

6121	Prohibition Against Discrimination and Harassment
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Ballston Spa Central School District- Policy Prohibiting Unlawful Harassment and Discrimination

This Policy reaffirms our commitment to providing employment opportunities free from unlawful discrimination on the basis of sex (including sexual harassment), gender or the status of being transgender, sexual orientation, race, religion, national origin, age, disability, or other basis prohibited by law. In accordance with Title VII of the Civil Rights Act of 1964, the New York Human Rights Law, and other applicable laws prohibiting discrimination, no employee may be discriminated against or harassed on the basis of sex, gender or the status of being transgender, sexual orientation, race, religion, national origin, age, disability, or other basis prohibited by law.

A. Scope of Policy

This Policy applies to all applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with us. In the remainder of this document, the term “employees” refers to this collective group

B. Policy Objectives

By adopting and publishing this Policy, it is our intention to: (1) notify all employees about our commitment to providing equal employment opportunities; (2) prevent all forms of discrimination against any applicant for employment or employee; and (3) provide simple, clear, and efficient complaint and investigation procedures to all employees who honestly believe they have been subjected to prohibited discrimination, including sexual harassment.

C. Definitions

- 1. Prohibited Employment Discrimination.** Prohibited Employment Discrimination can take the form of adverse employment actions which are based upon an employee’s sex, gender or the status of being transgender, sexual orientation, race, religion, national origin, age, or disability. Prohibited discrimination of employees, can also take the form of prohibited harassment, even where there is no tangible adverse employment action. (Prohibited Harassment is defined below).
- 2. Prohibited Harassment.** Harassment can constitute a form of prohibited discrimination under this Policy if it is unwelcome and has the effect of making an employee feel uncomfortable while at work or otherwise creates a hostile working environment. Such harassment of employees is prohibited by this policy if it is

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based upon sex, sexual orientation, race, religion, national origin, age, or disability. Harassment of employees based on sex, which is called "**sexual harassment**," is also specifically prohibited by this policy. 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;
- 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.

While it is impossible to provide an exhaustive list of examples of behaviors that could constitute sexual harassment, sexual harassment as a form of prohibited discrimination can take the form of the following types of behavior which are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances 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;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's

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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:
 - Displaying pictures, 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 taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work.

D. Supervisory Responsibility

All 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 report such suspected sexual harassment to a Compliance Officer (identified below). In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue. Supervisors also will be subject to discipline for engaging in any Retaliation prohibited by this Policy.

E. Policy Enforcement

1. Complaint Procedure:

a. Notification Procedure

We encourage any employee who in good faith believes they are being subjected to prohibited discrimination/harassment, to clearly and promptly notify the offender that his/her behavior is unwelcome. If for any reason an employee is uncomfortable confronting the offender directly, or if such a confrontation does

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not successfully end the discrimination/harassment, the employee should file a complaint with one of the Compliance Officers (identified below).

NOTE: Confronting the offender is NOT a prerequisite to filing a complaint. All employees and applicants for employment have the right to file a good faith complaint without first communicating with the offender.

All employees filing a complaint will be expected to cooperate with our investigation procedures.

b. Making a Complaint

All complaints should be in writing. All employees are encouraged to use our "Complaint of Alleged Discrimination" form (a copy of which appears at the end of this Policy). Because an accurate record of the allegedly objectionable behavior is necessary to resolve such complaints, all complaints of discrimination/harassment should be reduced to writing and signed by the party making the Complaint.

2. Time for Reporting a Complaint

Prompt reporting of all complaints is strongly encouraged. All employees should be aware that appropriate resolution of discrimination/harassment complaints and effective remedial action oftentimes may be 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.

3. Confidentiality and Privacy

In recognition of the personal nature of discrimination/harassment Complaints and the emotional impact of perceived discrimination, we will attempt to maintain the confidentiality of all complaints and investigations. For the protection of all employees who make a complaint or are accused of prohibited discrimination/harassment, 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 a Complaint made under this Policy implicates criminal conduct, we may be required by law to contact and cooperate with the appropriate law enforcement authorities.

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4. Acknowledgment of Complaints

Within five (5) calendar days of receiving a written Complaint, the Compliance Officer should contact the employee who filed the Complaint to confirm that the written Complaint has been received. If an employee does not receive such confirmation within five (5) days of filing their Complaint they are encouraged to contact the Compliance Officer.

5. Timing of Investigations

We will promptly investigate all allegations of discrimination in a confidential manner. We will attempt to complete investigations under this Policy within thirty (30) calendar days of receipt of the written complaint, or sooner if practical. However, the length of the investigation will depend upon the particular circumstances of each complaint.

6. Method of Investigation

Investigations will be conducted by our Compliance Officer(s), our legal counsel, and/or other impartial persons designated by a Compliance Officer(s). 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 are recommended? Our investigators should pursue every reasonable step to investigate each Complaint in a thorough and comprehensive manner while at the same time minimizing the disruption of normal business. The type of investigative techniques utilized will depend upon the nature of the Complaint. Any notes, memoranda, or other records created by our employees or agents conducting an investigation under this Policy, shall be deemed confidential and privileged.

7. Notification to Complaining Party

Within ten (10) days of the completion of the investigation of a complaint, the Compliance Officer(s) or their designee, shall notify the complainant of the outcome of the investigation via a written summary. While reasonable efforts will be made to inform the complaining party about the outcome of the investigation, we will nonetheless consider the privacy rights of all parties involved in disseminating information regarding the investigation.

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Within fifteen (15) days of the completion of the investigation of a complaint, the Compliance Officer(s) or their designee, shall notify the person accused of violating this Policy, whether a violation of this Policy was found, via a written summary.

8. Remedial Measures

Our primary goal in responding to complaints under this Policy is prevention. While disciplinary action, up to and including discharge, may be appropriate in certain instances, punitive or disciplinary measures are not the exclusive or primary means for responding to prohibited discrimination/harassment. Any employee 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. Any third party found to have engaged in discrimination/harassment of an employee may be barred from our property.

F. Prohibition Against Retaliation and Abuse of the Policy

All employees are assured that we will not retaliate against any employee who files a discrimination complaint in good faith. Retaliation is a very serious violation of this Policy and should be reported immediately. Any employee found to have retaliated against an employee due to their good faith reporting of discrimination/harassment under this Policy will be deemed to have violated this Policy and may be subject to disciplinary action.

Abuse of this Policy by filing a false or “strategic” complaint, which the complaining party knows to be false, will also be considered a violation of this Policy.

G. Legal Protections and External Remedies

Sexual harassment is not only prohibited by us, but is also prohibited by state, federal, and, where applicable, local law. Aside from our internal process, employees may also choose to pursue legal remedies with the following 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. In addition to those outlined below, employees in certain industries may have additional legal protections.

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State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court. Complaining internally to us not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR. 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, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's 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. You may call (718) 741-8400 or visit: www.dhr.ny.gov. Contact 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 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. There is no cost to file a complaint with the EEOC. 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.

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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. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work 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 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

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 to find out if such a law exists. If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

H. Compliance Officers

Section 504/ADA Compliance Officer:

Kristi Jensen – Interim Director of Special Education

70 Malta Avenue, Ballston Spa, NY 12020

kjensen@bscsd.org

Ph: 518-884 -7195 Ext. 1336

DASA Compliance Officer:

Pamela Motler, Assistant Superintendent for Programs and Operations

70 Malta Avenue, Ballston Spa, NY 12020

pmotler@bscsd.org

Ph: 518-884-7195 Ext. 1398

Title IX Compliance Officer:

Pamela Motler, Assistant Superintendent for Programs and Operations

70 Malta Avenue, Ballston Spa, NY 12020

pmotler@bscsd.org

Ph: 518-884-7195 Ext. 1398

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High School Principal
Matthew Robinson
220 Ballston Avenue
Ballston Spa, NY 12020
mrobinson@bscsd.org
Ph: 518-884-7150 Ext. 2351

Middle School Principal
Ann Laszewski
210 Ballston Avenue, Ballston Spa, NY 12020
alaszewski@bscsd.org
Ph: 518-884-7200 Ext. 4306

Malta Avenue Elementary School Principal
Sarah Johnson
70 Malta Avenue, Ballston Spa, NY 12020
sjohnson@bscsd.org
Ph: 518-884-7250 Ext. 1351

Milton Terrace Elementary School Principal
Kathleen Chaucer
200 Wood Road, Ballston Spa, NY 12020
kchaucer@bscsd.org
Ph: 518-884-7210 Ext. 3353

Gordon Creek Elementary School Principal
Donald Brandt
50 Wood Road, Ballston Spa, NY 12020
dbrandt@bscsd.org
Ph: 518-884-7270 Ext. 3372

Wood Road Elementary School Principal
Anders Rasmussen
300 Wood Road, Ballston Spa, NY 12020
arasmussen@bscsd.org
Ph: 518-884-7290 Ext. 3390

****Complaints may be filed with any of the administrators listed and need not be filed with ALL administrators***

Adoption Date: XX/XX/XXXX

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COMPLAINT OF ALLEGED DISCRIMINATION

This form is to be filed as a part of the Formal Procedure in order to initiate a Complaint of alleged discrimination or harassment prohibited by Ballston Spa Central School District's Policy Prohibiting Unlawful Discrimination and Harassment.

PLEASE PRINT OR TYPE

1. Your Name: _____ Position: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Phone Number: _____
2. Have you also filed this charge with a Federal, State or Local Government agency?
_____ Yes _____ No
3. Alleged discriminatory act was based on:
____ Race ____ Religion ____ National Origin ____ Gender
____ Age ____ Disability ____ Sexual Orientation ____ Other
- 4(a). Name(s) and office address of the individual who allegedly discriminated against you or harassed you. If more than one, list all.
Name: _____
Office/Location: _____
- 4(b). Describe the incidents which occurred and your reason for concluding that it is/was discriminatory (use extra sheet if necessary).

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5. Date(s) incidents of discrimination/harassment took place:

6. Describe briefly what you would consider to be appropriate resolution of the Complaint.

7. Identify all persons who witnessed the incidents described in "4" above:

8. I swear or affirm that I have read the above complaint and that it is true to the best of my knowledge, information and belief.

Signature of Complainant

Date