SUMMARY OF CHANGES

This regulation replaces and supersedes Chancellor's Regulation A-830 dated June 26, 2012.

Changes:

- Includes "unemployment status" as a protected category for applicants, in accordance with the New York City Human Rights Law. (p. 1, § I.A)
- Clarifies what constitutes prohibited discriminatory conduct by DOE employees against students. (pp. 1-2, § I.B)
- Clarifies the definition of term "supervisors." (p. 2 § I.E, footnote 3)
- Clarifies that staff members who witness or have knowledge or information or receive notice that a student may have been the victim of discrimination by a staff member are required to orally report the allegation to the principal/designee within one school day and submit a written A-830 complaint form within two days of making the oral report in accordance with the New York State Dignity for All Students Act. (p. 2 § II.A)
- Clarifies that tampering with or impeding an Office of Equal Opportunity and Diversity Management ("OEO") investigation constitutes a violation of the Regulation and may result in disciplinary action. (p. 2 § I.F)
- Clarifies OEO's reporting procedures for supervisors regarding oral or written complaints of discrimination or discriminatory harassment committed by employees. (pp. 2-3, § II.B)
- Clarifies time frames for filing complaints of discrimination, harassment, or retaliation. (p. 3 § III.A)
- Clarifies that notice of the DOE's Anti-Discrimination Policy and internal complaint procedures must be given to employees annually. (p. 4, § IV)
- Clarifies schools' responsibilities to distribute the Respect for All brochure, which informs students and parents of the DOE's Anti-Discrimination policy and the procedures for students to file complaints of discrimination/harassment against DOE employees, annually to parents and students in accordance with Chancellor's Regulation A-832. (p. 4 § IV)
- Attachments No. 1, 2, and 3 have been revised to reflect the changes to this Regulation.

ABSTRACT

This Regulation sets forth the New York City Department of Education's Anti-Discrimination Policy and establishes an internal review process for employees, applicants for employment, parents[1] of students, students, and others who do business with the DOE, use DOE facilities or otherwise interact with the DOE who wish to file complaints of unlawful discrimination or harassment, or retaliation based on such complaints. Complaints of peer sexual harassment and discriminatory harassment, intimidation and/or bullying by one student against another may be filed in accordance with Chancellor's Regulation A-831, *Peer Sexual Harassment,* Chancellor's Regulation
A-832, *Student-to-Student Discrimination, Harassment, Intimidation, and/or Bullying,* and/or through the discipline process as set forth in Chancellor's Regulation A-443 and the Discipline Code. Allegations of discrimination/harassment by students directed toward staff must be addressed in accordance with Chancellor's Regulation A-443 and the Discipline Code.

I. POLICY

A. It is the policy of the New York City Department of Education (DOE) to provide equal employment opportunities without regard to actual or perceived race, color, religion, creed, ethnicity, national origin, alienage, citizenship status, age, marital status, partnership status, disability, sexual orientation, gender (sex), military status, unemployment status, prior record of arrest or conviction (except as permitted by law), predisposing genetic characteristics, or status as a victim of domestic violence, sexual offenses, or stalking.[2] It is also the policy of the DOE to maintain an environment free of harassment on any of the above-noted grounds, including sexual harassment, and to comply with all laws and provisions in the Department of Education's collective bargaining agreements prohibiting discrimination.

Accordingly, it is a violation of this policy for DOE employees to engage in behavior that subjects any employee or applicant for employment to discrimination and/or harassment at a worksite location or during a work-related function on the basis of any of the above-noted grounds where such conduct: (1) adversely affects any aspect of an employee's/applicant's employment or the compensation, terms, conditions or privileges of employment; or (2) creates a hostile, offensive, or intimidating work environment.

It is also a violation of this policy for DOE employees to engage in discriminatory behavior and/or harassment with respect to applicants for employment and other individuals who do business with the DOE, use DOE facilities or otherwise interact with the DOE.

B. It is the policy of the New York City Department of Education to provide equal educational opportunities without regard to actual or perceived race, color, religion, age, creed, ethnicity, national origin, alienage, citizenship status, disability, sexual orientation, gender (sex) or weight. It is also the policy of the DOE to maintain an environment free of harassment on the basis of any of these grounds, including sexual harassment.[2]

Accordingly, it is a violation of this policy for any DOE employee to discriminate against or create a hostile school environment for a student by conduct and/or verbal or written acts on school property, or at a school function on the basis of any of the above-noted grounds where such behavior: (1) has or would have the effect of unreasonably and substantially interfering 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;

[1] The term "parent", whenever used in this regulation, means the student's parent(s) or guardian(s), or any person(s) in a parental or custodial relationship to the student, or the student, if he/she is an emancipated minor or has reached 18 years of age.
[2] The definitions of the categories of unlawful discrimination are found in Attachment No. 1.

or (2) has or would have the effect of unreasonably and substantially interfering with a student's mental, emotional or physical well-being; or 3) reasonably causes or would reasonably be expected to cause a student to fear for his/her physical safety; or 4) reasonably causes or would be expected to cause physical injury or emotional harm to a student. It is also a violation of this policy for any DOE employee to engage in the behavior noted above off school property when such behavior creates or would foreseeably create a risk of disruption within the school environment.

C. It is the policy of the DOE to prohibit retaliation against any individual who objects to discriminatory practices in the workplace, who complains of discrimination or harassment as described in Section I(A) or I(B) above, or who files or participates in the investigation of an internal or external complaint of discrimination. Any adverse act against individuals due to their participation in a protected activity is considered retaliatory.

D. 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.

E. Supervisors[3] are required to maintain an environment free of unlawful discrimination or discriminatory harassment.

F. Behavior which violates this policy may serve as a basis for discipline, even if it does not rise to the level of a violation of federal, state or local discrimination laws.

G. This policy applies to conduct and comments, whether or not intentionally offensive or directed at a particular person or group, which constitute a violation of this policy.

H. Any employee found to be in violation of this policy may be subject to legal sanctions and appropriate disciplinary action.

I. All DOE employees are expected to cooperate with the Office of Equal Opportunity and Diversity Management ("OEO") investigations and are required to report if summoned to appear by OEO. Tampering with or impeding an OEO investigation constitutes a violation of this Regulation and may result in disciplinary action.

II. REPORTING

A. Any staff member who witnesses an employee discriminate or harass a student on the basis of the student's actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability, or weight or who have knowledge or information or receive notice that a student may have been the victim of such behavior by a staff member are required to orally report the alleged incident to the principal/designee within one school day and complete and file a written A-830 complaint report with the principal/designee no later than two days after making the oral report (see Attachment No. 2).

B. Supervisors are required to immediately report instances of any oral or written complaints of discrimination or discriminatory harassment committed by employees to OEO. Supervisors can make the report by calling OEO, e-mailing OEO or filing a copy of the A-830 complaint form. Advice and assistance on how to proceed will be provided as needed. A supervisor's failure to report complaints or instances of discrimination to OEO may constitute a violation of this policy.

III. COMPLAINT PROCEDURES

Employees, applicants for employment, parents, students, and others who do business with the DOE, use DOE facilities, or otherwise interact with the DOE may file complaints of discrimination, harassment, or retaliation as set forth below. Such complaints may be filed in writing or orally by contacting OEO at the phone number/address found at the end of this Regulation.

[3] The term supervisor refers to DOE employees acting in a supervisory capacity with authority over the terms and conditions of employment. The term supervisor includes, but is not limited to, principals, assistant principals and site supervisors.

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 OEO **as soon as possible. OEO will not accept complaints by employees, applicants for employment, and persons who do business with the DOE, use DOE facilities or otherwise interact with the DOE filed more than one year after the event that is the subject of the complaint**. However, complaints filed by parents and/or students are not subject to the one-year limit.

B. Procedure for Filing Complaints

1. Complainants should use the complaint form attached to the regulation to file a complaint (see Attachment No. 2). Complaint forms can be obtained directly from schools and offices upon request. Upon receipt of a complaint, OEO will determine whether the complaint alleges a violation of this regulation and, if so, will assign the complaint to an OEO investigator. If OEO believes that irreparable harm will occur before the complaint can be fully investigated and resolved, OEO may recommend interim relief pending completion of the investigation of the complaint.

2. Following the investigation, OEO will submit written recommended findings as to whether there has been a violation of this Regulation to the Chancellor/designee.[4] The Chancellor/designee will issue a written determination within 90 working days of receipt of the complaint, unless circumstances warrant extension of the time period. Complainant(s) and Respondent(s) will be informed in writing of the determination.

3. If a violation of this regulation is substantiated, the respondent's supervisor will confer with OEO to determine if any disciplinary or corrective action is required.

4. OEO will ensure that any corrective action required by the decision is implemented.

C. Anonymous Complaints

A complainant may file an anonymous complaint with OEO alleging that a particular practice or policy is discriminatory. OEO will review such complaints in order to determine how they should be processed in light of the information provided by the anonymous complainant.

D. Confidentiality

It is the Department of Education's policy 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.

E. False Accusations of Discrimination

A complainant or witness who knowingly makes a false accusation of discrimination 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 DOE's Anti-Discrimination Policy and internal complaint procedures must be given to employees annually. In addition, each office and school must prominently post the Department's Anti-Discrimination Policy (which provides contact information for OEO, and indicates where a copy of this regulation may be obtained (see Attachment No. 3).

In accordance with Chancellor's Regulation A-832, each school must distribute a copy of the Respect for All brochure annually to parents and students. This brochure informs students and

[4] The Chancellor's designee for complaints filed by or against pedagogical employees is the General Counsel. For complaints filed by or against non-pedagogical employees, the Chancellor's designee is a Deputy Chancellor.

parents of the DOE's Anti-Discrimination Policy and the procedures for students to file complaints of discrimination/harassment against DOE employees. Parents/students entering the school during the school year must receive a copy of the brochure upon registration.

V. ALTERNATIVE COMPLAINT PROCEDURES

These internal procedures do not deny the right of any individual to pursue other avenues of recourse that may include filing charges with any of the external agencies noted below. However, where a complaint is filed with an external agency, OEO will not conduct an internal investigation, and will transfer the matter to the DOE's Legal Office.

- New York City Commission on Human Rights
- U.S. Department of Education, Office for Civil Rights
- U.S. Equal Employment Opportunity Commission
- New York State Division of Human Rights

The time frames for filing with these agencies may vary.

VI. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Telephone: 718-935-3320 Toll-Free: 877-332-4845	*Office of Equal Opportunity and Diversity Management* N.Y.C. Department of Education 65 Court Street – Room 1102 Brooklyn, NY 11201 Website address: www.nyc.gov/schools/oeo/	Fax: 718-935-2531

SUMMARY OF PROHIBITED DISCRIMINATION

Chancellor's Regulation A-830 sets forth the procedures by which employees, applicants for employment, students, parents and others who do business with the DOE, use DOE facilities or otherwise interact with the DOE can raise and resolve claims of discrimination within the New York City public school system. The following information is intended to provide guidance to assist people in avoiding discriminatory practices but is not, however, exhaustive.

Race/Color: actual or perceived race or color.

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 the Department's HR Connect Medical Office or OEO's Disability Coordinator for additional information.

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.

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.

Predisposing Genetic Characteristic: any inherited gene or chromosome, or alteration thereof, determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or is associated with a statistically significant increased risk of development of a physical or mental disease or disability.

Alienage/Citizenship: actual or perceived immigration status or status as a citizen of a country other than the United States of America. It shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status or to make inquiry as to a person's alienage or citizenship status or to give preference to a person who is a citizen or native of the United States when such preference is expressly permitted or required by a federal, city or state law or regulation.

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

An employee requesting a reasonable accommodation for religious reasons should follow the procedures in Chancellor's Regulation C-606. A student requesting a reasonable accommodation for religious reasons should follow the procedures in Chancellor's Regulation A-630.

Age: actual or perceived age.

Marital Status: actual or perceived marital status.

Weight: actual or perceived weight.

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

Prior Arrest/Conviction: It may be unlawful to deny employment because of a conviction record unless there is a direct relationship between the offense and the job or unless hiring would create an unreasonable risk. However, there are allowances in the law to review a person's arrest or conviction record under certain circumstances.

Unemployment Status: The term unemployment means not having a job, being available for work and seeking employment. However, there are allowances in the law that permit an employer to consider an applicant's unemployment when there is a substantially-job related reason for doing so or to inquire into the circumstances surrounding an applicant's separation from prior employment.

Victim of Domestic Violence, Sexual Offenses, or Stalking: an actual or perceived victim of domestic violence is a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person who is cohabitating with or who has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature or a person who is or has continuously or at regular intervals lived in the same household as the victim.

An actual or perceived victim of sex offenses or stalking is a person who has been subjected to such behavior as defined by the penal code.

An employee may request a reasonable accommodation due to his/her status as an actual or perceived victim of domestic violence, sex offenses or stalking in order to fulfill the essential requests of a job. The employee may be asked to provide certification that he/she is a victim of domestic violence, sex offenses or stalking. An employee requesting the reasonable accommodation shall provide a copy of such certification within a reasonable period after the request is made. The certification requirement may be satisfied by providing a police or court record, documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider that the employee or that employee's family or household member sought assistance as an actual or perceived victim of domestic violence, sex offenses, or stalking and/or the effects of the violence or stalking; or other information consistent with the employee's disclosure and the request for accommodation.

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.

Sexual Harassment

A. **Sexual Harassment between Employees**

Sexual harassment of one employee by another consists of unwelcome sexual advances, requests for sexual favors, and 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.

B. **Sexual Harassment of Students by Employees**

OEO will forward complaints of this nature to the Special Commissioner of Investigations who will determine how to proceed.

Sexual conduct between an adult employee and a student can *never* be considered welcome or appropriate. Sexual harassment of a student by an employee consists of sexual advances, requests for sexual favors and other verbal and physical conduct of a sexual nature. It includes situations where:

1. submission to such conduct is a condition of the student's advancement or obtaining an education;

2. submission to or rejection of such conduct by a student is used as a basis for evaluating or grading a student or as a factor in decisions affecting the student's education; or

3. such conduct has the purpose or effect of unreasonably interfering with a student's education or creating an intimidating, hostile or offensive educational 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.

C. **Sexual Harassment of Students by Students:**

Please refer to Chancellor's Regulation A-831: Peer Sexual Harassment.

Department of Education

COMPLAINT OF ALLEGED DISCRIMINATION FORM

Complainant Information:

Please complete every appropriate item and submit it as soon as possible after the incident of alleged discrimination or harassment to:

OFFICE OF EQUAL OPPORTUNITY & DIVERSITY MANAGEMENT
E.O. Complaint Unit
65 Court Street, Room 1102
Brooklyn, NY 11201
Phone #: 718-935-3320
Fax #: 718-935-2531

- **A complaint must be filed within one year of the event which is the subject of the complaint. However, complaints filed by parents and/or on behalf of students are not subject to the one-year limit.**
- This form should be used by individual(s) who are filing a complaint as well as individual(s) reporting a complaint on behalf of an employee or student.
- Please ***print clearly*** all requested information.
- Also attach additional pages and supporting documentation, if necessary.

Check (☑) One: ☐ Employee ☐ Student ☐ Parent ☐ Applicant for Employment ☐ Other ☐ Reporter

Your Name: _____ Your Title: _____

*Student's Name: _____
(**If applicable*)

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

Phone # Home: _____ Cell: _____ Work: _____

Head of Site Information:

Name of Principal or Head of Site: _____

Title: _____

School/Office/District: _____

Site Address: _____

Site Phone#: _____

Nature of Complaint:

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

- ☐ Age
- ☐ Alienage/Citizenship Status
- ☐ Arrest/Conviction (not applicable to students)
- ☐ Color
- ☐ Creed
- ☐ Disability
- ☐ Ethnicity/National Origin
- ☐ Gender/Sex
- ☐ Marital Status (not applicable to students)
- ☐ Military Status (not applicable to students)
- ☐ Partnership Status (not applicable to students)
- ☐ Predisposing Genetic Characteristic (not applicable to students)
- ☐ Race
- ☐ Religion
- ☐ Retaliation (for asserting a claim of discrimination)
- ☐ Sexual Harassment
- ☐ Sexual Orientation
- ☐ Status as a Victim of Domestic Violence, Sexual Offenses or Stalking (not applicable to students)
- ☐ Weight (for students only)
- ☐ Unemployment Status (for applicants only)

2. **Name(s)/title(s) of person(s) you believe engaged in discrimination.**

1. Name:	1. Title:	2. Name:	2. Title:
_____	_____	_____	_____
3. Name:	3. Title:	4. Name:	4. Title:
_____	_____	_____	_____

3. **Where did it take place?** ☐ On School Premises ☐ Off School Premises ☐ Central Office Premises

_____

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

Month: _____ Day _____ Year _____ Month: _____ Day _____ Year _____

Month: _____ Day _____ Year _____ Month: _____ Day _____ Year _____

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:** _____

Department of Education

PUBLIC NOTIFICATION OF ANTI-DISCRIMINATION POLICY

It is the policy of the Department of Education of the City of New York to provide equal employment opportunities without regard to actual or perceived **race, color, religion, creed, ethnicity, national origin, alienage, citizenship status, age, marital status, partnership status, disability, sexual orientation, gender (sex), military status, unemployment status, prior record of arrest or conviction (except as permitted by law) predisposing genetic characteristics, or status as a victim of domestic violence, sexual offenses and stalking, and to maintain an environment free of harassment on any of the above-noted grounds, including sexual harassment or retaliation.**

It is the policy of the New York City Department of Education to provide equal educational opportunities without regard to actual or perceived race, color, religion, creed, ethnicity, national origin, alienage, citizenship status, disability, sexual orientation, gender (sex) or weight and to maintain an environment free of harassment on the basis of any of these 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 Anti-Discrimination in Collective Bargaining Agreements of the Department of Education of the City of New York.

Chancellor's Regulation A-830 sets forth the procedures for employees, parents of students, students and others who do business with, use DOE facilities or otherwise interact with the DOE to file complaints of unlawful discrimination or retaliation based upon such complaints. Complaints may be filed by contacting the office of Equal Opportunity & Diversity Management (OEO) or by filing with one of the agencies identified below. A copy of Chancellor's Regulation A-830 may be obtained from OEO or at: www.nyc.gov/schools/oeo.

Internal Resources:

The Office of Equal Opportunity & Diversity Management
New York City Department of Education
65 Court Street – Room 1102
Brooklyn, New York 11201
Tel: 718-935-3320 Fax: 718-935-2531
Website: www.nyc.gov/schools/oeo/

Questions regarding Title IX compliance should be referred to:	Questions regarding student §504 accommodations should be referred to:
Victoria Ajibade, Title IX Coordinator 65 Court Street - Room 1102 Brooklyn, NY 11201 Tel: 718-935-4797 E-mail: Title_IX_Inquiries@schools.nyc.gov	Ava Mopper, Director/§504 Coordinator 28-11 Queens Plaza North - Room 402 Long Island City, NY 11101 Tel: 718-391-6117 E-mail: Section504Inquiries@schools.nyc.gov

External Resources:

U.S. Equal Employment Opportunity Commission New York District Office 33 Whitehall Street, 5th Floor New York, New York 10004 212-336-3620	Office for Civil Rights New York Office U.S. Department of Education 32 Old Slip, 26th Floor New York, NY 10005-2500 646-428-3900
New York State Division of Human Rights 1 Fordham Plaza - 4th Floor Bronx, New York 10458 718-741-8400	New York City Commission on Human Rights 40 Rector Street New York, New York 10006 212-306-5070