

Superintendent's Regulation – 1510-R

**FILING INTERNAL COMPLAINTS OF UNLAWFUL
DISCRIMINATION/HARASSMENT**


Approved Upon Superintendent's Initials

8/10/07
Date

I. OVERVIEW

- A. The Rochester City School District (the "District") seeks to provide equal educational and employment opportunities without regard to age, disability, predisposing genetic characteristics, ethnicity/national origin, gender (sex), marital status, military status, race/color, religion/creed or sexual orientation. The District also seeks to maintain an environment free of harassment on any of the above-noted grounds, including sexual harassment or retaliation, and to comply with all applicable laws, regulations of the Department of Education, Board Policies and collective bargaining agreements prohibiting discrimination.
- B. The District seeks to prohibit retaliation against any individual who objects to discriminatory practices in the workplace, who complains of discrimination or harassment as described in Section IA above, or who files or participates in the investigation of an internal or external complaint of discrimination. Any adverse act against employees due to their participation in a protected activity is considered retaliatory.
- C. In order to develop and maintain a positive and supportive learning and working environment that is free of discrimination, harassment, retaliation and intimidation, the full cooperation of every staff member is necessary. Employees are expected to be exemplary role models in the schools and offices in which they serve. Supervisors are required to maintain an environment free of unlawful discrimination or discriminatory harassment. Supervisors are also required to report instances of any oral or written complaints of such discrimination or discriminatory harassment to the Human Capital Initiatives Department ("HCI"). Advice and assistance on how to proceed will be provided as needed. Any employee found to be in violation of this Regulation may be subject to appropriate disciplinary action.

II. DEFINITIONS/BASES OF UNLAWFUL DISCRIMINATION

The definitions of unlawful discriminatory behavior prohibited by this Regulation are found in Exhibit 1.

III. COMPLAINT PROCEDURES

A. Deadline for Filing a Complaint

In order to facilitate the prompt, thorough and fair resolution of complaints of unlawful discrimination, all complaints must be filed with HCI as soon as possible, but not later than 30 days after the event that is the subject of the complaint. A complaint must be filed in writing.

B. Procedure for Filing Complaints

1. Complainants should use the complaint form attached to the Regulation as Exhibit 2. Upon receipt of a complaint, HCI will direct an investigation through the Office of Safety and Security. After the investigation, HCI will determine whether the complaint alleges a violation of this Regulation and, if so, will assign the complaint to an HCI Director. If HCI believes that irreparable harm will occur before the complaint can be fully investigated and resolved, HCI may recommend appropriate interim relief pending completion of the investigation of the complaint, which may include a temporary reassignment of job duties.
2. Following the investigation, the HCI Director will prepare recommended findings to the Chief of HCI/Designee. The Chief of HCI or Designee will issue a written determination within 90 business days of receipt of the complaint, unless extenuating circumstances warrant extension of the time period. Complainant(s) and Respondent(s) will be informed in writing of the determination. The information regarding the written recommendations may remain confidential.
3. If a violation of this Regulation is substantiated, the respondent's supervisor will confer with HCI to determine if any disciplinary or corrective action is required.
4. HCI will ensure that any corrective action required by the decision is implemented.

C. Confidentiality

It is the District's intention to respect the privacy of all parties and witnesses regarding complaints brought under this Regulation. However, the need for confidentiality must be balanced against the obligation to cooperate with lawful investigations, to provide due process to the accused, and/or to take necessary action to conciliate, investigate, or resolve the complaint. Therefore, information regarding the complaint may need to be disclosed in certain appropriate circumstances.

D. False Accusations of Discrimination

A complainant who knowingly makes a false accusation of discrimination or harassment or knowingly provides false information in the course of an investigation of a complaint,

may be subject to discipline. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

IV. DISSEMINATION OF THESE PROCEDURES

Notice of the District's non-discrimination Regulation and internal complaint procedures will be provided will be available on the District's website. In addition, each office and school must prominently post the District's Non-discrimination Policy (which provides contact information for HCI, and indicates where a copy of this Regulation may be obtained); see notice attached as Exhibit No. 3. A complaint form may be obtained directly from the school or office upon request.

V. LIMITATIONS

Nothing in this Regulation shall be construed as creating a cause of action. Neither the proscriptions of, nor actions taken under this Regulation shall on that basis estop the Board and/or their designee from fully arguing for or against the existence of any fact and the scope or meaning of any law in any forum.

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EXHIBIT 1

SUMMARY OF PROHIBITED DISCRIMINATION

Discrimination on the basis of race, color, creed, religion, ethnicity, national origin, alienage, citizenship status, gender (sex), age, marital status, military status, disability, predisposing genetic characteristics or sexual orientation, is prohibited by various Federal, State and City laws, as well as by Policies adopted by the Department of Education and by provisions of collective bargaining agreements. Harassment on any of these bases, and retaliation for making a claim of discrimination, also are impermissible and unlawful. The following information is intended to provide guidance to assist employees in avoiding discriminatory practices but is not, however, exhaustive.

It is unlawful to discriminate against an individual in any aspect of employment or in the provision of educational and related services on the basis of:

Age: actual or perceived age.

Disability: actual or perceived disability, or history of disability. The term “disability” means any physical, medical, mental, or psychological impairment or history or record of such impairment, or a condition regarded by others as a disability. It is not discriminatory for an employer to require that any employee or applicant be able to perform the essential functions of a job with or without reasonable accommodation.

If a person believes that he/she has a qualifying disability and is in need of a reasonable accommodation in order to fulfill the essential functions of his/her position, that person should contact HCI's Director of Employee Benefits for additional information.

Ethnicity/National Origin: actual or perceived national origin or ethnic identity. National origin is distinct from race/color or religion/creed because people of several races and religions or their forbearers may come from one nation. The term “national origin” includes members of all national groups and groups of persons of common ancestry, heritage, or background; it also includes individuals who are married to or associated with a person or persons of a particular national origin.

Gender (Sex): actual or perceived gender (sex), pregnancy, or conditions related to pregnancy or childbirth. The prohibition against gender discrimination includes sexual harassment.

The term “gender” shall also include a person's gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

Marital Status: actual or perceived marital status.

Military Status: a person's participation in the military service of the United States or the military service of the state, including but not limited to, the Armed Forces of the United States, the Army National Guard, the Air National Guard, the New York Naval Militia, the New York Guard and such additional forces as may be created by the federal or state government as authorized by law.

Predisposing Genetic Characteristics: as defined under Section 296 of the Human Rights Law.

Race/Color: actual or perceived race or color.

Religion/Creed: actual or perceived religion or creed (set of fundamental beliefs, whether or not they constitute a religion).

Sexual Orientation: actual or perceived sexual orientation. The term sexual orientation means heterosexuality, homosexuality or bisexuality.

Sexual Harassment between Employees

Sexual harassment of one employee by another consists of unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct or communication of a sexual nature when:

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

Sexual harassment may take different forms, including explicit sexual propositions or threats, sexual innuendos, sexually suggestive comments, sexually oriented jokes, obscene gestures, displays of pornographic or obscene visual or printed material, and physical contact, such as touching, patting, pinching or brushing against another's body. These behaviors can constitute sexual harassment whether they are directed at persons of the same or opposite sex and may also constitute criminal behavior.

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EXHIBIT 2

COMPLAINT OF ALLEGED DISCRIMINATION FORM

Complainant Information:

Please complete every appropriate item and submit it as soon as possible, but no later than thirty days after the incident of alleged discrimination or harassment to:

Rochester City School District
Attention: Chief of Human Capital Initiatives
131 West Broad Street
Rochester, New York 14614
Telephone: 585-262-8583
Fax: 585-295-2603

A complaint must be filed within 30 days of the event which is the subject of the complaint.

Please *print clearly* all requested information.

Also attach additional pages and supporting documentation, if necessary.

Name: _____ Title: _____

Home Address: _____ City: _____ State: _____ Zip Code: _____

Telephone No. Home: _____ Cell: _____ Work: _____

Head of Site Information

Name of Principal or Head of Site: _____

Title: _____

School/Office: _____

Site Address: _____

Site Telephone No.: _____

Nature of Complaint

1. Check below why you believe you were discriminated against.

- | | |
|---|--|
| <input type="checkbox"/> Age | <input type="checkbox"/> Race/Color |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Religion/Creed |
| <input type="checkbox"/> Ethnicity/National Origin | <input type="checkbox"/> Retaliation (for asserting a claim of discrimination) |
| <input type="checkbox"/> Gender/Sex | <input type="checkbox"/> Sexual Harassment |
| <input type="checkbox"/> Marital Status | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> Military Status | |
| <input type="checkbox"/> Predisposing Genetic Characteristics | |

2. Name and titles of person(s) you believe discriminated against you.

3. Where did it take place?

4. Date(s) on which alleged act(s) of discrimination occurred.

5. Explain what happened (cite names and evidence, if any, and attach extra pages if needed).

6. What relief or corrective action are you seeking?

Signature: _____ **Date:** _____

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EXHIBIT 3

PUBLIC NOTIFICATION OF NON-DISCRIMINATION POLICY

It is the policy of the Rochester City School District to provide educational and employment opportunities without regard to **race, color, religion, creed, ethnicity, national origin, citizenship status, age, marital status, partnership status, disability, predisposing genetic characteristics, sexual orientation, gender (sex), military status, and to maintain an environment free of harassment on any of the above-noted grounds, including sexual harassment or retaliation.** This policy is in accordance with Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Age Discrimination in Employment Act of 1967, Section 503 and Section 504 of the Rehabilitation Act of 1973, Fair Labor Standards Amendments of 1974, Immigration Reform and Control Act of 1986, The Americans with Disabilities Act of 1990, Civil Rights Act of 1991, New York State and City Human Rights Laws and Provisions of Non-Discrimination in Collective Bargaining Agreements.

This Regulation governs the filing of complaints of internal complaints of discrimination and/or harassment. Any person who believes they have experienced discrimination may file a complaint in accordance with Superintendent's Regulation 1510-R by contacting the Office of Human Capital Initiatives (HCI). A copy of this Regulation may be obtained from HCI.

**Rochester City School District
Human Capital Initiatives
131 West Broad Street
Rochester, New York 14614
Phone #: 585-262-8597
Fax #: 585-295-2603**