Eastern Suffolk BOCES
Educational Services That Transform Lives

First Supervisory District of Suffolk Cou
201 Sunrise Highway
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Non-Discrimination and Anti-Harassment

Eastern Suffolk BOCES is an equal opportunity employer. In accordance with applicable law, we prohibit discrimination by or against any individuals involved in our operations, including employees regardless of their position, applicants, interns and student teachers, vendors, contractors, sub-contractors, consultants and any other third party involved in our operations based on any legally-recognized basis, including, but not limited to: race, color, religion, creed, sex, pregnancy or related medical conditions, sexual orientation, marital, familial or partnership status, gender expression or identity, transgender status, age, national origin or ancestry, citizenship, physical or mental disability (including being a certified medical marijuana patient), genetic information (including predisposition or carrier status), gender dysphoria, military status, veteran status, status as a victim of domestic violence, certain arrest or conviction records or any other status protected by federal, state or local law.

Eastern Suffolk BOCES (the Agency) is also committed to providing a work environment that is free of unlawful discrimination and harassment based on any of the protected categories listed above, including sexual harassment, and strictly prohibits discrimination and harassment by or against any individuals involved in our operations, including employees regardless of their position, applicants, interns and student teachers, vendors, contractors, sub-contractors, consultants and any other third party involved in our operations.

If such discrimination or harassment is committed in the workplace by someone not employed by the Agency, the reporting and complaint procedure in this policy should still be followed. The workplace includes: actual worksites, any setting in which work-related business is being conducted (whether during or after normal business hours), online and electronic interactions among agency employees and third parties involved in our operations, agency-sponsored events, and agency owned/controlled property.

Sexual Harassment

Sexual harassment is unwelcome verbal or physical behavior based upon a person's gender/sex and includes unwanted verbal or physical sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made a term or condition of employment; or
- Submission to, or rejection of, such conduct is used as a basis for employment decisions affecting the individual; or

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment, even if the individual raising the concern is not the intended target of such conduct.

Under the New York State Human Rights Law, sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful, and can be any harassing conduct that consists of more than petty slights or trivial inconveniences.

The following is a non-exhaustive list of the types of conduct prohibited by this policy:

- Unwanted sexual advances or propositions (including repeated and unwelcome requests for dates);

- Offers of employment benefits in exchange for sexual favors;

- Making or threatening reprisals after a negative response to sexual advances;

- Visual conduct: leering, making sexual gestures, displaying of pornographic or sexually suggestive images, objects, pictures, cartoons, graffiti, posters or websites on computers, emails, cell phones, bulletin boards, etc.;

- Verbal conduct: making or using sexist remarks or derogatory comments based on gender, sexual orientation, gender identity or expression, transgender status, innuendos, epithets, slurs, sexually explicit jokes, or lewd or sexual comments about an individual's appearance, body or dress, whistling or making suggestive or insulting sounds;

- Verbal and/or written abuse of a sexual nature, graphic verbal and/or written sexually degrading commentary about an individual's body or dress, sexually suggestive or obscene letters, notes, invitations, emails, text messages, or social media postings;

- Physical conduct: unwelcome or inappropriate touching of employees or customers, physical violence, intimidation, assault or impeding or blocking normal movements;

- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity or expression, or transgender status, 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; and

- Bullying, yelling, name-calling.

- Retaliation for making reports or threatening to report sexual harassment.

Behavior may constitute sexual harassment regardless of the gender of the person committing it or the person who is exposed to it.

Individuals who observe conduct that may violate this policy are encouraged, but not required, to communicate to the offending person that the conduct is offensive and unwelcome. Individuals who observe any behavior directed at others that may violate this policy are encouraged to take reasonable action to defuse such behavior if possible, such as intervening directly, alerting a supervisor or Human Resources to assist, or making a report under this policy. Supervisors who observe conduct that may violate this policy are required to alert Human Resources.

Other Types of Harassment

Harassment on the basis of any legally protected status is prohibited. Prohibited harassment may include behavior similar to the illustrations above pertaining to sexual harassment. It also includes, but is not limited to:

Verbal conduct including taunting, jokes, threats, epithets, derogatory comments or slurs based on an individual's protected status;

Visual and/or written conduct including derogatory posters, photographs, calendars, cartoons, drawings, websites, emails, text messages or gestures based on an individual's protected status; and

Physical conduct including assault, unwanted touching or blocking normal movement because of an individual's protected status.

Protection Against Retaliation

Retaliation is prohibited against any person covered by this policy who, in good faith: makes a complaint of discrimination, harassment, and retaliation either internally or with a government agency; uses the complaint procedures described below; objects to, opposes or speaks out against discrimination, harassment, or retaliation; participates in an investigation of discrimination, harassment or retaliation; encourages another person to report discrimination, harassment or retaliation; or files, testifies, assists or participates in any manner in any investigation, proceeding or hearing conducted by a governmental enforcement agency regarding discrimination, harassment or retaliation.

Prohibited retaliation includes, but is not limited to, termination, demotion, suspension, failure to hire or consider for hire, failure to give equal consideration in making employment decisions, failure to make employment recommendations impartially, adversely affecting working conditions or otherwise denying any employment benefit because someone has raised a complaint or participated in an investigation of

discrimination or harassment. As with discrimination and harassment, retaliation is unlawful and a form of misconduct that will result in disciplinary action, up to and including termination of employment.

Individuals who believe that they or any other individual has been subjected to retaliation should report this concern using the complaint procedure set forth below.

Internal Complaint Procedure

Individuals who believe that they or any other individual has been subjected to discrimination, harassment, or retaliation should, as soon as possible, report it to their supervisor, building principal, other administrator, or the Assistant Superintendent for Human Resources at (631) 687-3029 or Associate Superintendent for Educational Services at (631) 687-3056. Reports can be made verbally or in writing. To submit a complaint in writing, individuals may use the sample complaint form (Employee Complaint Form 5121F.1, which can be found on *DocuShare*, also known as *eDocs*), but are not required to do so. Employees are not required to raise a complaint with their immediate supervisor, building principal, other administrator or person who has engaged in the complained of conduct.

After a report is received, or the Agency otherwise becomes aware of a possible violation of this policy, a fair, timely, thorough and objective investigation will be undertaken if needed. The Agency will maintain confidentiality surrounding the investigation to the extent possible, consistent with the need to conduct a thorough and objective investigation, and to the extent permitted or required under applicable law. Both the individual(s) raising the complaint and the individual(s) about whom the complaint was made will be permitted to provide information that may be relevant to the investigation. The Agency also will gather information and speak with witnesses, as applicable. Once the investigation is completed and a determination is made, the complaining party will be advised that the investigation has been completed and may be informed of the resolution. The individual(s) about whom the complaint was made also will be informed of the outcome and if the Agency determines that this policy has been violated, will be subject to disciplinary action and/or such other remedial actions as are appropriate in the circumstances. The Agency expects all employees to fully cooperate with any investigation conducted by the Agency into a complaint of discrimination, harassment or retaliation.

Supervisory Responsibilities

All supervisors, building principals, or other administrators who receive a complaint or information about suspected discrimination, harassment or retaliation, observe behavior that may violate this policy or for any other reason suspect that discrimination, harassment or retaliation is occurring, are required to report such information to the Assistant Superintendent for Human Resources at (631) 687-3029 or Associate Superintendent for Educational Services at (631) 687-3056.

In addition to being subject to discipline for engaging in discrimination, harassment or

retaliation themselves, supervisors, building principals or other administrators will be subject to discipline (up to and including termination) for failing to report suspected discrimination, harassment or retaliation or otherwise knowingly allowing such conduct to continue.

Discipline

If the Agency determines that this policy has been violated, including in the event that a supervisor, building principal or other administrator knowingly allows the policy to be violated without reporting it, prompt remedial action will be taken, commensurate with the severity of the offense, up to and including termination of employment. Appropriate action will also be taken to deter any such conduct in the future.

Good Faith Reporting

The initiation of a good faith complaint of discrimination, harassment or retaliation in good faith will not be grounds for disciplinary action. Any individual who makes a complaint that is demonstrated to be intentionally false may be subject to discipline, up to and including termination.

Notice

The Agency will provide this policy to all employees in writing. The Agency will post this policy prominently throughout the Agency to the extent practicable.

At the time of hiring and at every annual discrimination, harassment, and retaliation prevention training program, the Agency will provide each employee a notice containing this policy and the information presented at the Agency's prevention training program.

This notice will be provided in English and in the language identified by the employee as the employee's primary language, provided that the New York State Department of Labor Commissioner has published a template of the model materials in that language.

The notice will be delivered in writing, either in print or digitally. The notice will either link to or include, as an attachment or printed copy, the policy and training materials.

Legal Protections and External Remedies

Aside from the Agency's internal process, individuals 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, an individual may seek the legal advice of an attorney.

In addition to those outlined below, individuals may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, Article 15, Section 290 et seq., applies to all employers in New York State, and protects covered persons, 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 (1) year (three (3) years beginning August 12, 2020) of the harassment. If an individual does not file with DHR, he or she can sue directly in State court under the HRL, within three (3) years of the alleged harassment. An individual may not file with DHR if he or she has already filed a HRL complaint in State court.

Complaining internally to the Agency does not extend an employee's time to file with DHR or in court. The one (1) year or three (3) years is counted from the date of the most recent incident of harassment.

Individuals do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate an employee's complaint and determine whether there is probable cause to believe that harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring the 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. Individuals 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 USC Section 2000e, et seq.). An individual can file a complaint with the EEOC anytime within three hundred (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 within ninety (90) days.

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.

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.

Title IX

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any federally funded education program or activity. The U.S. Department of Education's Office for Civil Rights (OCR) enforces Title IX of the Education Amendments of 1972.

For more information about how to file a complaint, contact OCR at 800-421-3481 (TDD 800-877-8339) or visit: https://www2.ed.gov/about/offices/list/ocr/docs/howto.html. The website contains information about filing the complaint online, by mail, or by email.

Local Protections

Many localities enforce laws protecting individuals from harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

Local Police Department

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.

References:

- Title VII of the Civil Rights Act of 1964, 42 USC Section 2000e, et seq.
- Title IX of the Education Amendments of 1972, 20 USC Section 1681, et seq.
- 29 CFR Section 1604.11(a)
- 34 CFR Subtitle B, Chapter I
- Civil Service Law Section 75-B
- Executive Law Article 15
- Labor Law Section 201-g
- Board Policy 5180 – Complaints and Grievances by Employees

- Board Policy 6560 - Harassment, Bullying, and Discrimination (Students)
- Administrative Regulation 5180R.1 – Complaints and Grievances by Employees
- Administrative Regulation 6560R.1 – Harassment, Bullying, and Discrimination (Students)

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