SUMMARY OF CHANGES

This regulation supersedes and replaces Chancellor's Regulation A-831 dated ~~July 1, 2001~~ December 9, 2008.

This regulation establishes a procedure for the filing, investigation, and resolution of complaints of peer sexual harassment at the school level.

Changes:

- ~~The revised regulation clarifies reporting procedures, the schools' obligations with respect to the Consolidated School and Youth Development Plan, and the distribution of the Sexual Harassment brochure.~~Student-to-student sexual harassment is prohibited in school, during school hours, before or after school, while on school property, at school sponsored events or while traveling on vehicles funded by the Department of Education and on other than school property when it can be demonstrated to negatively affect the educational process or to endanger the health, safety, morality or welfare of the school community. (p. 1)

- Student-to-student sexual harassment may take many forms and can be physical, verbal or written. It provides that written harassment include electronically transmitted activities. (p.1, Section I (B))

- Examples of sexually harassing behavior include stalking, dating abuse and electronically posting, displaying or distributing sexually oriented or suggestive objects, pictures, drawings or images. (p. 1, Section I (C)

- Non-party students may report allegations of student-to-student sexual harassment to the designated staff member or any other employee and such reports must be handled pursuant to the procedures in this Regulation. (p.2, Section II (B))

- Parents may report peer sexual harassment to the principal or his/her designee or by e-mailing the RespectforAll@schools.nyc.gov. Such reports must be handled pursuant to the procedures in this Regulation. (p. 2, Section II (E))

- The Regulation provides that if the alleged victim informs the principal/designee of safety concerns regarding notification of his or her parents with respect to a report of alleged student-on-student sexual harassment, the principal shall decide whether to inform the parents following consideration of privacy and safety concerns. (p. 2, Section II (G))

- Complaints of sexual harassment must be entered into OORS within 24 hours. (p. 2, Section III (A))

- The school must report the results of an investigation of a report of student-to-student sexual harassment to the parents of the alleged victim and the parents of the accused student, except when a decision was made not to inform the parents of the alleged victim of the allegation as set forth in the Regulation. (p. 3, Section III (E))

- Each principal/designee must ensure that the policy and procedures set forth in this Regulation are discussed with students and staff members by October 31 of each year. (p. 4, Section V (C))

- Each principal must submit the following information by October 31, in its annual Consolidated School & Youth Development Plan: (1) the name(s) of the staff member(s) who are designated to receive reports of peer sexual harassment; and (2) certification that the policies and procedures set forth in this Regulation have been discussed with students and staff. (p. 4, Section VI)

- The sexual harassment brochure (Attachment 3) has been revised to include dating abuse as an example of prohibited behavior.

- Consistent with the Regulation, Attachment 2 provides that the prohibition against peer sexual harassment in school extends to certain harassment that occurs off school premises.

ABSTRACT

It is the policy of the New York City Department of Education to maintain a safe and supportive learning and educational environment that is free from sexual harassment committed by students against other students. ~~Such harassment is unacceptable conduct and will not be tolerated.~~ It is a violation of this regulation for a student to harass another student through conduct or communication of a sexual nature, as defined below. Such harassment is prohibited and will not be tolerated in school, during school hours, before or after school, while on school property, at school sponsored events, or while traveling on vehicles funded by the Department of Education and on other than school property when such behavior can be demonstrated to negatively affect the educational process or to endanger the health, safety, morality or welfare of the school community. Students found guilty of violating this regulation will be subject to appropriate disciplinary action consistent with the Discipline Code and Chancellor's Regulation A-443. Sexual harassment of a student by an employee is prohibited, as set forth in Chancellor's Regulation A-830.

I. DEFINITIONS

A. Student-to-student sexual harassment is conduct and/or communication by a student directed against another student. It consists of unwelcome and uninvited sexual advances, requests for sexual favors, sexually motivated physical conduct and other verbal, non-verbal or physical conduct or communication of a sexual nature which is sufficiently severe, pervasive or persistent to: (1) substantially interfere with a student's ability to participate in or benefit from an educational program, school-sponsored activity, or any other aspect of a student's education; or (2) create a hostile, offensive, or intimidating school environment; or (3) otherwise adversely affect a student's educational opportunities. Such behavior can constitute sexual harassment regardless of the gender, sexual orientation, or gender identity of any of the students involved.

B. Student-to-student sexual harassment may take many forms and can be physical, verbal or written. Written harassment includes electronically transmitted acts (e.g., via Internet, cell phone, personal digital assistant or wireless handheld devices).

~~B~~C. Sexually harassing behavior may take many forms, including but not limited to:

- engaging in physical conduct of a sexual nature such as patting, pinching, grabbing, brushing up against another person in a sexual way;
- making sexual comments, remarks, insults, and/or jokes;
- electronically posting, displaying or distributing sexually oriented or suggestive objects, pictures, drawings or images;
- making obscene gestures;
- stalking;
- pressuring for sexual activity;
- spreading rumors of a sexual nature;
- engaging in sexually violent or coercive behavior (assault, rape)~~.~~
- threatening or engaging in physical, sexual, verbal and/or emotional abuse to harm, intimidate or control a current or former dating partner (dating abuse).

II. REPORTING PROCEDURES

A. It is the responsibility of each principal to designate a staff member to whom reports of student-to-student sexual harassment can be made. Complaints of harassment may be made verbally or in writing using the attached "Student-to-Student Sexual Harassment Complaint Form" (see Attachment No. 1). This form is also available online at:

http://schools.nyc.gov/NR/rdonlyres/677619F4-CA6A-4793-AC86-74073D2FEFA4/112058/A831Attachment1.pdf

B. Any student who believes that he/she has been the victim of sexual harassment by another student should immediately report the incident to the designated staff member or to any other school employee. Other students may also report such incidents to the designated staff member or to any other employee and such reports must be handled pursuant to the procedures in this Regulation.

C. If a student feels uncomfortable making a report to a school staff member, a student may contact the Office of School & Youth Development (OSYD) by e-mailing the complaint to RespectforAll@schools.nyc.gov. Examples of circumstances where this might be appropriate include: if the student is not sure whether the behavior is covered by the regulation; if a student previously made a report and the behavior has continued; or if the student is concerned about possible repercussions from coming forward. In such circumstances, OSYD will determine the appropriate follow-up action.

D. Any staff member who witnesses student-to-student sexual harassment or who has knowledge or information or receives notice that a student may have been the victim of sexual harassment by another student is required to immediately report the alleged act to the designated staff member.

E. Parents may report peer sexual harassment to the principal or his/her designee or by e-mailing RespectforAll@schools.nyc.gov. Such reports must be handled pursuant to the procedures in this Regulation.

~~E~~F. The designated staff member is responsible for reporting all complaints of student-to-student sexual harassment to the principal/designee.

~~F~~G. The principal/designee must immediately inform the parents of both the alleged victim and the accused of the allegation(s). If the alleged victim informs the principal/designee of safety concerns in regard to such notification, the principal/designee shall decide whether to inform the alleged victim's parents following consideration of privacy and safety concerns. The principal may consult with the Office of the General Counsel in making this decision.

~~G~~H. Where the principal/designee believes that the alleged conduct constitutes criminal activity, he/she must contact the police. The principal/designee may consult with the Office of Legal Services and/or ~~the Senior Youth Development Director in the ISC and/or~~ the CFN Network Leader.

~~H~~I. If the complaint cannot be investigated at the school level due to the nature and seriousness of the allegation(s), the principal/designee should consult with the Office of Equal Opportunity.

III. INVESTIGATION

A. Complaints of sexual harassment must be investigated promptly and entered into OORS within 24 hours.

B. As soon as possible but not later than five days following the receipt of the complaint, the principal/designee must take the following investigative steps:

1. interview the alleged victim and document the conversation;
2. ask the alleged victim to prepare a written statement which includes as much detail as possible, including a description of the behavior, when it took place and who may

have witnessed it; interview the accused student, and advise him/her that if the conduct has occurred, it must cease immediately;

3. ask the accused student to prepare a written statement;
4. interview any witnesses and obtain their written statements.

C. In determining whether the alleged conduct constitutes a violation of this regulation, it is necessary to evaluate the totality of the circumstances surrounding the conduct. The following factors should be considered:

- the ages of the parties involved;
- the nature, severity and scope of the behavior;
- whether the conduct is sexual in nature;
- whether the conduct is offensive;
- whether the conduct is unwelcome;
- the frequency and duration of the behavior;
- the number of persons involved in the behavior;
- the context in which the conduct occurred;
- where the conduct occurred;
- whether there have been other incidents in the school involving the same students;
- whether the conduct adversely affected the student's education.

D. Following completion of the investigation, the principal/designee must issue a written report of his/her findings. The report shall include a determination of whether the allegations have been substantiated and whether they appear to be violations of this regulation. This report must be issued within ten school days of receipt of the complaint. A copy of this report ~~should~~must be sent to the ~~Senior Youth Development Director in the ISC and/or the~~ CFN Network Leader.

E. The school shall report the results of its investigation of each complaint filed under these procedures in writing to the ~~complainant~~ parents of the alleged victim and the parents of the accused student in accordance with state and federal laws regarding data or records privacy and consistent with the privacy rights of the alleged harasser, except when a decision was made not to inform the parents of the alleged victim of the allegation as set forth in II.G above.

IV. FOLLOW-UP ACTION

A. Where appropriate, the complaining student and/or the accused student should be referred to the school social worker, psychologist or other appropriate school staff, or referred to community-based agencies for counseling, support, and/or education.

B. ~~Referral to counseling services for youth relationship abuse or sexual violence:~~ When one person uses a pattern of threatened or actual physical, sexual and/or emotional abuse to control a dating partner, the school should refer both the victim and the student who engages in this behavior to separate appropriate school or community-based agencies for counseling, support, and education. Neither mediation nor conflict resolution are, under any circumstances, appropriate interventions for suspected relationship abuse.

C. Students who have been found to have violated this regulation will be subject to appropriate disciplinary action pursuant to the Department of Education's Discipline Code and Chancellor's Regulation A-443.

D. The principal/designee must follow up to ensure that the sexually harassing conduct has stopped.

V. NOTIFICATION

A. Each school must conspicuously post a copy of this regulation and a notice explaining the Department of Education's policy with respect to student-to-student sexual harassment in a place accessible to students, parents, and staff. This notice must contain the name of the staff member designated to receive reports of sexual harassment and must indicate where in the school copies of this regulation and the complaint form may be obtained (see sample notice, Attachment No. 2).

B. A copy of the Sexual Harassment Brochure must be distributed annually to parents and students. Parents/students entering the school during the school year must receive a copy upon registration (see Attachment No. 3).

C. Each principal/designee must ensure that the policy and procedures set forth in this regulation are discussed with students and staff members ~~at the beginning of each school year~~by October 31 of each year.

D. A copy of this regulation should be made available to parents, school staff, and students upon request.

VI. CONSOLIDATED SCHOOL & YOUTH DEVELOPMENT PLAN

~~As a part of the annual Consolidated School & Youth Development Plan, each principal must submit the name(s) of the staff member(s) who will receive reports of peer sexual harassment to the Office of School & Youth Development and a description of how training on this regulation will be provided to all students and staff annually.~~Each principal must submit the following information by October 31, in its annual Consolidated School &Youth Development Plan:

A. The name(s) of the staff member(s) who are designated to receive reports of peer sexual harassment.

B. Certification that the policies and procedures set forth in this Regulation have been discussed with students and staff.

VII. CONFIDENTIALITY

It is Department of Education policy to respect the privacy of all parties and witnesses to complaints brought under this regulation. However, the need for confidentiality must be balanced against the obligation to cooperate with police investigations to provide due process to the accused, and/or to take necessary action to investigate or resolve the complaint. Therefore, information regarding the complaint may be disclosed in appropriate circumstances.

VIII. RETALIATION

Appropriate action will be taken against any student who retaliates against another student, teacher, or school employee who reports an incident of alleged student-to-student sexual harassment or who participates or assists in an investigation relating to such harassment.

IX. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Telephone:	*Office of School & Youth Development* NYC Department of Education 52 Chambers Street – Room 218 New York, NY 10007 RespectforAll@schools.nyc.gov	Fax:
~~718-935-4357~~212-374-6807		~~718-935-5721~~ 212-374-5751