

# NON-DISCRIMINATION, ANTI-HARASSMENT AND ACCOMMODATION

KIPP Albany is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, KIPP Albany expects that all relationships among persons in the workplace will be business-like and free of bias, prejudice and harassment.

KIPP Albany prohibits any form of discrimination, including harassment, of any employee, or applicant, by anyone in the workplace (including supervisors, managers, co-workers, consultants, vendors and other non-employees) for any illegal discriminatory reason based on any protected classification, including race, color, religion, sex, age, national origin, ethnicity, mental or physical disability, pregnancy, sexual orientation, marital status, alienage or citizenship status, creed, genetic predisposition or carrier status, military or veteran status, domestic violence victim status and any other protected characteristic as established by federal, state and local law. Such discrimination, including harassment, is prohibited by law and by KIPP Albany. KIPP Albany takes this prohibition seriously and the behavior of individuals engaging in such conduct or by supervisors or managers who knowingly allow such behavior to continue, will not be tolerated.

ALL KIPP ALBANY EMPLOYEES, WHETHER SUPERVISORY OR NON-SUPERVISORY, INTERNS, CONTRACTORS, AND OTHER NON-EMPLOYEE PERSONNEL CONDUCTING BUSINESS WITH KIPP ALBANY, ARE PROHIBITED FROM ENGAGING IN THE CONDUCT PROHIBITED BY THIS POLICY.

## **Definitions of Unlawful Discrimination and Harassment**

Discrimination and harassment can occur in a variety of forms among any combination of individuals at KIPP Albany.

Unlawful harassment is a form of unlawful discrimination. KIPP Albany prohibits harassment on the basis of any classification protected by federal, state, and local law. Unlawful harassment includes, but is not limited to, unwelcome or inappropriate verbal, physical, or other communication or conduct that denigrates or shows hostility or aversion to an individual and/or group and:

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

Unlawful harassment may include, but is not limited to: jokes, epithets, slurs, negative stereotyping; threatening, intimidating, or hostile acts; or written or graphic material including email that denigrates or shows hostility or aversion toward an individual or group on the basis of a protected characteristic.

Other unwelcome conduct may constitute harassment, such as:

- Verbal: derogatory slurs, off-color jokes, propositions, threats, or suggestive or insulting sounds;
- Visual/non-verbal: derogatory posters, cartoons, or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures;
- Physical: unwanted physical contact, including touching, interference with an individual's normal work movement, or assault; and
- Other: making or threatening reprisals to an individual who opposes, objects to, or complains about illegal discrimination including harassment.

Verbal and physical conduct may constitute harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions; or

- The 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 Defined

Sexual harassment is a form of discrimination and harassment that is against the law and prohibited by this Policy.

#### *What is Sexual Harassment*

Sexual harassment is a form of sex discrimination and may include harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

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 when:

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

A sexually harassing hostile work 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.

Sexual harassment is offensive, a violation of KIPP Albany policy, and unlawful; it may subject KIPP Albany to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level, including supervisors, who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

### *Examples of Sexual Harassment*

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another individual’s body or poking another individual’s body;
  - Rape, sexual battery, molestation, or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target’s job performance evaluation, a promotion, or other job benefits or detriments;
  - 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 work environment.
- Sex stereotyping 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
- 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. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.

- Hostile actions taken against an individual because of that individual's sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender, such as:
  - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, name calling.

### *Who Can Be a Target of Sexual Harassment*

New York law prohibiting harassment protects all employees, applicants for employment, interns (whether paid or unpaid), contractors, and other non-employee personnel conducting business, regardless of immigration status, with KIPP Albany. The New York law prohibiting harassment defines a non-employee as someone who is (or is employed by) a contractor, vendor, consultant, or anyone providing services in the workplace. Non-employees protected against harassment include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer. Harassers can be a superior, a subordinate, a coworker, or anyone in the workplace including an independent contractor, contract worker, vendor, client, or visitor.

### *Where Can Sexual Harassment Occur*

Unlawful harassment is not limited to the physical workplace itself. It can occur while individuals are traveling for business or at KIPP Albany sponsored events or parties. Calls, texts, emails, and social media usage can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

### **Retaliation Is Prohibited**

No person covered by this policy shall be subject to adverse action because he or she reports an incident of discrimination or harassment, provides information, or otherwise assists in any investigation of a discrimination or harassment complaint. KIPP Albany will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected

discrimination or harassment. Any employee of KIPP Albany who retaliates against anyone involved in a discrimination or harassment investigation will be subjected to disciplinary action, up to and including termination. All employees or others who are covered by this policy who believe they have been subjected to such retaliation should inform Human Resources, the School Principal, or the Executive Director, and may also seek relief in other forums, as explained below.

Under New York State law, an individual is protected from retaliation if that individual engages in “protected activity.” Protected activity occurs when a person has:

- Made a report of harassment, either internally or with any anti-discrimination agency;
- Testified or assisted in a proceeding involving harassment under the Human Rights Law or other anti-discrimination law;
- Opposed discrimination or 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 the target of discrimination or harassment; or
- Encouraged a fellow employee to report discrimination or harassment.

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a claim of unlawful discrimination or harassment. Adverse action need not be job-related or occur in the workplace to constitute unlawful harassment (e.g., threats of physical violence outside of work hours).

Even if the alleged discrimination or 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 discrimination, including harassment. Individuals who knowingly bring false charges of discrimination, including any form of harassment, against another KIPP Albany employee or other individual in the workplace shall be subjected to disciplinary action, up to and including termination.

## Reporting Discrimination and Harassment

Preventing discrimination, including harassment, is everyone's responsibility. KIPP Albany cannot prevent or remedy discrimination or harassment unless it is aware of it. Any employee or other individual covered by this policy who has been subjected to behavior that may constitute discrimination or harassment is encouraged to report such behavior to:

- Human Resources;
- The School Principal; or
- The Executive Director.

Anyone who witnesses or becomes aware of potential instances of discrimination or harassment has a responsibility to promptly report such behavior to any one of the individuals listed above.

Reports made under this Policy may be made formally or informally and can be made orally or in writing. Employees are not required to report within their chain of command. Individuals are encouraged to report incidents of discrimination and harassment, including sexual harassment, using the **Complaint Form** contained in this Employee Handbook.

All supervisors who receive a complaint or information about suspected discrimination or harassment, observe what may be discriminatory or harassing behavior, or for any reason suspect that discrimination or harassment is occurring, ***are required*** to immediately report such suspected discrimination or harassment to Human Resources or, the Principal, or the Executive Director.

In addition to being subject to discipline if they engage in discriminatory or harassing behavior themselves, supervisors will be subject to discipline for failing to report suspected discrimination or harassment or otherwise knowingly allowing discrimination or harassment to continue. Supervisors will also be subject to discipline for engaging in any retaliation.

## Investigation of Discrimination and Harassment

All reports or information about discrimination or harassment will be investigated, whether that information was reported in oral or written form.

The investigation of any report, information, or knowledge of any discrimination or 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 those making a report, witnesses, and alleged harassers, will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

All employees (including supervisors) officers, and board members, are required to cooperate with any internal investigation of discrimination and/or harassment. KIPP Albany will not tolerate retaliation against employees or others 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 of discrimination and harassment will generally be conducted by KIPP Albany in accordance with the following steps::

- Upon receipt of the report, the Executive Director will conduct an immediate review of the allegations and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If the report is verbal, the individual may be asked to complete the complaint in writing. If they refuse, a complaint form will be prepared based on the oral report.
- 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 a written documentation of the investigation which may contain the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the report, together with any corrective action.

- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) against whom the report 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 below.

Any individual determined to have engaged in unlawful discrimination, harassment, or sexual harassment will be subjected to discipline, up to and including termination.

## **Legal Protections and External Remedies**

Discrimination and harassment is not only prohibited by KIPP Albany, but is also prohibited by federal, state, and where applicable, local law.

Aside from the internal process at KIPP Albany, individuals may also choose to pursue legal remedies with the following governmental entities.

Division of Human Rights (DHR)  
New York State Supreme Court  
United States Equal Employment Opportunity Commission (EEOC)  
Local county human rights commissions  
Local police departments

While a private attorney is not required to file a complaint with a governmental agency, you may seek the advice of an attorney.

### *New York State Human Rights Law*

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. The HRL's prohibitions against discrimination and harassment based on other protected classes apply to

employers in New York with four or more employees. Effective February 8, 2020, the HRL's prohibitions against harassment based on all protected classes will apply to all employees in New York. 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 one year of the discrimination or 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 KIPP Albany does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of discrimination or 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](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://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.

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](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto: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.

### *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.