

EQUAL OPPORTUNITY AND PROHIBITION OF DISCRIMINATION AND HARASSMENT (INCLUDING SEXUAL HARASSMENT)

I. Statement of Policy:

- A. The District provides education programs and services, does business with vendors and the public, provides equal access to the Boy Scouts and other designated groups, and makes decisions regarding employment without consideration of an individual's race, color, creed, religion, national origin (regardless of English language skills), age, sex (including gender, gender identity, and sexual orientation), marital status, military or veteran status, disability, predisposing genetic characteristics, arrest record, or prior criminal convictions, except when sex or age are a bona fide occupational qualification, when a criminal conviction is related to job duties, and when an individual's religion or disability warrants reasonable accommodation.
- B. Our commitment to provide education programs and services without discrimination includes participation in nonacademic and extracurricular services such as transportation, counseling services, student clubs, and physical education and athletics.
- C. Our commitment to provide employment without harassment, including sexual harassment, discrimination includes recruiting, employment decisions, promotion opportunities, compensation, fringe benefits, workplace conditions, workplace discipline, and termination decisions.
- D. No student shall be subjected to harassment or bullying (as defined below) by employees or students on school property or at a school function. No student shall be subjected to discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity or expression), or sex by another student or a school employee on school property or at a school function. This Policy does not prohibit a denial of admission into, or an exclusion from, a course of instruction that is permissible under the New York State Education Law and Federal Title IX of the Education Amendments of 1972; nor does it prohibit actions that are permissible under Section 504 of the Rehabilitation Act of 1973.
- E. The goal of this Policy is to create a school environment that is free from harassment, bullying, and discrimination. This Policy shall be interpreted and implemented so that the District complies with its obligations under Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1975, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 201-g of the New York Labor Law, Section 504 of the

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Rehabilitation Act of 1973, the New York State Human Rights Law, and the New York State Education Law, as interpreted and enforced by applicable regulations.

II. Opportunities for Individuals with Disabilities:

- A. Education Programs, Services, and Activities: A student with a disabling condition who qualifies for services under the Individuals with Disabilities Education Act (IDEA) and Part 200 of the Regulations of the Commissioner of Education shall receive services in accordance with the Special Education Policy. A student with a condition that is considered a disability for purposes of Section 504 of the Rehabilitation Act of 1973, but does not qualify for services under the Programs for Students with Disabilities Under Section 504 Policy, shall be provided educational programs, services, and activities in accordance with Section 504.
- B. Employment: An employee with a condition that is defined as a disability, or with a history of such a condition, and who is otherwise qualified to perform the essential functions of the position, shall not be denied any employment opportunity or benefit. When a reasonable accommodation will permit an applicant or employee to perform the essential functions of the position, the District will provide a reasonable accommodation that does not impose an undue burden upon the District.
- C. Public Accommodation: District facilities shall be designed, constructed, and maintained so that, when each part of the District's program is viewed in its entirety, that part of the program is readily accessible to handicapped persons.

III. Harassment, Bullying, and Discrimination Prohibited:

A. General Standard of Conduct

No one who is receiving an education from the District, or who is employed by the District, or who is present on school property or at a school event, should experience harassment, bullying, or discrimination. The District's Code of Conduct prohibits harassment, bullying and discrimination, and it applies to conduct by District employees, District students, and anyone else on school property or at a school event.

When determining whether particular conduct or statements are to be classified as prohibited harassment, the District will consider the intent of the person engaging in the conduct or making the statement; however, the determining factor will be whether the person at whom the conduct or statement was directed reasonably experienced the conduct or statement as unwelcome harassment.

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B. Conduct Directed at a Student

Conduct (including verbal conduct) directed at a student will be classified as harassment or bullying if it either:

1. Creates a hostile environment that has or would have the effect of unreasonably and substantially interfering with
 - a. the student's educational performance, opportunities, or benefits, or
 - b. the student's physical, emotional, or mental well-being, or
 - c. causes, or would reasonably be expected to cause, harm to the student's emotional well-being through the creation of a hostile school environment that is so severe, or so pervasive, that it substantially and unreasonably interferes with the student's education.
2. Conduct that occurs off school property will be classified as a violation of this Policy if it creates, or foreseeably would create, a risk of substantial disruption within the school environment.
3. Conduct that occurs through electronic communication will be classified as a violation of this Policy if it otherwise fits the definition set forth in this section.

C. Conduct Directed at Someone Other than a Student

Conduct (including verbal conduct) directed at someone other than a student who is present on school property or at a school event will be classified as discrimination or harassment if it is motivated by that person's race, color, creed, religion, national origin, age, sex, sexual orientation, marital status, military or veteran status, disability, predisposing genetic characteristics, arrest record, or prior criminal convictions, and

1. It has the purpose or the effect of substantially interfering with the person's work performance; or
2. The person is explicitly or implicitly told that they must submit to that treatment in order to receive or continue to receive employment opportunities; or

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3. A decision by the District about that person's employment is influenced by whether that person has submitted to the treatment or objected to it.
- D. Also prohibited, as sexual harassment, is the making of unwanted sexual advances, the making of any requests for sexual favors, and subjecting another person to any touching, teasing or other verbal communication of a sexual nature. The following describes some of the types of acts that may be unlawful sexual harassment:
1. Physical assaults of a sexual nature, such as:
 - a. Rape, sexual battery, molestation, or attempts to commit these assaults.
 - b. Intentional or unintentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another person's body, or poking another person's body.
 2. Unwanted sexual advances, propositions or other sexual comments, such as:
 - a. Requests for sexual favors accompanied by implied or overt threats concerning the victim's job performance evaluation, a promotion, or other job benefits or detriments;
 - b. Subtle or obvious pressure for unwelcome sexual activities;
 - c. Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience which are sufficiently severe or pervasive to create a hostile work or school environment.
 3. 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.
- E. Anyone who feels that they have experienced prohibited discrimination or harassment should bring this to the District's attention by using the Complaint Procedure described below. Administrators and other supervisors who observe conduct that might constitute harassment, including sexual harassment, are required to report that conduct to the Compliance Coordinator.

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- F. An employee, including supervisors and managers, who subject another employee to harassment, including sexual harassment, will be subject to disciplinary consequences, consistent with applicable laws and collective bargaining agreements.
- G. Conduct that occurs away from school property, such as on social media or at after-hours events, may violate this policy if it has a prohibited workplace impact.

IV. Strategy to Prevent Harassment, Bullying, and Discrimination

With the objective of preventing acts of harassment, bullying, or discrimination from interfering with any student's educational opportunities or sense of safety in school, the District will implement the procedures described in this Policy to:

- A. Expand student and employee awareness of the problem;
- B. Train staff and instruct students about appropriate, non-discriminatory behavior;
- C. Respond to reports of conduct that may violate this Policy; and
- D. Implement corrective and restorative measures as appropriate, when unacceptable conduct occurs.

V. Compliance and Dignity Act Coordinator(s):

- A. The District's Compliance Coordinator for purposes of implementing this Policy shall be:

Bart Tooley, Little Falls Assistant Superintendent, 315-823-1167
Leeann Dooley, Little Falls High School Principal, 315-823-1167
Maria Lindsay, Little Falls Middle School Principal, 315-823-4300
Joe Long, Benton Hall Academy Principal, 315-823-1400

The Compliance Coordinator is responsible for receiving complaints of conduct that may violate this Policy and Title IX (sex discrimination), Title VI (race and national origin discrimination), or Section 504 or the Americans with Disabilities Act (disability discrimination); directing a thorough fact finding regarding those complaints; making a determination whether a violation of the Policy and federal law has occurred; overseeing the implementation of corrective action when necessary, including the making of reasonable accommodations for student or employee disabilities; making sure that this Policy has been publicized as required

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by law; keeping records of all reports of possible discrimination based on sex, race, national origin, or disability; and making recommendations for the updating of this Policy as necessary.

The Compliance Coordinator is responsible for fulfilling these responsibilities in the event of incidents involving adult conduct directed at other adults, adult conduct directed at students, and student conduct directed at other students.

- B. The principal of each school building is designated as the District's DASA Coordinator for that school building, and their names and contact information shall be included in the Code of Conduct and prominently displayed in each building. The DASA Coordinators are responsible for receiving complaints of conduct directed at students by adults or other students that may be harassment, bullying, or discrimination as described in Part I-D and Part III of this Policy; conducting a thorough fact-finding regarding those complaints; determining whether a violation of this Policy has occurred; overseeing the implementation of corrective action when required; and keeping accurate records of complaints received and action taken, as required by the State Education Department. The DASA Coordinators serve as the Superintendent's designee for purposes of Article 2-A of the Education Law (DASA).
 - C. The Compliance Coordinator shall inform the DASA Coordinators of matters that involve conduct directed at students, and the DASA Coordinators shall evaluate those incidents for possible violations of DASA. The DASA Coordinators shall inform the Compliance Coordinator of matters that involve complaints of possible discrimination on the basis of sex, race, national origin, or disability and the Compliance Coordinator shall evaluate those incidents for possible violations of Title IX, Title VI, Section 504, and the Americans with Disabilities Act.
 - D. When a report complains of possible discrimination by the Compliance Coordinator, or a DASA Coordinator, the Superintendent shall designate another school official to conduct the necessary fact-finding and make recommendations.
- VI. Complaint and Fact-finding Procedure:
- A. Report of Possible Harassment, Bullying or Discrimination: Attached to this Policy are Report of Possible Discrimination or Harassment and DASA Incident Reporting Form. The Compliance Coordinator and DASA Coordinators shall make sure that these forms are available in each school building, and their availability is known to those who may need to use it. The use of these forms is encouraged, but not required; the Compliance Coordinator or DASA Coordinators shall conduct a fact-finding inquiry anytime a written or oral report is received that contains enough information to reasonably investigate.

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1. An employee or other adult may report possible discrimination or harassment directed at them or another employee or other adult to the employee's supervisor or directly to the Compliance Coordinator. If the report is about conduct by the Compliance Coordinator, the report may be made to the Superintendent. If an employee makes a verbal report, they shall be asked to make a written report and told of the availability of the Report form.
 2. A student may report possible harassment, bullying or discrimination directed at them or another student to any teacher, counselor, or school administrator. If a student makes a verbal report, they shall be asked to make a written report and told of the availability of the Report form. The person to whom the report is made is also responsible for reporting in writing their conversation and other available information to the DASA Coordinator or Compliance Coordinator. School staff shall be trained on how to receive and refer student complaints.
 3. A parent, school volunteer, or other member of the public who wishes to report possible harassment, bullying, or discrimination against a student shall make the report to the Superintendent, the Compliance Coordinator, a DASA Coordinator, or any administrator or teacher. If a verbal report is made, a written report shall be requested. The person to whom the report is made is also responsible for reporting in writing their conversation and other information to the Compliance Coordinator.
 4. District employees who either witness conduct directed at a student that may be harassment, bullying, or discrimination, or receive an oral or written report of such conduct, must report that to a DASA Coordinator. The employee must make an oral report to the DASA Coordinator within one school day, followed by a written report to a DASA Coordinator no more than two school days after their oral report.
- B. Fact-finding Inquiry: Upon receiving a written report of possible harassment, bullying, or discrimination, the Compliance Coordinator or DASA Coordinator shall log the report, acknowledge in writing its receipt, and conduct a fact-finding inquiry designed to determine with a reasonable degree of probability what actually transpired.
1. The fact-finding inquiry should begin promptly after receiving the complaint, and be pursued with sufficient diligence to reach a conclusion within thirty (30) days after receipt of a written report.

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2. The inquiry should determine with as much detail as possible the sequence in which events occurred, the identity of each person involved and their respective roles, and the exact words spoken by each participant.
 3. The inquiry shall include an opportunity for any person who has been identified as possibly violating this Policy to respond to each assertion made against them.
 4. Interviews shall be scheduled and conducted in compliance with applicable provisions of New York law and collective bargaining agreements.
 5. Each person interviewed shall be reminded that they are protected by the non-retaliation provision of this Policy, and that they are bound by that provision.
- C. Resolution: The Compliance Coordinator or DASA Coordinator shall prepare a written fact-finding report describing what investigation was done, what conclusions have been drawn about what happened, a conclusion as to whether the conduct violated the District's Policy, and, if it did, what corrective action should be taken.
1. If the determination is that this Policy has not been violated, the person who made the report, and each person whose conduct was challenged, shall be told of that determination verbally and in writing. The person who made the report shall be told of the option to have the determination reviewed.
 2. If the determination is that this Policy has been violated, the person who made the report of possible discrimination shall be told of that determination verbally and in writing and, consistent with the confidentiality accorded to student and personnel records, told that appropriate corrective action has been taken to deter any repetition of the offending conduct. The person whose conduct violated the Policy shall have that explained to them, shall be told of the corrective action being taken by the District, and shall be told of the option to have the determination reviewed.
 3. When the Compliance Coordinator or DASA Coordinator verifies the occurrence of harassment, bullying, or discrimination directed at a student, the school shall take prompt action that is consistent with the District's Code of Conduct and is reasonably calculated to end the harassment, bullying, or discrimination to eliminate any hostile environment; to create

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a more positive school culture and climate; to prevent a recurrence of the behavior; and to ensure the safety of the student(s) at whom the conduct was directed.

- a. Responsive actions shall be measured, balanced, and age-appropriate.
 - b. Responsive actions shall follow a progressive model and make appropriate use of intervention, education, and discipline.
 - c. Responsive actions shall vary according to the nature of the offending behavior, the developmental age of the person engaging in the behavior, and the prior history of problem behaviors by the person engaging in the conduct.
- D. Report to Law Enforcement Agency: When a DASA Coordinator believes that conduct has occurred that constitutes criminal conduct, the Coordinator shall promptly notify the Superintendent, and the Superintendent shall promptly notify the appropriate law enforcement agency.
- E. Confidentiality: It shall be explained to anyone making a report or providing information about a report that the District does not reveal information about reports or the fact-finding process except to the extent necessary to fulfill its legal obligations to make as complete an inquiry as possible and to take appropriate corrective action when discrimination has occurred. Every witness interviewed during the fact-finding inquiry shall be instructed not to discuss the complaint or the investigation with anyone else, except as may be privileged by law.
- F. Special Fact-finder: The Superintendent is authorized to appoint a special fact-finder to carry out the responsibilities of the Compliance Coordinator or DASA Coordinator when the Superintendent concludes that the circumstances of a particular report warrant that action, and the special fact-finder shall fulfill the responsibilities of the Compliance Coordinator described in this policy.
- G. Immediate Corrective Action: The Superintendent has discretion to implement immediate corrective action, pending the completion of a fact-finding inquiry, to protect an individual when the Superintendent concludes that the circumstances of a particular report warrant that action.
- H. Review of Coordinator's Determination: If a person who initiated a report of possible discrimination, or a person whose conduct was challenged by a report of possible discrimination, is not satisfied with the determination of the Compliance

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Coordinator (or other designated investigator), they may request that the determination be reviewed by the Board of Education.

1. A request for Board review must be made in writing, filed with the Board Clerk within ten (10) business days of receiving the written notice of the determination.
 2. The person requesting review shall provide a written explanation of their objection(s) to the determination, including the corrective action taken, if any. That statement shall be filed with the Board Clerk at least five (5) business days before the Board meeting at which the review will be conducted.
 3. Board discussion of the determination and the objection(s) made shall take place in executive session. Board action to adopt or change the determination shall be take place in public session.
- I. No Retaliation: No employee or student shall take a retaliatory action, or request or cause anyone else to take a retaliatory action, against any person who, in good faith, reports information about a possible violation of this Policy to a District employee or to the Commissioner of Education or to a law enforcement agency, or who initiates a report, or encourages another person to initiate a report, or testifies or assists or participates in the investigation of a report, or complaint by the District or a governmental agency.

VII. Remedial Measures When This Policy is Violated:

- A. An employee found to have engaged in prohibited harassment or discrimination against another person (whether a District employee, District student, or member of the public) in the course of their employment will be subject to discipline, up to and including termination. Such decisions will be made and implemented in accordance with other District policies (e.g. the Code of Conduct) and applicable statutes and collective bargaining agreements.
- B. A student found to have engaged in prohibited harassment, bullying or discrimination against another person (whether a District employee, District student, or member of the public) while participating in a school activity or on school property will be subject to discipline. Such decisions will be made and implemented in accordance with other District policies (e.g. the Code of Conduct), the New York State Education Law, and any other applicable statutes.
- C. Any other person found to have engaged in prohibited harassment or discrimination against another person (whether a District employee, District

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student, or member of the public) while participating in a school activity or on school property may have their future access to school activities limited, as deemed appropriate under the circumstances.

VIII. Dignity Act Coordinators

- A. The Board appoints at least one staff member at each school to serve as the Dignity Act Coordinator for that school, upon the recommendation of the Superintendent. Each person designated for this role shall be instructed in the provisions of Article 2-A of the Education Law and thoroughly trained in methods to respond to human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex.
- B. The name and contact information for each Dignity Act Coordinator shall be publicized as follows:
- listing such information in the Code of Conduct posted on the District's website;
 - including such information in the plain language summary of the Code of Conduct provided to all persons in parental relation to students before the beginning of each school year;
 - including such information in at least one mailing per school year to parents and persons in parental relation, and in additional mailings if the information changes;
 - posting such information in a highly visible location in each school building; and
 - making such information available at the District office and each school building office.

The publication of this information shall also inform students and persons in parental relation to students that the Dignity Act Coordinator is available to speak with them if they have witnessed possible discrimination or harassment or bullying, or if they have experienced treatment that may be prohibited discrimination or harassment or bullying.

- C. In the event a designated Dignity Act Coordinator vacates that position, the Superintendent shall immediately designate an interim Coordinator pending appointment by the Board. In the event that a Coordinator is unable to perform the

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duties of the position for an extended period of time, another staff member shall be immediately designated by the Superintendent as an interim Coordinator pending return of the previous Coordinator to the position. Contact information for the new Coordinator shall be distributed as provided above.

IX. Training and Publication of Policy:

- A. All District employees will be provided with a copy of this policy. Online access to a printable copy of this Policy will satisfy this requirement.
- B. All students and their families will be notified at the beginning of the school year, or at the time of enrollment, of this Policy, the conduct expectations established by it, and how they may request accommodation of a disability or initiate a complaint, or report possible discrimination, harassment or bullying.
- C. A summary of this Policy shall be posted as part of the District's website, and shall be distributed periodically with District publications.
- D. The Superintendent shall ensure that all District employees receive training designed to meet the following objectives each year in an interactive format:
 1. discourage the development of harassment, bullying, and discrimination;
 2. make employees aware of the effects on students of harassment, bullying, cyberbullying, and discrimination;
 3. raise the awareness and sensitivity of employees to potential harassment, bullying, and discrimination;
 4. enable employees to prevent harassment, bullying, and discrimination;
 5. enable employees to respond to harassment, bullying, and discrimination;
 6. inform employees about social patterns of harassment, bullying, and discrimination, including that based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity or expression), or sex; and
 7. strategies for effectively addressing the problems of exclusion, bias, and aggression in an educational setting.
- E. The Superintendent shall develop and implement guidelines:

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1. for the development of nondiscriminatory instructional and counseling methods to be used by District staff;
 2. for the development of measured, balanced and age-appropriate responses to instances of harassment, bullying and discrimination by students, with remedies and procedures following a progressive mode that make appropriate use of intervention, discipline and education, vary in method according to the nature of the behavior, the developmental age of the student and the student's history or problem behaviors, and are consistent with the Code of Conduct; and
 3. include safe and supportive school climate concepts in curriculum and classroom management.
- F. The District shall develop and implement a program of instruction in grades Kindergarten through Grade 12 to include a component on civility, citizenship and character education in accordance with Education Law.
1. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community.
 2. Instruction on the principle of respect for others shall discourage acts of harassment, bullying, and discrimination.
 3. Instruction on the principle of tolerance, respect for others, and dignity shall seek to instill an awareness and sensitivity to harassment, bullying, discrimination, and civility in the relations of people of different races, weights, national origins, ethnic groups, religious, religious practices, mental or physical disabilities, sexual orientation, genders (including gender identity or expression) and sexes.
 4. This shall include instruction about safe and responsible use of the internet and electronic communications.
- X. Other Available Remedies for Unlawful Discrimination and Harassment, including Sexual Harassment:
- A. In addition to this Policy, District employees and other persons visiting or doing business with the District are protected from discrimination and harassment,

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including sexual harassment, by New York State and federal law. There also may be applicable local laws.

- B. The New York State Human Rights Law prohibits discrimination in employment and public accommodations, including sexual harassment. Your rights can be enforced by a complaint filed with the New York State Division of Human Rights or by filing a complaint in New York State Supreme Court.
1. You may learn more about your rights under the Human Rights Law by calling the Division's toll-free telephone number (888-392-3644) or visiting the Division's website (www.dhr.ny.gov).
 2. You may file a complaint with the Division within one year of the event you feel was harassment. You do not need a lawyer to file a complaint with the Division. The Division will investigate your complaint and make a determination whether unlawful harassment occurred. If a public hearing is required, the Division will provide an attorney. The Division may seek monetary damages on your behalf.
 3. You may start a lawsuit in Supreme Court within three years of the event you feel was harassment. You can start a lawsuit yourself (pro se), but you should retain a lawyer who is familiar with court procedures.
- C. Federal laws, including Title VII of the Civil Rights Act of 1964, also prohibit discrimination in employment and public accommodation, including sexual harassment. Your rights can be enforced by filing a charge of discrimination with the United State Equal Employment Opportunity Commission (EEOC).
1. You may learn more about your rights under federal law by calling the EEOC's toll-free number (800-669-4000) or visiting the EEOC's website (www.eeoc.gov).
 2. You may file a charge with the EEOC within three-hundred (300) days of the event you feel was harassment. You do not need a lawyer to file a charge with the EEOC.
 3. The EEOC will investigate your charge. If it determines that unlawful discrimination occurred, the EEOC will attempt to obtain a remedy on your behalf through a conciliation process. If that is not successful, you will be given a right to sue in court.

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- D. If you are subjected to unwanted physical touching, coerced physical confinement, or unwanted sex acts, the conduct may constitute a crime and you should consider contacting the local police department.

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Legal Ref: Title IX, Education Amendments of 1972 (20 USC 1681, 45 CFR Part 86); Section 504, Rehabilitation Act of 1973 (29 USC 794, 45 CFR Part 84); 28 CFR 35.107(b), 34 CFR 104.7(b), 106.8(b), NYS Human Rights Law, (Article 15, NYS Executive Laws); 8 NYCRR 100.4, 135.4, 141.1 and 200; Civil Rights Act of 1964, Title VI and VII (42 USC 2000d and 2000e); New York State Education Law, Article 2-A and §§3201 and 3201-a; Americans with Disabilities Act of 1990 (42 USC 12101-12213, 29 CFR Part 1630); Age Discrimination in Employment Act (29 USC 621-634); EEOC guidelines (29 CFR Part 1609.1 and 1609.2); and NYS Labor Law §201-g.

Adopted: 06/14/06, 09/15/12

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