiality requirement and instructed not to discuss the complaint, the investigation, or the persons involved. 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.

D. Acknowledgment of Complaints Upon receipt of a written complaint, the Compliance Officer, Building Principal, or Superintendent of Schools should endeavor to promptly contact the student who filed the complaint to confirm that the written complaint has been received. If a student does not receive such confirmation promptly, (s)he is encouraged to file a second written complaint or contact a Compliance Officer, Principal, or Superintendent. The purpose of this acknowledgment procedure is to ensure that all written complaints are received by authorized individuals, carefully processed and promptly investigated.

SECTION 5: INVESTIGATION PROCEDURES

A. Timing of Investigations The District will promptly investigate all allegations of discrimination. The District will also attempt to complete investigations under this Policy promptly. The length of the investigation will depend upon the complexity and particular circumstances of each complaint.

B. Method of Investigation Investigations will be conducted by the District's Compliance Officers, the District's legal counsel, and/or other impartial persons designated by the Superintendent of Schools. The primary purposes of all investigations under this Policy will be to determine:

- (1) Did the conduct complained of occur?
- (2) Did the conduct complained of violate this Policy? and
- (3) What remedial or preventative steps, if any, are recommended?

Investigations may include: fact-finding interviews, document review, depositions, observations, or other reasonable methods. All students under the age of eighteen (18) who are interviewed, whether they are accused of prohibited discrimination or merely alleged witnesses, will have the option of being accompanied by a parent or legal guardian, so long as the presence of the parent or legal guardian does not compromise the confidentiality or impartiality of the investigation.

The District's investigators should pursue reasonable steps to investigate each complaint in a thorough and comprehensive manner. Any notes, memoranda, or other records created by the District employees or agents conducting an investigation under this Policy shall be deemed confidential and privileged to the extent allowed by law.

C. Notification to Complaining Party and Accused Party: The Superintendent, or his or her designee, shall notify the complaining student of the outcome of the investigation promptly. Such notification shall be in writing, include a brief summary of the factual findings and, wherever possible, shall include a summary of any remedial measures that have been or will be taken by the District.

While reasonable efforts will be made to inform the complaining party about the outcome of investigations, the District will nonetheless consider the privacy rights of all parties involved in disseminating information obtained during and through the investigation, including but not limited to rights under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232(g).

The Superintendent, or his or her designee, shall promptly notify the person accused of violating this Policy whether a violation of this Policy was found and what remedial measures, if any, will be taken by the District.

D. Remedial Measures The North Colonie Central School District's primary goal in responding to complaints of prohibited discrimination under this Policy is prevention. This Policy is intended to prevent all prohibited discrimination and harassment in the District and put an end to any prohibited discrimination that is found to have occurred. While disciplinary action may be appropriate in certain instances, punitive measures are not the exclusive means for responding to prohibited discrimination. During the pendency of any investigation being conducted pursuant to this Policy, remedial measures may be taken if appropriate and necessary.

Any individual who is found to have engaged in prohibited discrimination or conduct which may be prohibited by 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 for employees, and suspension from school for students. Any third party found to have engaged in sexual discrimination of a student may be barred from District property.

SECTION 6: PROHIBITION AGAINST RETALIATION AND ABUSE OF THE POLICY

All students are assured that the District will not retaliate against any student who files a discrimination complaint in good faith or who assists the District with an investigation conducted pursuant to this Policy. Retaliation is a very serious violation of the District's Policy and should be reported immediately. Any employee, agent or student of the District found to have retaliated against a student for his or her good faith complaint under this Policy may be deemed to have violated this Policy.

Abuse of this Policy by filing a false complaint which the complaining party knows to be false, may also be considered a violation of this Policy.

SECTION 7: RECORD KEEPING

The District shall maintain a written record of all complaints of sexual discrimination for a period of at least six years. The District shall also document the steps taken with

