

Non-Discrimination and Anti-Harassment Policies and Complaint Procedures

Westchester-Putnam School Boards Association (WPSBA) is an equal opportunity employer and is committed to providing a working and learning environment free from unlawful discrimination and to fostering a nurturing and vibrant community founded upon the fundamental dignity and worth of all of its members. WPSBA does not discriminate against or permit harassment of employees or applicants for employment on the basis of race, color, sex, gender (including gender identity and expression), pregnancy, religion, creed, national origin, age, alienage and citizenship, status as a perceived or actual victim of domestic violence, disability, marital status, sexual orientation, military status, partnership status, genetic predisposition or carrier status, arrest record, or any other legally protected status.

Sexual harassment is strictly prohibited. Harassment on the basis of any other protected characteristic is also strictly prohibited. WPSBA reasonably accommodates employees and applicants with disabilities and also provides reasonable accommodation of religious beliefs and practices in accordance with law.

The WPSBA's Executive Director has overall responsibility for the management of the WPSBA's Equal Opportunity and Non-Discrimination Policies and has been designated to coordinate compliance activities under these policies and applicable federal, state and local laws. Staff may contact the Executive Director to inquire about their rights under the WPSBA policies, request counseling, or seek information about filing a complaint.

All staff is protected from retaliation for filing a complaint or assisting in an investigation under the Non-Discrimination and Anti-Harassment Policies. WPSBA policies apply to all employees and applicants for employment (paid or unpaid), officers and directors and all such persons are protected from coercion, intimidation, interference, or retaliation for filing an internal or external complaint of discrimination or harassment or assisting in an investigation under any of the above-named policies and applicable laws.

Definitions

For purposes of these policies and procedures, discrimination, discriminatory harassment, and sexual harassment are defined as follows:

Discrimination

Discrimination is defined as:

- Treating members of a protected class less favorably because of their membership in that class; or
- Having a policy or practice that has a disproportionately adverse impact on protected class members, without sufficient justification.

Protected class" refers to any personal trait or category that is protected by law, including an individual's race, religion, sex, color, ethnicity, national origin, age, marital status, creed, genetic predisposition and carrier status, sexual orientation, alienage, citizenship status, veteran status, disability, or any other characteristic protected by law.

Discriminatory Harassment

Discriminatory harassment is defined as substantially interfering with an individual's employment experience by subjecting him or her to severe or threatening conduct or to repeated humiliating or abusive conduct, based on his or her membership in a protected class. This includes sexual harassment, which is described below in further detail.

Under this policy, harassment is verbal or physical conduct that belittles or shows hostility or aversion toward an individual because of his or her race, religion, sex, color, ethnicity, national origin, age, marital status, creed, genetic

predisposition and carrier status, sexual orientation, alienage, citizenship status, veteran status, disability, or any other characteristic protected by law, or that of his or her relatives, friends, or associates, and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive employment or work environment;
- Has the purpose or effect of unreasonably interfering with an individual's job performance; or
- Otherwise adversely affects an individual's employment or work experience.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts; and written or graphic material that belittles or shows hostility or aversion toward an individual or group and that is placed on walls or elsewhere on WPSBA premises or circulated in the office (including through e-mail).

Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, demeaning, or offensive work environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, catcalls or touching; insulting or obscene comments or gestures; display or circulation of sexually suggestive objects or pictures (including through e-mail); and other physical, verbal or visual conduct of a sexual nature. Sex-based harassment—that is, harassment not involving sexual activity or language—may also constitute discrimination if it is severe or pervasive and directed at an individual because of his or her sex.

Truly consensual romantic relationships are not sexual harassment and are not prohibited by WPSBA's policies. Individuals should be aware, however, that romantic relationships are susceptible to being determined after the fact to have been non-consensual, and even coercive, whenever there is an inherent power differential between the parties. Therefore, any such relationship between staff members is strongly discouraged.

Requests for Disability Accommodation

Employees seeking an accommodation for a disability should contact the Executive Director.

Inquiries about Policy

Inquiries concerning any policy, program or other activity at WPSBA may be referred to the following individual who has been designated by WPSBA to oversee the continued application of the WPSBA's Non-Discrimination and Anti-Harassment Policies:

Lisa Davis – Executive Director
2 Westchester Plaza
Elmsford, NY 10523
(914) 345-8373

All members of the WPSBA community are expected to adhere to the WPSBA's policies and to cooperate with the procedures for responding to complaints of discrimination and harassment. All are encouraged to report any conduct believed to be in violation of these policies. It is in the best interest of the entire WPSBA community for all of its members to report incidents of discrimination and harassment. All employees and applicants for employment are protected from coercion, intimidation, interference, or retaliation for filing a complaint or assisting in an investigation under any of the applicable policies and laws. Subjecting another to retaliatory, intimidating or coercive conduct for filing a complaint or participating in an investigation is prohibited and may be addressed as a separate violation.

Any person who believes that he or she has been the subject of discrimination or harassment may initially choose to deal with the alleged offender directly through a face-to-face discussion, a personal telephone conversation, e-mail correspondence, or letters. In many cases, this may effectively resolve the situation; however, individuals are not required to address the alleged offender directly. Such an approach may be ineffective in correcting the problem, or an individual may be uncomfortable in handling the situation alone. All staffs strongly urged to promptly report concerns of discrimination and harassment under the procedures outlined below.

Employees and applicants may file an informal or formal complaint under this policy as set forth below. Any individual found to have engaged in discrimination or harassment will be subject to discipline up to and including termination. Retaliation against anyone who files a complaint or participates in an investigation of a complaint is prohibited and will be addressed as a separate violation of this policy.

Individuals and Conduct Covered

These employee policies apply to all applicants and employees, officers and directors and prohibit harassment, discrimination and retaliation whether engaged in by fellow employees, by a supervisor or manager, an officer or director or by someone not directly connected to WPSBA (e.g., an outside vendor, consultant or customer). Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace. Any individual found to have engaged in sexual or any other form of harassment, or other inappropriate conduct, will be disciplined as appropriate, up to and including discharge.

Non-Retaliation Policy

WPSBA will not in any way retaliate against an individual who, in good faith, makes a complaint or report of harassment, or participates in the investigation of such complaint or report. Retaliation against any individual for, in good faith, reporting a claim of discrimination or harassment or cooperating in the investigation of same will not be tolerated and will itself be subject to appropriate discipline.

Reports of retaliation should be made in the same manner as complaints reporting discrimination and harassment and such complaints will be investigated.

Complaint Procedures for Employees and Applicants

Any employee who has witnessed, been subject to, or believes that he or she has been the subject of discrimination, sexual or any other form of harassment or retaliation by anyone at WPSBA should, and is encouraged to, bring the matter to the attention of the Executive Director or the President of the Board, or to other persons designated to receive complaints as set forth below. Individuals should not feel obligated to file their complaints with their immediate supervisor before bringing the matter to the attention of the other designated representatives.

IMPORTANT NOTICE TO ALL EMPLOYEES: Employees who have experienced conduct they believe is contrary to this policy have an obligation to take advantage of this complaint procedure. An employee's failure to fulfill this obligation could affect his or her rights in pursuing legal action. Also, please note, federal, state and local discrimination laws establish specific time frames for initiating a legal proceeding pursuant to those laws.

The Investigation and Confidentiality

A prompt, thorough and impartial investigation of the alleged incident will be conducted to the extent possible, and appropriate corrective action will be taken if warranted. To the extent consistent with adequate investigation and appropriate corrective action, complaints of discrimination and harassment will be treated as confidential. At the conclusion of the investigation, the complaining party and the accused party will be notified of the outcome of the investigation.

Responsive Action

Misconduct constituting harassment, discrimination or retaliation will be dealt with promptly and adequately. Responsive action may include, without limitation, training, referral to counseling, monitoring the offender, and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reduction of wages, demotion, reassignment, temporary suspension without pay, or termination, as WPSBA believes appropriate under the circumstances.

Grievance Procedure under the WPSBA Non-Discrimination and Anti-Harassment Policies

An employee or applicant of WPSBA who believes that he or she has been discriminated against or harassed in violation of any provision of the WPSBA Non-Discrimination or Anti-Harassment Policies may ask the offender to stop his/her behavior. An employee should not feel obligated to confront the offender, however, and may also attempt to resolve such grievance in the following manner.

Step 1. Informal Complaint

Employees with complaints in which the immediate supervisor is not directly involved generally should start at Step 1. Employees with complaints which directly involve the immediate supervisor or in which the employee is not comfortable presenting the complaint directly to his/her supervisor should proceed directly to Step 2.

The complainant should present the complaint, if possible in writing, to his or her immediate superior as soon as possible after the date on which the alleged act of discrimination or harassment took place, and should also forward a copy of any written complaint in a sealed envelope marked "CONFIDENTIAL" to the Executive Director or to the Board President.

The complainant's immediate superior or another individual designated by WPSBA shall meet with the complainant for purposes of initiating an investigation. An investigation may involve a review of documents and interviews with witnesses and the alleged offender. Once an investigation is completed, appropriate remedial action will be taken.

If the complaint is not satisfactorily resolved at Step 1, it may be presented as a formal grievance/appeal under Step 2. As stated previously, if the complainant is uncomfortable presenting his/her complaint to his/her immediate supervisor, the complainant may immediately proceed to Step 2.

Step 2. Formal Grievance/Step

In the case where the complainant feels uncomfortable presenting the complaint to his or her immediate supervisor or when the complainant is dissatisfied by the results of Step 1, the grievance may be formally presented by the grievant to the Executive Director or the Board President.

The grievance should be written, if possible, and set forth specifically the facts on which the grievance is based. The Equal Opportunity Officer, or an authorized designee, will investigate the grievance and/or review the investigation already conducted and make a determination on the grievance and appropriate remedial action.

Compliance with Federal, State and Local Laws Promoting Equal Employment Opportunity, Prohibiting Discrimination and Harassment and Authorizing Affirmative Action

In accordance with all applicable laws and pursuant to its own policies and operating procedures, WPSBA provides for equal opportunity, prohibits unlawful discrimination and harassment, and takes affirmative action. The applicable laws include:

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination against any person on the basis of race, color, or national origin in programs or activities receiving federal financial assistance.

Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination against any person because of race, color, religion, sex, pregnancy, or national origin.

Title IX of the Education Amendments of 1972, as amended, prohibits discrimination on the basis of sex in the conduct or operation of a school's educational programs or activities, including employment in these programs and activities.

The Equal Pay Act of 1963, prohibits discrimination on the basis of sex in rates of pay. The Lily Ledbetter Act of 2009 extends this protection. Executive Order 11246, as amended, prohibits discrimination in employment because of race, color, religion, sex, or national origin and requires affirmative action to ensure equality of opportunity in all aspects of employment.

Section 503 of the Rehabilitation Act of 1973, requires a federal contractor to take affirmative action to employ and advance in employment qualified workers with disabilities. Section 504 prohibits the exclusion of any person solely on the basis of a disability from participation in or access to benefits of any federally financed program or activity; it also prohibits discrimination against any person solely on the basis of disability in any federally financed program or activity.

The Americans with Disabilities Act of 1990, amended by Congress in 2008, prohibits discrimination in public accommodations and in employment against a qualified person with a disability and requires an employer to provide qualified applicants and employees with reasonable accommodations.

The Age Discrimination in Employment Act of 1967, as amended, prohibits discrimination in employment on the basis of age.

The Age Discrimination Act of 1975, prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.

The Uniformed Services Employment and Reemployment Rights Act (USERRA), prohibits discrimination in employment based on past, current, or future military obligations.

The Vietnam Era Veterans' Readjustment Assistance Act of 1974 and the Veterans Employment Opportunities Act of 1998, as amended, prohibit job discrimination and require affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam Era, recently separated veterans, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

The Immigration Reform and Control Act of 1986, prohibits employers from discriminating on the basis of citizenship status. The prohibition extends to employers who hire only U.S. citizens or U.S. citizens and green card holders, as well as to employers who prefer to employ unauthorized workers or temporary visa holders rather than U.S. citizens and other workers with employment authorization.

The Small Business Act of 1958, as amended, Section 15(g)(1), requires federal contractors to afford maximum practicable business opportunities to Small Business Concerns, including businesses owned by disadvantaged individuals, disabled veterans, and women.

The New York Executive Law, Article 15, Section 296(1), prohibits discrimination against any person in employment because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, marital status, or arrest record.

The New York Labor Law, Section 194, prohibits discrimination on the basis of sex in rates of pay.

The New York City Human Rights Law, Chapter 1, Section 8-107, makes it an unlawful discriminatory practice for an employer to discriminate against any person because of his or her actual or perceived age, race, creed, color, national origin, gender (including gender identity and expression), disability, marital status, sexual orientation, alienage or citizenship status, partnership status or status as a perceived or actual victim of domestic violence.

Any person wanting to file an external complaint under any of these laws should consult the Web site of the relevant government agency listed below:

Office of Federal Contract Compliance Programs
www.dol.gov/esa/contacts/ofccp/ofnation2.htm#NewYork

U.S. Equal Employment Opportunity Commission
www.eeoc.gov

Office of Civil Rights, U.S. Department of Education
www.ed.gov

Veterans' Training and Employment Service, U.S. Department of Labor
www.dol.gov/vets

New York State Division of Human Rights
www.dhr.state.ny.us

New York State Department of Labor
www.labor.state.ny.us

New York City Commission on Human Rights
www.nyc.gov/html/cchr/home.html
