



Book CCSD Policies

Section 0000 Philosophies, Goals and Objectives

Title 0110.2 Sexual Harassment in the Workplace

Code

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SEXUAL HARASSMENT IN THE WORKPLACE

Introduction

This policy is intended to create and preserve a working environment free from unlawful sexual harassment on the basis of perceived or self-identified sex, sexual orientation, and/or gender identity and expression, in furtherance of the district's commitment to provide a healthy and productive environment for all employees (including all staff, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, regardless of immigration status) and "non-employees" (i.e., contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees) that promotes respect, dignity and equality.

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. For purposes of this policy, sexual harassment includes harassment on the basis of perceived or self-identified sex, sexual orientation, gender identity and expression, and transgender status.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions or privileges of employment. Such 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 Board of Education recognizes that harassment of employees and certain "nonemployees" on the basis of perceived or self-identified sex, sexual orientation, and/or gender identity and expression is abusive and illegal behavior that harms targets and negatively impacts the school culture by creating an environment of fear,

distrust, intimidation and intolerance. The Board further recognizes that preventing and remedying such harassment in the workplace is essential to ensure a healthy, nondiscriminatory environment in which employees and “nonemployees” can work productively.

This Policy is one component of the Cornwall Central School District’s commitment to a discrimination-free work/educational environment. Sexual harassment is against the law and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with the Cornwall Central School District (CCSD). Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

The Board is committed to providing a working environment that promotes respect, dignity and equality and that is free from all forms of sexual harassment. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all Page 2 of 17 school-sponsored activities, programs and events, including those that take place at locations outside the district, or outside the work setting if the harassment impacts the individual’s employment in a way that violates their legal rights, including when employees and “nonemployees” travel on district business, or when harassment is done by electronic means (including on social media). For employees, sexual harassment is considered a form of employee misconduct. Sanctions will be enforced against all those who engage in sexual harassment or retaliation, and against supervisory and managerial personnel who knowingly allow such behavior to continue.

Scope and Application:

1. This policy applies to all employees¹ and non-employees² working in, or doing business with, the Cornwall Central School District. In the remainder of this document, the terms “employee(s)” or “covered person(s)” refer to these two groups collectively.

2. Sexual harassment will not be tolerated. Any covered person who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).

3. Retaliation Prohibition: All complainants and those who participate in the investigation of a complaint of sexual harassment have the right to be free from retaliation of any kind. No covered person shall be subject to adverse action because they report an incident of sexual harassment, provide information, or otherwise assist in any investigation of a sexual harassment complaint. The Cornwall Central School District will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the District who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. Covered persons working in the workplace who believe they have been subject to such retaliation should inform the Title IX Coordinator or the Director of Human Resources. Covered persons who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the District to liability for harm to targets. Harassers may also be individually subject to civil liability if sued in a court of law or criminal liability if prosecuted. Employees of every level who engage in sexual harassment, including administrators and managerial staff who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

5. The Cornwall Central School District will conduct a prompt and thorough investigation that ensures due process for all parties, whenever the District receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring.

(1 Employees include all staff, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal and temporary workers, regardless of immigration status. 2 A non-employee is a contractor, subcontractor, vendor, consultant, volunteer or other person providing services pursuant to a contract, or their employees.) CCSD will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including administrators and managerial staff, are required to cooperate with any internal investigation of sexual harassment.

6. All employees are encouraged to report any harassment or behaviors that violate this policy. The Cornwall Central School District will make available a complaint form for reporting harassment and the filing of complaints. This form can be found on the District website at: https://www.cornwallschools.com/apps/pages/index.jsp?uREC_ID=310699&type=d&termREC_ID=&pREC_ID=719174

7. Administrators and managerial staff are required to report any complaint that they receive, or any harassment that they observe or become aware of. Sexual harassment reports are to be promptly brought to the attention of the Title IX Coordinator or the Director of Human Resources.

8. All employees must follow and uphold this policy. This policy will be provided to all employees and will also be provided to new staff at the time of hire. The policy can also be found on the District website at: https://www.cornwallschools.com/apps/pages/index.jsp?uREC_ID=310699&type=d&termREC_ID=&pREC_ID=719174

9. In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all victims of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The District will promptly investigate all complaints of sexual harassment, either formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation.

10. Training programs will be established for students, and annually for employees, to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment. Age-appropriate instructional materials will be incorporated into the curriculum to educate students so that they can recognize and reduce the incidence of sexual harassment.

11. The Superintendent of Schools is responsible for enforcement of this policy and must ensure that investigation and remedying allegations of sexual harassment occurs in a timely and proficient manner. The Superintendent of Schools must also develop and implement procedures for reporting, investigating and remedying allegations of sexual harassment.

12. This policy, or a simplified version, will be posted in a prominent place in each district facility, on the district's website, and shall also be published in employee handbooks, and other appropriate school publications.

What Is "Sexual Harassment"?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law.

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, sexual orientation, gender identity and expression, and transgender status, when:

- a. submission to that conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or
- c. the conduct has the purpose or effect of unreasonably interfering with an employee's or "non-employee's" work or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes. Examples of sexual harassment can be found in the section that follows.

A sexually harassing hostile environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment. Any employee who feels harassed should report it so

that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of Sexual Harassment

Conduct that the district considers unacceptable and prohibited, that may be unlawful, and which may constitute sexual harassment includes, but is not limited to, the following:

- Physical acts of a sexual nature, such as:
 - o unwelcome or offensive public sexual display of affection, including kissing, hugging, making out, groping, fondling, petting, inappropriate touching of one's self or others (e.g., pinching, patting, grabbing, poking), sexually suggestive dancing, and massages;
 - o rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the State Penal Law;
 - o unwelcome physical contact or closeness that is sexually suggestive, sexually degrading or derogatory, or sexually intimidating such as the unwelcome touching of another's body parts, cornering or blocking an individual, standing too close, spanking, pinching, following, stalking, frontal body hugs, etc.;
 - o unwelcome and sexually offensive physical pranks or touching of an individual's clothing, such as hazing and initiation, "streaking" (running naked in public), "mooning" (exposing one's buttocks), "snuggies" or "wedgies" (pulling underwear up at the waist so it goes in between the buttocks), bra-snapping, skirt "flip-ups," "pantsing" or "spiking" (pulling down someone's pants or swimming suit); pinching; placing hands inside an individual's pants, shirt, blouse, or dress, etc.
- Unwanted sexual advances or propositions, such as:
 - o Requests for sexual activity, including but not limited to those in exchange for promotions, preferences, favors, selection for job assignments, etc., or when accompanied by implied or overt threats concerning the target's work evaluations, other benefits or detriments;
 - o unwelcome leers, stares, gestures, or slang that are sexually suggestive; sexually degrading or derogatory or imply sexual motives or intentions;
 - o 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 environment. This includes:
 - o any unwelcome communication that is sexually suggestive, sexually degrading or derogatory or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual jokes; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings lists;" howling, catcalls, and whistles; sexually graphic computer files, messages or games, etc.;
 - o unwelcome and offensive name calling or profanity that is sexually suggestive or explicit, sexually degrading or derogatory, implies sexual intentions, or that is based on sexual stereotypes or sexual orientation, gender identity or expression.
- Any unwelcome behavior based on sexual stereotypes (i.e. 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) and attitudes that are offensive, degrading, derogatory, intimidating, or demeaning, including, but not limited to:
 - o disparaging remarks, slurs, jokes about or aggression toward an individual because the person displays mannerisms or a style of dress inconsistent with stereotypical characteristics of the person's sex;
 - o ostracizing or refusing to participate in group activities with an individual (including, but not limited to, projects or trips) because of the individual's perceived or self-identified sex, sexual orientation, gender identity or expression or transgender status;

o taunting or teasing an individual because they are participating in an activity not typically associated with the individual's sex, sexual orientation or gender.

- Sexual or discriminatory displays or publications anywhere in the workplace or on school grounds, such as:

- o 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 District computers or cell phones and sharing such displays while in the workplace or on school grounds;

- o clothing with sexually obscene or sexually explicit slogans or messages;

- o unwelcome and offensive skits, assemblies, and productions that are sexually suggestive, sexually degrading or derogatory, or that imply sexual motives or intentions, or that are based on sexual stereotypes;

- o unwelcome written or pictorial display or distribution (including via electronic devices) of pornographic or other sexually explicit materials such as signs, graffiti, calendars, objects, magazines, videos, films, Internet material, etc.

- Other hostile actions taken against an individual because of that person's perceived or selfidentified sex, sexual orientation, gender identity or transgender status, such as:

- o interfering with, destroying or damaging a person's work area or equipment;

- o sabotaging that person's work activities;

- o bullying, yelling, or name calling; or otherwise interfering with that person's ability to work or participate in school functions and activities.

For purposes of this policy, action or conduct will be considered "unwelcome" if the employee or covered person did not request or invite it and regarded the conduct as undesirable or offensive.

Who Can Be A Target Of Sexual Harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender and can occur staff to student, staff to staff, student to student, male to female, female to male, male to male or female to female. It shall be a violation of this policy for any student, employee or third party (school visitor, vendor, etc.) to sexually harass any employee. Harassers can be a superior, a subordinate, a coworker, a student or anyone in the workplace/school including an independent contractor, contract worker, vendor, client, customer or visitor.

Where Can Sexual Harassment Occur?

Sexual harassment may occur on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside the district, or outside the work setting if the harassment impacts the individual's employment in a way that violates their legal rights, including when employees or "non-employees" travel on district business, or when the harassment is done by electronic means (including on social media).

Calls, texts, emails, and social media usage by employees/students can constitute unlawful sexual harassment, even if they occur away from workplace/District premises, on personal devices or during non-work hours.

Retaliation

Any act of retaliation against any person who opposes sexually harassing behavior, or who has filed a complaint in good faith, or who testifies or assists in an investigation or proceeding involving sexual harassment, is prohibited and illegal, and is therefore subject to disciplinary action. Likewise, retaliation against any person who has, in good faith, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a sexual harassment complaint is prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors,

stalking, harassing phone calls, discipline, discrimination, demotion, denial of privileges, any action that would keep a person from coming forward to make or support a sexual harassment claim, and any other form of harassment. Such actions need not be job- or education-related, or occur in the workplace or educational environment, to constitute unlawful retaliation. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension or termination.

Unlawful retaliation can be any action that could discourage a worker or student 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).

Such retaliation is unlawful under 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:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under 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 harassment.

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.

False Complaints

False or malicious complaints of sexual harassment may result in corrective or disciplinary action taken against the complainant.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The Cornwall Central School District cannot prevent or remedy sexual harassment unless it knows about it. Any employee, student, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior immediately to the Title IX Coordinator or Director of Human Resources. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior immediately to the Title IX Coordinator or Director of Human Resources.

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all targets of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The district will promptly investigate all complaints of sexual harassment, either formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation. If the complainant reports that they feel unsafe at work due to the nature of the complaint, the district will determine if accommodations need to be made until the issue is resolved.

Any covered person who believes they have been the target of sexual harassment in the workplace are encouraged to report complaints as soon as possible after the incident in order to enable the district to promptly and effectively investigate and resolve the complaint.

Any person who witnesses or is aware of sexual harassment of any covered person is also encouraged to report the incident or behavior to the district. Targets are encouraged to submit the complaint in writing; however, complaints may be filed verbally.

Complaints should be filed with the Title IX Coordinator or the Director of Human Resources; however, covered persons can report complaints to any supervisor or manager.

A form for submission of a written complaint can be found on the District website at:

https://www.cornwallschools.com/apps/pages/index.jsp?uREC_ID=310699&type=d&termREC_ID=&pREC_ID=719174

and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All administrators and managerial staff who receive a complaint or information about suspected sexual harassment, or observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to immediately report such suspected sexual harassment to the Title IX Coordinator or Director of Human Resources. Each individual supervisor has an affirmative duty to maintain his/her workplace free from sexual harassment.

Each supervisor shall discuss the District's policy with all employees and assure that they understand the Board's position on harassment.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, administrators and managerial staff will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Administrators and managerial staff will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

School employees receiving complaints of sexual harassment from covered persons must either direct the complainant to the Title IX Coordinator or the Director of Human Resources, or may report the incident themselves. Supervisory and managerial personnel are required to report complaints of sexual harassment received by covered persons to the Title IX Coordinator or the Director of Human Resources, and will be subject to discipline for failing to report suspected or reported sexual harassment, knowingly allowing sexual harassment to continue, or engaging in any retaliation.

In order to assist investigators, targets should document the harassment as soon as it occurs and with as much detail as possible including: the nature of the harassment; dates, times, places it has occurred; name of harasser(s); witnesses to the harassment; and the target's response to the harassment.

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

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. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Cornwall Central School District will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Title IX Coordinator and/or the Director of Human Resources will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the alleged harasser to refrain from communications with the complainant), as appropriate. If the complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
 - If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
 - Request and review all relevant documents, including all electronic communications.
 - Interview all parties involved, including any relevant witnesses;
 - Create written documentation of the investigation, kept in a secure and confidential location, which may include, but is not limited to:
 - o A list of all documentation and other evidence reviewed, along with a detailed summary;
 - o A list of names of those interviewed along with a detailed summary of their statements;
 - o A timeline of events;
 - o A summary of prior relevant incidents, reported or unreported; and
 - o The final resolution of the complaint, together with any corrective action(s).
 - Keep the written documentation and associated documents in a secure and confidential location.
 - Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
 - Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.
- If the initial investigation results in a determination that sexual harassment did occur, the investigator will promptly notify the Superintendent. The Superintendent will institute prompt corrective action to end the harassment, and will also initiate disciplinary action in accordance with district policy, the applicable collective bargaining agreement and/or state law.

If a complaint received by the Title IX Coordinator or the Director of Human Resources contains evidence or allegations of serious or extreme harassment, such as employee to student harassment, criminal touching, quid pro quo (e.g., offering an employment reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint will be referred promptly to the Superintendent. In addition, where the Title IX Coordinator or the Director of Human Resources has a reasonable suspicion that the alleged harassment involves criminal activity, they must immediately notify the Superintendent, who will then contact appropriate law enforcement authorities. Where criminal activity is alleged or suspected by a district employee, the accused employee will be suspended pending the outcome of the investigation, consistent with all contractual or statutory requirements.

Any party who is not satisfied with the outcome of the initial investigation by the Title IX Coordinator or Director of Human Resources may request a district-level investigation by submitting a written complaint to the Superintendent within 30 days.

District-level Procedure

The Superintendent will promptly investigate and resolve all sexual harassment complaints that are referred by the Title IX coordinator or the Director of Human Resources, as well as those appealed to the Superintendent following an initial investigation by the Title IX Coordinator or the Director of Human Resources. In the event the complaint of sexual harassment involves the Superintendent, the complaint will be filed with or referred to the Board President, who will refer the complaint to a trained investigator not employed by the district for investigation.

The district level investigation should begin as soon as possible but not later than three working days following receipt of the complaint by the Superintendent or Board President.

In conducting the formal district level investigation, the district will use investigators who have received formal training in sexual harassment investigation or that have previous experience investigating sexual harassment complaints.

If a district investigation results in a determination that sexual harassment did occur, prompt corrective action will be taken to end the harassment. Where appropriate, district investigators may suggest mediation as a means of exploring options of corrective action and informally resolving the complaint.

No later than 30 days following receipt of the complaint, the Superintendent (or in cases involving the Superintendent, the Board-appointed investigator) will notify the target and alleged harasser, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Superintendent or Board-appointed investigator will provide all parties with a written status report within 30 days following receipt of the complaint.

The target and the alleged harasser have the right to be represented by a person of their choice, at their own expense, during sexual harassment investigations and hearings.

Determining if Prohibited Conduct is Sexual Harassment

Complaints of sexual harassment will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the above definition of sexual harassment and should therefore be treated as sexual harassment. Not all unacceptable conduct with sexual connotations or based on sex may constitute sexual harassment. Such conduct must rise above what a reasonable victim of discrimination with the same protected characteristics would consider petty slights or trivial inconveniences to be considered sexual harassment. If the behavior doesn't rise to the level of sexual harassment, but is found to be objectionable behavior, the individual will be educated and counseled in order to prevent the behavior from continuing.

In evaluating the totality of the circumstances and making a determination of whether conduct constitutes sexual harassment, the individual investigating the complaint should consider:

1. the degree to which the conduct altered the conditions of the covered persons working environment;
2. the type, frequency and duration of the conduct;
3. the identity of and relationship between the alleged harasser and the subject of the harassment (e.g., sexually based conduct by an authority figure is more likely to create a hostile environment than similar conduct by a peer);
4. the number of individuals involved;
5. the age and sex of the alleged harasser and the target of the harassment;
6. the location of the incidents and context in which they occurred;
7. other incidents at the school; and
8. incidents of gender-based, but non-sexual harassment.

If, after appropriate investigation, the district finds that a person has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, contract, district policy and/or state law. Individual nondisclosure agreements may only be used as permitted by law, described in the section that follows.

Any individual who violates the sexual harassment policy by engaging in prohibited sexual harassment will be subject to appropriate disciplinary and/or remedial action. Measures available to school authorities include, but are not limited to the following:

Students: Discipline may range from a reprimand up to and including suspension from school, to be imposed consistent with the student conduct and discipline policy and applicable law.

Employees: Discipline may range from a warning up to and including termination, to be imposed consistent with all applicable contractual and statutory rights.

Volunteers: Penalties may range from a warning up to and including loss of volunteer assignment.

"Non-employees" (i.e., contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees): Penalties may range from a warning up to and including loss of district business.

Other individuals: Penalties may range from a warning up to and including denial of future access to school property.

Nondisclosure agreements

The district may include nondisclosure agreements (to not disclose the underlying facts and circumstances of a sexual harassment complaint) in any sexual harassment settlement agreement or resolution only if it is the complainant's preference. Any such nondisclosure agreement will be provided in writing to all parties in plain English and, if applicable, in the primary language of the complainant. Complainants have twenty-one days to consider any such nondisclosure provision before it is signed by all parties, and have seven days to revoke the agreement after signing. Nondisclosure agreements only become effective after this seven-day period has passed.

Confidentiality

It is district policy to respect the privacy of all parties and witnesses to complaints of sexual harassment. To the extent possible, the district will not release the details of a complaint or the identity of the complainant or the individual(s) against whom the complaint is filed to any third parties who do not need to know such information. However, because an individual's need for confidentiality must be balanced with the district's legal obligation to provide due process to the accused, to conduct a thorough investigation, or to take necessary action to resolve the complaint, the district retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know. The staff member responsible for investigating complaints will discuss confidentiality standards and concerns with all complainants.

If a complainant requests that their name not be revealed to the individual(s) against whom a complaint is filed, the staff member responsible for conducting the investigation will inform the complainant that:

1. the request may limit the district's ability to respond to their complaint;
2. district policy and federal law prohibit retaliation against complainants and witnesses;
3. the district will attempt to prevent any retaliation; and
4. the district will take strong responsive action if retaliation occurs.

If the complainant still requests confidentiality after being given the notice above, the investigator will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not preclude the district from responding effectively to the harassment and preventing the harassment of others.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by the Cornwall Central School District but is also prohibited by state, federal, and, where applicable, local law.

Under various state and federal laws, covered persons have legal protections against sexual harassment in the school environment as described in this policy. Those laws are listed in the references section. Additionally, local laws (e.g., county, city, town, village) may apply to the district. The district's Code of Conduct also addresses appropriate behavior in the school environment.

Aside from the internal process at the Cornwall Central School District, 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.

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 three years 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 the Cornwall Central School District does not extend your time to file with DHR or in court. The 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. 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. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights.

Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the 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.

Notifications

All employees will be informed of this policy and regulation in employee handbooks, on the district website and other appropriate materials. The district will provide all existing employees with either a paper or electronic copy of the district's sexual harassment policy and regulation, and will provide the same to new employees before the employee starts their job. These materials will be provided in English and in an employee's primary language, for those languages for which the NYS Department of Labor has provided a translated template policy.

All students will be informed of the basic provisions of this policy and regulation (e.g., that sexual harassment of covered persons is prohibited, as well as what is appropriate and inappropriate behavior) in student handbooks, on the district website and student registration materials. In addition, age-appropriate curricular materials will be made available so that it can be incorporated in instruction K-12 to ensure that all students are educated on appropriate and inappropriate behavior.

A committee of administrators, teachers, parents, students and the school attorney shall be convened at the request of the Superintendent or the Board of Education to review this policy's effectiveness and compliance with applicable state and federal law, and to recommend revisions to the Board.

Training

All new employees will receive training on this policy and regulation at new employee orientation or as soon as possible after starting their job, unless they can demonstrate that they have received equivalent training within the past year from a previous employer. All other employees will be provided training at least once a year regarding this policy and the district's commitment to a harassment-free working environment. Title IX Coordinators, the Director of Human Resources and other administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment will receive yearly training on this policy, regulation and related legal developments. Training will be provided in English and in an employee's primary language, for those languages for which the NYS Department of Labor has provided translated model training.

Annual employee training programs will be interactive and include: (i) an explanation of sexual harassment consistent with guidance issued by the NYS Department of Labor and the NYS Division of Human Rights; (ii) examples of conduct that is unlawful sexual harassment; (iii) information on federal and state laws about sexual harassment and remedies available to victims of sexual harassment; (iv) information concerning employees' right to make complaints and all available forums for investigating complaints; and (v) address the conduct and responsibilities of supervisors.

Administrators in each school and program directors are responsible for informing students and staff on a yearly basis of the terms of this policy, including the procedures established for investigation and resolution of complaints, general issues surrounding sexual harassment, the rights and responsibilities of students and employees, and the impact of sexual harassment on the target.

Ref:

Education Amendments of 1972, Title IX, 20 U.S.C. §1681 et seq.; 34 CFR 106 et seq.
Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 et seq.
Executive Law §296-d (prohibition of sexual harassment of employees and non-employees) Labor Law §201-g
(required workplace sexual harassment policy and training)
Civil Practice Law and Rules §§5003-b (nondisclosure agreements optional); 7515 (mandatory arbitration
prohibited)

General Obligations Law §5-336 (nondisclosure agreements optional)
Faragher v. City of Boca Raton, 524 U.S. 775 (1998)
Burlington Industries v. Ellerth, 524 U.S. 742 (1998)
Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)
Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)

Adopted: September 2, 2021 *replaces previous policy