

HARASSMENT (INCLUDING SEXUAL HARASSMENT) AND DISCRIMINATION**PURPOSE**

Guilderland Central School District believes in the dignity of the individual and recognizes the rights of all people to equal employment opportunities in the workplace. In this regard, Guilderland Central School District is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment without being subjected to unlawful harassment or discrimination in the workplace. It is the Guilderland Central School District's policy to provide an employment environment free from discrimination and harassment based on race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status. Guilderland Central School District prohibits discrimination based on race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status and will not tolerate any form of unlawful discrimination or harassment. Guilderland Central School District will take all steps necessary to prevent and stop the occurrence of unlawful discrimination and/or harassment in the workplace.

All employees, including, but not limited to, Guilderland Central School District officials and supervisory personnel, are responsible for promoting a work environment free from prohibited discrimination and harassment. All employees will be held responsible and accountable for avoiding or eliminating inappropriate conduct that may give rise to a claim of prohibited discrimination and/or harassment. Employees are encouraged to report violations to one of the Compliance Officers listed in Section 7 of this Policy and on the District's website, <http://www.guilderlandschools.org>, in accordance with the Complaint Procedure set forth in this Policy. Officials and supervisors must take immediate and appropriate corrective action when instances of prohibited discrimination and/or harassment come to their attention to ensure compliance with this Policy.

Each employee is assured, pursuant to Section 4 of this Policy, that retaliation against an individual who makes a complaint or report under this Policy is absolutely prohibited and constitutes, in and of itself, a violation of this Policy.

Any questions regarding the scope or application of this Policy should be directed to one of the Compliance Officers listed in Section 7 of this Policy and on the District's website, <http://www.guilderlandschools.org>.

A. Scope of Policy: This Policy applies to all Guilderland Central School District employees and all personnel in a contractual or other business relationship with Guilderland Central School District, including, for example, applicants, temporary or leased employees, independent contractors, vendors, consultants, and volunteers. Depending on the extent of Guilderland Central School District's exercise of control, this Policy may be applied to the conduct of non-employees with respect to unlawful harassment and/or discrimination of Guilderland Central School District employees in the workplace. This Policy applies with equal force on District property as it does at District-sponsored events, programs, and activities. Actual or perceived harassment based upon any factor other than race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status is beyond the scope of this policy.

B. Policy Objectives: By adopting and publishing this Policy, it is the intention of the Guilderland School District Board of Education to:

- (1) notify employees about the types of conduct which constitute discrimination or harassment prohibited by this Policy;
- (2) inform employees about the complaint procedures established by the District which enable any employee who believes (s)he is the victim of discrimination or harassment to submit a complaint which will be investigated by the District;
- (3) clearly advise all supervisory staff, administrators, and employees that discriminatory treatment based on race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status of employees is strictly prohibited and no such person possesses the authority to harass or discriminate; and
- (4) notify all employees that the District has appointed Compliance Officers who are specifically designated to receive complaints of discrimination based on race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status, and ensure compliance with this Policy.

NOTE: The Compliance Officers designated to receive and investigate complaints shall be appointed and identified by the Board of Education each year at its Annual Organizational Meeting. The names and office locations of each new Compliance Officer designated to receive and investigate complaints in subsequent years will be listed on the District website: <http://www.guilderlandschools.org>.

Adopted August 18, 2009

HARASSMENT (INCLUDING SEXUAL HARASSMENT)
AND DISCRIMINATION REGULATIONS

SECTION 1: DEFINITIONS

A. Prohibited Discrimination

Prohibited discrimination of employees can take the form of any negative treatment of an employee, by either a District employee or official, or a third party engaged in school-sponsored activities which: (a) negatively impacts an employee's employment opportunities and/or employment benefits; *and* (b) is based upon the employee's race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status. Prohibited discrimination of employees can also take the form of harassment even where there is no tangible impact upon the employee's employment opportunities and/or employment benefits. The phrase "prohibited discrimination" as used in this Policy includes all forms of "prohibited harassment" (defined below).

B. Prohibited Harassment

Harassment can constitute a form of prohibited discrimination under this Policy if it is unwelcome, offensive, and has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment. Such harassment of employees is prohibited by this Policy if it is based upon race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status. In this regard, individuals subject to this Policy should be mindful that conduct or behavior that is acceptable, amusing or inoffensive to some individuals may be viewed as unwelcome, abusive or offensive to others.

C. Prohibited Behavior

While it is impossible to list all of the possible forms of prohibited harassment, the following is a list of *examples* of conduct that may constitute harassment:

1. Using slurs or derogatory terms based on race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status.
2. Telling derogatory jokes or stories based on race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status.

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3. Displaying graffiti or other derogatory or insulting writings based on race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status.
 4. Making degrading comments about a person and/or his or her appearance based on race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status.
 5. Sending, distributing, or displaying electronic images or electronic data (e.g., internet sites or e-mails) that are pornographic, profane, lewd, or inappropriate for a professional environment.
6. Demeaning or criticizing an individual because of his or her race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status.
 7. Sabotaging, damaging, or interfering with an individual's work because of that individual's race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status.
 8. Threatening or intimidating an individual because of his or her race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status.

As set forth above, this list is not intended to be all-inclusive. Furthermore, while a single incident of these types of behavior may not create a hostile working environment, if such behavior is severe, persistent or pervasive, or if submission to such conduct is made either explicitly or implicitly a term or condition of employment, such conduct constitutes prohibited discrimination and/or harassment.

NOTE: This Policy does **not** regulate conduct which is unrelated to an individual's race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status. Although Guilderland Central School District intends to create a respectful working environment that is free from inappropriate conduct or unfair treatment, this Policy does not apply to such conduct or treatment absent a relation to an individual's race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status. In other words, this Policy is not designed to resolve personality disputes between colleagues or between an employee and his or her supervisor, unless such dispute is related to the employee's race, color, gender, creed, religion, national origin, disability, age, sexual orientation, or marital status.

SECTION 2: POLICY ENFORCEMENT**A. Complaint Procedure for Employees**

1. Notification Procedure: Prompt reporting of complaints is encouraged so that timely and constructive action can be taken before relationships become strained. Reporting of all perceived incidents of prohibited discrimination and/or harassment is encouraged, regardless of the offender's identity or position. An employee or other individual who feels aggrieved because of harassment or discrimination has several ways to make his or her complaint known:

- (a) An aggrieved person who feels comfortable doing so should directly inform the person[s] engaging in the harassment or discrimination that such conduct or communication is offensive and must stop.

NOTE: Confronting the offender is NOT required. All employees have the right to file a good faith complaint without first communicating with the offender.

- (b) An aggrieved person who does not wish to communicate directly with the individual whose conduct or communication is offensive, or who has engaged in direct communication with the offending party which has been unavailing, shall contact a Compliance Officer listed in Section 7 of this Policy, or the Superintendent of Schools.

- (c) An aggrieved person alleging harassment or discrimination by anyone with supervisory authority, or alleging failure of supervision to take immediate action on the individual's complaint, shall contact one of the Compliance Officers, or the Superintendent of Schools.

- (d) An aggrieved person who is a member of a collective bargaining unit may also be entitled to file a grievance through the collective bargaining grievance procedure depending on the particular terms of the governing collective bargaining agreement. Such filing may *not*, in all cases, trigger an investigation pursuant to this Policy. Consequently, aggrieved persons are encouraged to simultaneously utilize the Complaint Procedure set forth herein, where appropriate.

2. Making a Complaint: All complaints should be in writing. All employees are encouraged to use the District's "Complaint of Alleged Discrimination" form. A copy of this form is attached to this Policy. Additional complaint forms can be obtained from any Principal's office within the District, or from a Compliance Officer, with no questions asked. Because an accurate record of the allegedly objectionable behavior is necessary to resolve a complaint of prohibited discrimination, all complaints

should be reduced to writing. If an employee has any questions about or difficulty with filling out the complaint form, (s)he can obtain assistance from any one of the Compliance Officers. All complaints should include: the name of the complaining party, the name of the alleged offender(s), date of the incident(s), description of the incident(s), names of witnesses to the incident(s), and the signature of the complaining party.

Once the complaining party has completed and dated a complaint, with or without the assistance of one of the District's Compliance Officers, the written complaint should be personally delivered to one of the District's Compliance Officers or placed in their mailbox.

If for any reason an employee is uncomfortable submitting a written complaint to a Compliance Officer located in the building where that employee is generally assigned, the written complaint may be submitted, either by hand delivery or mail, to any one of the Compliance Officers listed in Section 7 below, to the Superintendent of Schools who will then advise a Compliance Officer.

Complainants are expected to cooperate with the District's investigation procedures by providing all relevant information relating to the complaint, as are other supervisory and non-supervisory employees having relevant or related knowledge or information.

B. Time for Reporting a Complaint Prompt reporting of all complaints is strongly encouraged. All employees should be aware that appropriate resolution of discrimination complaints and effective remedial action oftentimes is possible only when complaints are promptly filed. Furthermore, complaining parties should be aware that statutes of limitations may constrain the time period for instituting legal actions outside of this Policy.

C. Confidentiality and Privacy In recognition of the personal nature of discrimination complaints and the emotional impact of alleged discrimination, the District shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, and other laws and regulations regarding employees. For the protection of all individuals who make complaints or are accused of prohibited discrimination, every witness interviewed during an investigation under this Policy will be advised of the confidentiality requirement and instructed not to discuss the complaint, the investigation, or the persons involved. To the extent complaints made under this Policy implicate criminal conduct, the District may be required by law to contact and cooperate with the appropriate law enforcement authorities.

D. Acknowledgment of Complaints Upon receipt of a written complaint, the Compliance Officer, Building Principal, or Superintendent of Schools should endeavor to contact promptly the complainant to confirm that the written complaint has been received. If the complainant does not receive such confirmation promptly, (s)he is encouraged to file a second written complaint or contact a Compliance Officer or the Superintendent. The purpose of this acknowledgment procedure is to ensure that all written complaints are received by authorized individuals, carefully processed and promptly investigated.

SECTION 3: INVESTIGATION PROCEDURES

A. Timing of Investigations: The District will promptly investigate all allegations of discrimination and harassment prohibited by this Policy. The District will also attempt to complete investigations under this Policy promptly. The length of the investigation will depend upon the complexity and particular circumstances of each complaint.

B. Method of Investigation: Investigations will be conducted by the District's Compliance Officers, the District's legal counsel, and/or other impartial persons designated by the Superintendent of Schools. The primary purposes of all investigations under this Policy will be to determine:

- (1) Did the conduct complained of occur?
- (2) Did the conduct complained of violate this Policy? and
- (3) What remedial or preventative steps, if any, are recommended?

Investigations may include: fact-finding interviews, document review, depositions, observations, or other reasonable methods. The District's investigators should pursue reasonable steps to investigate each complaint in a thorough and comprehensive manner. Any notes, memoranda, or other records created by the District employees or agents conducting an investigation under this Policy shall be deemed confidential and privileged to the extent allowed by law.

C. Notification to Complaining Party and the Accused Party: The Superintendent, or his or her designee, shall notify the complainant of the outcome of the investigation promptly. Such notification shall be in writing, include a brief summary of the factual findings and, wherever possible, shall include a summary of remedial measures that have been or will be taken by the District.

While reasonable efforts will be made to inform the complaining party about the outcome of investigations, the District will nonetheless consider the privacy rights of all

parties involved in disseminating information obtained during and through the investigation.

The Superintendent, or his or her designee, shall promptly notify the person accused of violating this Policy, whether a violation of this Policy was found and what remedial measures, if any, will be taken by the District.

D. Remedial Measures The Guilderland Central School District's primary goal in responding to complaints of prohibited discrimination under this Policy is prevention. This Policy is intended to prevent all forms of unlawful discrimination and harassment in the District and put an end to any prohibited discrimination that is found to have occurred. While disciplinary action may be appropriate in certain instances, punitive measures are not the exclusive means for responding to prohibited discrimination. During the pendency of any investigation being conducted pursuant to this Policy, remedial measures may be taken if appropriate and necessary.

Any individual who is found to have engaged in prohibited discrimination, or conduct which may be prohibited by this Policy, may receive education, training, counseling, warnings, discipline, or other measures designed to prevent future violations of this Policy. Disciplinary action may include: warnings, suspension, or discharge from employment consistent with any applicable collective bargaining agreement(s). Any third party found to have engaged in discrimination or harassment of an employee may be barred from District property.

SECTION 4: PROHIBITION AGAINST RETALIATION AND ABUSE OF THE POLICY

Retaliation is strictly prohibited by this Policy and by law against anyone who in good faith reports a suspected violation of this Policy, who assists in making such a complaint, or who cooperates in a harassment or discrimination investigation. Retaliation includes any adverse action in response to a complaint being made.

Complaints of retaliation should be brought directly to a Compliance Officer, Building Principal or the Superintendent of Schools. Such complaints will be promptly investigated. If retaliation is found, the person retaliating may be subject to corrective action up to and including termination from employment consistent with any applicable collective bargaining agreement(s), or in the case of a non-employee, an appropriate remedy up to and including termination of the business relationship.

Knowingly making a false complaint or report of harassment or discrimination is strictly prohibited by this Policy. An individual who in bad faith makes a false complaint or report of harassment or discrimination may be subject to disciplinary action up to and including termination in accordance with legal guidelines, District policy, and any applicable collective bargaining agreement(s).

SECTION 5: RECORD KEEPING

The District shall maintain a written record of all complaints of discrimination and/or harassment prohibited by this Policy for a period of at least six years. The District shall also document the steps taken with regard to investigations, as well as conclusions reached and remedial action taken, if any. The District shall also maintain these documents for, at a minimum, six years.

The District records regarding alleged discrimination shall be maintained separate and apart from personnel records.

SECTION 6: QUESTIONS

Any questions by employees of the District about this Policy or potential discrimination should be brought to the attention of one of the District's Compliance Officers or the Superintendent of Schools. The names, addresses, and telephone numbers of the District's Compliance Officers are listed in Section 7 of this Policy and on the District's website: <http://www.guilderlandschools.org>.

SECTION 7: COMPLIANCE OFFICERS

Name: **Dr. Lin A. Severance** Office Location: **District Offices**

Telephone Number: **456-6200, ext. 3117** Mail Box Location: **District Offices**

Name: **Mr. Neil T. Sanders** Office Location: **District Offices**

Telephone Number: **456-6200, ext. 3125** Mail Box Location: **District Offices**

SECTION 8: EFFECTIVE DATE AND POLICY DISSEMINATION

The effective date of this Policy shall be July 6, 2009. The Superintendent of Schools shall ensure that this Policy is adequately disseminated and made available to all employees of the District. Notification of this Policy shall be published at the beginning of each school year, to all new District employees, and on the District's website, <http://www.guilderlandschools.org> In addition, copies of this Policy and Complaint Form shall be maintained in the office of each

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Compliance Officer; the office of each Building Principal; each library in the District; and the District Policy Book.

Upon the effective date of this Policy, the provisions of this Policy shall supersede and replace all prior District policies and regulations regarding employee discrimination and harassment, and related complaint procedures.

Ref: Title VII, 42 U.S.C. §2000-e2(a)
Executive Law §§290 et seq.

Reviewed June 23, 2009

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COMPLAINT OF DISCRIMINATION OR HARASSMENT

This form is to be filed as a part of the Formal Procedure in order to initiate a complaint of alleged discrimination or harassment prohibited by the District's Policy against Discrimination and Harassment. (Policy No. 5010)

Your Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Home Phone Number: () _____

Cell Phone Number: () _____

Status: (Circle one) **Instructional Staff** **Non-Instructional Staff** **Other**

Basis of discrimination and/or harassment (check as many as are applicable):

Race____ Gender____ National Origin____ Religion____ Age____

Disability____ Sexual Orientation____ Marital Status____ Retaliation____

Time(s) and Date(s) incidents of discrimination (and/or harassment) took place:

Have you also filed this charge with a Federal, State, or Local Government agency?

Yes _____ No _____

Name(s) and office address of the individual who allegedly discriminated against you or harassed you. If more than one, list all.

Name: _____

Office/Location: _____

Describe the incidents which occurred and your reason for concluding that it is/was discriminatory (use extra sheet if necessary).

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Describe briefly what you would consider to be appropriate resolution of the conduct described above. (The District at all times retains sole discretion and authority to determine the appropriate disciplinary and/or corrective action to be taken with regard to meritorious complaints. This question should not be construed in any way to constitute a forfeiture of that discretion or authority.)

Identify all persons who witnessed the incidents described above:

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

<hr/>	<hr/>
Complainant's Signature	Date

Received by:

<hr/>	<hr/>
	Date

Reviewed June 23, 2009