

# **EASTPORT-SOUTH MANOR CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION**

Nicholas Vero, President • Cheryl Hack, Vice President  
Marie Brown • Marion Diener • Jeffrey Goldhammer • Karen Kesnig • Danielle Warsaw

Sharon P. Murray, District Clerk

Patrick K. Brimstein, Ed.D., Superintendent of Schools

Stuart Berman, District Treasurer

Timothy Laube, Assistant Superintendent for Business & Operations  
Linda A. Weiss, Assistant Superintendent for Personnel and Accountability

## **MEETING AGENDA Board Room - Junior-Senior HS**

**November 14, 2018  
7:00 P.M.**

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE** – South Street Students

### **PRESENTATIONS**

- A. Student Ambassador Paige Vinch
- B. Restructuring Ideas at the JSJS – Principal Mr. Alaimo
- C. HVAC Update – Mr. Bergin and Mr. Laube

### **ACCEPTANCE OF MINUTES**

- A. October 24, 2018 Regular Meeting

### **REPORTS/ANNOUNCEMENTS – SUPERINTENDENT OF SCHOOLS**

### **PUBLIC PARTICIPATION – 1<sup>ST</sup> INVITATION**

*Please Note: This is the opportunity for persons who wish to speak or who have written letters to the board regarding topics that are included on this agenda. Speakers are asked to keep their comments brief, and to speak for no longer than five minutes.*

### **AREAS OF OPERATION**

- A. Business Report
  - 1. Approval of Treasurer's Reports for September, 2018
- B. Curriculum and Instruction Report
  - 1. Suffolk County Community College Partnership – Mrs. Grossane

### C. Personnel Report

1. Resignations – 5
2. Leave of Absence – 5
3. Appointments
  - a. Teacher – 2
  - b. Teaching Assistant – 2
  - c. Permanent Substitute Teacher – 3
  - d. Civil Service – 7
4. Extra Curricular Activities – 1
5. Interscholastic Appointments – 17
6. Supplemental Pay – 35
7. Student Teacher/Observer/Internship – 1
8. Event Chaperones – 8

### **OLD BUSINESS**

- A. Cheerleading Pay Schedule
- B. EES/DAS Music Lessons Schedule

### **NEW BUSINESS**

- A. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board approve the Memorandum of Agreement between Eastport-South Manor Central School District and Eastport-South Manor Teachers' Association regarding combining the Varsity and Varsity Leaders Activities on the Co-Curricular Salary Schedule, Secondary Level and authorizes the Board President or designee to sign on behalf of the District.
- B. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board approve the Service Agreement with All About Kids SLP, OT, PT, LMSW, Psychology, PLLC for providing therapy, evaluations, screenings, consultations, group therapy services that are inclusive of, but not limited to Special Education Services for the 2018/2019 school year and authorizes the Board President or designee to sign on behalf of the District.
- C. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board approve the Special Education Federal Part B Flow-Through Allocations Contracts for the 2018/2019 school year with the following and authorizes the Board President or designee to sign on behalf of the District:

Cleary School for the Deaf  
 Developmental Disabilities Institute  
 Green Chimneys School  
 Harmony Heights School  
 Just Kids Early Childhood Learning Center

Kids Therapy Services, PLLC  
 Metro Therapy, Inc.  
 NY Therapy Placement Services, Inc.  
 The New Interdisciplinary School  
 Suffolk County Dept. of Health Services

D. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board declare the following textbooks as obsolete:

<b>Title of Text</b>	<b>Publisher</b>	<b>Publication Year</b>	<b>Quantity</b>
Envision Math, Common Core 5 <sup>th</sup>	Pearson	2012	69
Envision Math, Common Core 6 <sup>th</sup>	Pearson	2012	143
Webster New World Student Dictionary	Wiley	1996	15
World Book Encyclopedia	World Book	1986	31
Passport to Latin America & Canada	Scott Foresman	2004	64
World of Language	Silver Burdett & Ginn	1996	32
New York ELA Review Level K	Aim Higher	2006	24
NYS Coach ELA Grade 5	Triumph Learning	2008	12
NYS Coach Mathematics Grade 5	Educational Design	2001	19
NYS Social Studies Coach Grade 5	Triumph Learning	2001	52
Writers Express Skills Boos	Write Source	2000	35
Comprehensive Math Assessment Grade 5	Options Publishing	2007	27
Science 6 <sup>th</sup> Grade	Glencoe/McGraw Hill	2003	49
Ladders to Success ELA	Triumph Learning	2007	27

E. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board accept the donation check in the amount of \$880.52 from Eastport Tuttle PTO which will cover the cost of transportation and nurse expenses for the Tuttle Avenue trip to Westhampton Beach Performing Arts on Thursday, November 15, 2018.

F. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board accept the donation check in the amount of \$513.52 from Eastport Tuttle PTO which covers the cost of transportation for the Tuttle Avenue trip to Finks Farm on October 31, 2018.

G. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board accept the donation check in the amount of \$5,987.76 from ESM Community for the Arts which will cover the cost of expenses for the overnight field trip for high school students to attend the NYSTEAT Theatre Conference in Callicoon, NY on January 11, 2019.

H. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board accept the donation check in the amount of \$1,472.01 from ESM Community for the Arts which will cover the costs of expenses for the high school trip to Tilles Center on October 31, 2018 and November 2, 2018.

I. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board accept the donation check in the amount of \$3,810.06 from ESM Community for the Arts which will cover the costs of expenses for students in English 11, AP English 11, Theatre and Stagecraft to attend the performance of The Great Gatsby at the Bay Street Theatre in Sag Harbor on November 7, 2018 and November 13, 2018.

- J. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board approve the overnight field trip for the Varsity Baseball Team to attend Elev8 Baseball in Delray Beach, Florida from March 20 to March 24, 2019, with said costs to be paid through fundraising.
- K. BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board approve the overnight field trip for three students to attend the NYSSMA All-State Music Festival in Rochester, NY, from November 29 to December 2, 2018.

### **STUDENT SERVICES**

- A. Acknowledge receipt and review of recommendations from the Committees on Special Education.

### **POLICY**

- A. Second Reading – Policy No. 0110, Sexual Harassment
- B. First Reading – Policy No. 8505, “Charging” School Meals and Prohibition Against Shaming

### **BOARD COMMITTEE REPORTS**

- Budget Advisory Committee
- Health & Safety Committee
- Facilities Committee
- Legislative Committee
- Policy Review Committee
- Security Committee

### **COMMUNICATIONS ACKNOWLEDGEMENT**

- Warrants for 2018/19 including Revenue Budget Status and Appropriation Status Reports as of 11/09/18.
- ES BOCES Community Legislative Committee Meeting

### **GENERAL DISCUSSION**

### **ESM PRIDE**

### **PUBLIC PARTICIPATION – SECOND INVITATION**

### **DATES TO REMEMBER**

November 15 <sup>th</sup>	Junior Parent Night – 7:00 PM
November 18 <sup>th</sup>	High School Music Volleyball Marathon
November 19 <sup>th</sup>	ESMCA Meeting – 7:00 PM

November 21 <sup>st</sup> to November 23 <sup>rd</sup>	SCHOOLS & OFFICES CLOSED – Thanksgiving Recess
November 27 <sup>th</sup>	ESM Music Booster Club Meeting – 7:00 PM
November 29 <sup>th</sup>	EES/TAS PTO Holiday Tree Lighting @ EES
November 30 <sup>th</sup> to December 2 <sup>nd</sup>	Junior High Theater Production
December 3 <sup>rd</sup>	DAS Winter Concert – 6:00 PM @ JSHS
December 4 <sup>th</sup>	EES Winter Concert – 6:00 PM @ JSHS
December 5 <sup>th</sup>	SMPA Meeting – 7:00 PM @ DAS
December 7 <sup>th</sup>	ESMPTSO Parents Night Out/Drop & Shop – 6:00 PM @ JSHS
December 11 <sup>th</sup>	Winter Concert I & HS Art Show – 7:00 PM
December 12 <sup>th</sup>	Board of Education Meeting – 7:00 PM <i>Executive Session anticipated to begin at 6:00 PM</i>

**ADJOURNMENT**

## **Regular Board of Education Meeting October 24, 2018**

A regular meeting of the Board of Education of the Eastport-South Manor Central School District, Suffolk County, New York, was held in the Board Meeting Room, Eastport-South Manor Jr. Sr. High School, Manorsville, New York on **October 24, 2018**.

Board of Education Members present: Mrs. Marie Brown, Mrs. Marion Diener, Mr. Jeffrey Goldhammer, Mrs. Cheryl Hack, Mrs. Karen Kesnig, Mr. Nicholas Vero, Mrs. Danielle Warsaw.

Also Present: Patrick Brimstein, Superintendent of Schools, Timothy Laube, Assistant Superintendent for Business and Operations; Linda Weiss, Assistant Superintendent for Personnel and Accountability; Annette Hill, Clerk Pro Tem.

The meeting was called to order.

### **EXECUTIVE SESSION**

**MOTION** made by Karen Kesnig, seconded by Marie Brown for the Board to enter into executive session at 5:30 p.m. for the purpose of discussing negotiations.

Vote: Yes – 7, No – 0.

**MOTION** made by Cheryl Hack, seconded by Danielle Warsaw for the Board to reconvene to public session at 7:00 p.m.

Vote: Yes – 7, No – 0.

The Pledge was led by Dayton Avenue students Coleman Blackler, Charlotte Rozycki, Farrah Kamal, Collin Blume, Julia Laguerra, and Landon Schwarz, who also presented on positive behavior reinforcements and shark bites.

### **PRESENTATION**

High School Science Research Program – Protein Crystallography – Students Max Carson and Molly Heneghan; Mr. Bolen, Mr. Ostensen and Dr. Perez from Brookhaven National Lab.

External Audit Report of the fiscal year ending June 30, 2018, by Marianne Van Duyne of R.S. Abrams & Co., LLP.

### **MINUTES**

The minutes for the October 10, 2018 regular meeting and the October 17, 2018 special meeting were accepted.

### **REPORTS/ANNOUNCEMENTS**

- TAS hosted PSEG last week with their Conservation Caper Assembly.
- Dentist Dr. Vic visited TAS on Monday and presented the Candy Buy Back Program where he will “buy back” any candy that the children bring in and send to our troops.

- SRO Officer Plum visited TAS Kindergarten students to present the Stranger Danger Program.
- Mrs. Ackerman began her “Mystery Coach” classes where parents get to sign up to be a mystery coach during their child’s gym class.
- The ESM parent organizations presented the Board of Education with gifts for Board Recognition Month.

## **PUBLIC PARTICIPATION**

None.

## **AREAS OF OPERATION**

### **BUSINESS REPORT**

#### **Consent Agenda**

**MOTION** made by Marie Brown, seconded by Marion Diener for the Board to approve a consent agenda for the following business resolutions:

Vote: Yes – 7, No – 0.

#### **Worker’s Compensation Audit & Corrective Action Plan**

BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board accept the 2017/2018 Workers Compensation Audit and Corrective Action Plan, and the 2017/2018 Annual Risk Assessment as submitted by the district’s internal auditor Questar III.

#### **External Auditor’s Report for 2017/2018**

BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board of Education accept the External Auditor’s Report for the 2017/2018 school year as submitted by R.S. Abrams & Co., LLP.

#### **Correction Action Plan**

BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board of Education accept the Corrective Action Plan in response to the audit of the financial statements for the fiscal year ended June 30, 2018.

#### **Funding of Employee Benefit Accrued Liability Reserve**

BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board of Education authorizes the funding of the Employee Benefit Accrued Liability Reserve, from operating surplus from the 2017/2018 budget, in the amount of \$1,671,655.00, with said adjustment and funding subject to all the laws, rules and regulations governing their use.

#### **Approval of Treasurer’s Reports**

**MOTION** made by Karen Kesnig, seconded by Marie Brown for the Board to approve the Treasurer’s Reports for August, 2018.

Vote: Yes – 7, No – 0.

Mr. Laube reported that the District Office has upgraded their financial software to NVision and would like to thank Mark Cannet, Annette Hill and Amy Bellise for amount of work they have put in to make it a smooth transition for everyone.

## CURRICULUM AND INSTRUCTION

None.

## HUMAN RESOURCES

**MOTION** made by Karen Kesnig, seconded by Cheryl Hack for the Board to approve a consent agenda for the following personnel matters:

Vote: Yes – 7, No – 0.

### Resignations

<u>NAME</u>	<u>AREA</u>	<u>REASON</u>	<u>EFFECTIVE</u>
Ackerman, Jennifer	Alternative High School Teacher	Personal	10/16/18
Berenzy, Erich	.6 Maintenance Mechanic III	Personal – Appointed a per diem substitute (Agenda Section 3D)	10/25/18
Gould, Austin	Permanent Substitute	To accept a position as a teacher assistant in district (Agenda Section 3B)	10/25/18
Guilfoyle, Samatha	Teacher Aide (JH/HS)	Personal	10/9/18 *Resigned before starting
Lopez, Nerilyn	Permanent Substitute (JH/HS)	Personal	10/23/18
Reilly, Thomas	Custodial Worker I (DAS)	Retirement	11/30/18 *Last work day 11/29/18 *Correction based on ERS letter
Silver, Sarah	Per Diem Substitute Teacher	To accept a position as a permanent substitute in district (Agenda Section 3C)	10/25/18
Tilden, Elizabeth	Permanent Substitute	To accept a position as a teacher assistant in district (Agenda Section 3B)	10/25/18

### Leave of Absence

<u>NAME</u>	<u>AREA</u>	<u>REASON</u>	<u>EFFECTIVE</u>
Blekas, Maria	Teacher Aide (JH/HS)	Personal	11/5/18-11/16/18
Daddino, Christine	Physical Education Teacher (JH/HS)	FMLA *Intermittent	11/1/18-1/31/19
Gosselin, Gregory	Math Teacher	FMLA	11/12/18-11/21/18

### Appointments

**The following appointments are conditional, subject to clearance approval by the State Education Department fingerprinting check:**



**TEACHERS**

NAME	AREA	CREDENTIALS	SALARY	EFFECTIVE
Bucalo, Stephanie	Library Media Specialist (SSS) .08	Permanent: School Media Specialist Reading Special Education	MA/1: \$58,502 prorated	10/25/18-6/26/19
Papamichail, Joseph	Business Teacher (HS) .4	Initial: Business	MA30/1: \$63,395 prorated	9/13/18-6/26/19
Rorke, Susan	ENL Teacher (SSS)	Initial: English to Speakers of Other Languages  Permanent: Elementary N-6, Spanish 7-12	MA/3: \$63,624 prorated	9/5/18-6/26/22

**TEACHING ASSISTANTS**

NAME	BUILDING	CREDENTIALS	SALARY	EFFECTIVE
Goldstein, Scott	JH/HS	Teacher/Masters	\$168.04/day	9/5/18-9/12/22
Gould, Austin	JH/HS	Teacher/BA	\$165.28	10/25/18-10/24/22
Polistina, Samantha	SSS	Teacher/MA	\$168.04/day	10/25/18-10/24/22
Tilden, Elizabeth	JH/HS	Teacher/MA	\$168.04/day	10/25/18-10/24/22

**PERMANENT SUBSTITUTES**

NAME	BUILDING	SALARY	EFFECTIVE
Bucalo, Stephanie	SSS .92	\$135/day prorated	10/25/18-6/26/19
Silver, Sarah	JH/HS	\$135/day	10/25/18-6/25/19

**PER DIEM SUBSTITUTES**

NAME	AREA	SALARY	EFFECTIVE
Berenzy, Erich	Custodian	\$15.00/hr	10/25/18-6/30/19
Cuervo, Pedro	Custodian	\$15.00/hr	10/25/18-6/30/19

**CIVIL SERVICE**

NAME	AREA	SALARY	EFFECTIVE
Hecht, Carol	Teacher Aide (JH/HS)	\$12.52/hr	10/10/18

**Extra Curricular Activities**

NAME	AREA	SALARY
Plitt, Maria	Garden Club (EES)	\$1,851 Prorated *Start Date 10/25/18
Farrell, James	12 <sup>th</sup> Grade Co-Advisor	\$2,338.14 *Stipend already split *Stipend Correction

Oakley, Seth	12 <sup>th</sup> Grade Co-Advisor	\$2,338.14 *Stipend already split *Stipend Correction
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### Supplemental Pay

NAME	AREA	SALARY
Gonzalez-Spagnuolo, Elizabeth	Library Extended Day (Sub)	\$51.00/hr *As needed, not to exceed 1 hr/day (Mon-Thurs)
Crouse, Catherine	Library Extended Day (Sub)	\$51.00/hr *As needed, not to exceed 1 hr/day (Mon-Thurs)
Ghiraldi, Ashley	Library Extended Day (Sub)	\$51.00/hr *As needed, not to exceed 1 hr/day (Mon-Thurs)
Sciarrone, Gail	Library Extended Day (Sub)	\$51.00/hr *As needed, not to exceed 1 hr/day (Mon-Thurs)
Murray, Jennifer	Teacher Mentor (EES) 2018/2019	\$1,957 prorated *Start date 10/25/18 confirm
McAlary, Ryan	Physical Education Teacher	\$36.40/hr
Sutton, Kathleen	NCAA Night 10/11/18	\$92.19/hr *Not to exceed 2 ½ hours

### Class Size Overages (First Semester Only)

Teachers	Caseload	Total Compensation
McNeill, Carol	154 – 1 section	\$120

### Student Teacher/Observer/Internship

NAME	AREA	SCHOOL	Effective
DiAgostino, Cassidy (SSS)	Special Education	St. John's University	10/8/18-12/22/18
Martin, Gabrielle (JH/HS)	Guidance	Long Island University	1/2/19-5/17/19
Lennon, Ryan (JH/HS)	Social Studies	St. Joseph's College	10/25/18-12/31/18

### Event Chaperones

EVENT	NUMBER OF SUPERVISORS	AMOUNT (not to exceed)
NYSCAME (11/7/18) Connetquot	2	\$480
NYSCAME (11/15/18) Half Hollow Hills	2	\$480

### Long Term Substitute Clerical Employee Hourly Rate

BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board of Education of the Eastport-South Manor Central School District hereby establishes an hourly rate of \$15.00 for long-term substitute clerical employees who are appointed to serve for a period of at least ninety (90) consecutive calendar days during the 2018/19 school year.

### Permanent Substitutes

Approved the revised distribution of permanent substitutes.

**MOTION** made by Karen Kesnig, seconded by Marion Diener for the Board to approve the following personnel matter:

Vote: Yes – 7, No – 0.

**RESIGNATIONS**

NAME	AREA	REASON	EFFECTIVE
Stiriz, Bruce	Varsity Boys Volleyball (Head) Per diem Substitute	Personal	10/22/18

**MOTION** made by Marie Brown, seconded by Karen Kesnig for the Board to approve the following personnel matter:

Vote: Yes – 7, No – 0.

**LEAVE OF ABSENCE**

NAME	AREA	REASON	EFFECTIVE
Barca, Robert	Teacher Assistant (JH/HS)	To accept another position in district (Agenda 3A and 3B)	10/25/18-6/26/19

**MOTION** made by Marie Brown, seconded by Marion Diener for the Board to approve the following personnel appointment:

Vote: Yes – 7, No – 0.

**APPOINTMENT**

The following appointments are conditional, subject to clearance approval by the State Education Department fingerprinting check:

**TEACHER**

NAME	AREA	CREDENTIALS	SALARY	EFFECTIVE
Barca, Robert	.2 Social Studies Teacher (JR/HS)	Permanent: Social Studies 7-12	MA/1: \$58,502 Prorated	10/25/18-6/26/19

**MOTION** made by Jeffrey Goldhammer, seconded by Marion Diener for the Board to approve the following personnel appointment:

Vote: Yes – 7, No – 0.

**APPOINTMENT**

**TEACHING ASSISTANTS**

NAME	BUILDING	CREDENTIALS	SALARY	EFFECTIVE
Barca, Robert	JH/HS .8	Permanent: Social Studies 7-12	\$168.04/prorated	10/25/18-6/26/19

**MOTION** made by Cheryl Hack, seconded by Marie Brown for the Board to approve the following personnel appointment:

## INTERSCHOLASTIC APPOINTMENT

NAME	AREA	SALARY
Green, Martin	PA Announcer for Football Games	COMMUNITY

**MOTION** made by Marie Brown, seconded by Marion Diener for the Board to approve the following personnel appointment:

Vote: Yes – 7, No – 0.

## INTERSCHOLASTIC APPOINTMENT

NAME	AREA	SALARY
Kane, Nicole	Music for Football Games	COMMUNITY

**MOTION** made by Marion Diener, seconded by Cheryl Hack for the Board to approve the following personnel appointment:

Vote: Yes – 7, No – 0.

## INTERSCHOLASTIC APPOINTMENT

NAME	AREA	SALARY
Kropp, William	JH Boys Volleyball	COMMUNITY

**MOTION** made by Cheryl Hack, seconded by Marion Diener for the Board to approve the following personnel matter:

Vote: Yes – 7, No – 0.

## SIXTH PERIOD PAY

Teacher	Department	NOTES	AMOUNT
Consorte, Donald	Social Studies	Every day	\$7,240 Prorated *End date 10/30/18

## OLD BUSINESS

- iReady – Mrs. Diener asked if the tests been administered and how are the results being utilized to better help the students and teachers? Dr. Brimstein reported that the tests have been administered to almost all students. The District purchased the portion of the program where the results can be individualized for each student. The administration and faculty are in the process of learning the system. The students will be tested three times a year to show growth and the tests are adaptive to the student’s skill level.
- Student Ambassador Program – Mrs. Hack asked if we will be proceeding. Dr. Brimstein stated that the students will be a regular feature on the agenda beginning with the November meeting.
- Cheerleading Pay Schedule – Mrs. Hack inquired if there was a resolution to the cheerleading pay schedule for competitive vs. non-competitive. Mrs. Weiss said that she will follow-up.

### Approval of Two Coaches Each for Winter Track Teams

**MOTION** made by Karen Kesnig, seconded by Marie Brown, that the Board, upon the recommendation of

the Superintendent, approve the appointment of two coaches each for the Boys and Girls Winter Track Teams due to the enrollment.

Vote: Yes – 7, No – 0.

- Parent/Teacher Conference changed to Parent/Teacher Contact. Mrs. Kesnig and Mrs. Hack expressed concern from parents they have spoken to regarding the change and how it is now inconvenient for any parent to make an afternoon phone call instead of scheduling an evening face to face meeting with the teachers. Mrs. Kesnig would have liked the board to be informed of the change. Dr. Brimstein stated that the change was made so that the teachers were able to contact parents of students who may be struggling so that plans can be put in place to ensure that students are successful.
- Small group music instruction inequity at Eastport Elementary and Dayton Avenue – Mr. Goldhammer asked if there is an update. Mrs. Weiss stated there have been some changes in the scheduling, however, the administration is analyzing the schedules and will have a recommendation shortly.

## **NEW BUSINESS**

### **Special Education Services Agreement**

**MOTION** made by Marie Brown, seconded by Jeffrey Goldhammer for the Board to adopt the following resolution:

Vote: Yes – 7, No – 0.

BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board approve the Special Education Services Agreement with Harmony Heights for the 2018/2019 school year and authorizes the Board President or designee to sign on behalf of the District.

### **Service Agreement/Contract**

**MOTION** made by Marie Brown, seconded by Cheryl Hack for the Board to adopt the following resolution:

Vote: Yes – 7, No – 0.

BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board approve the Service Agreement/Contract with Dr. Angela Peery Consulting for providing presentation services at the JSHS Superintendent's Day and authorizes the Board President or designee to sign on behalf of the District.

### **Overnight Field Trip**

**MOTION** made by Karen Kesnig, seconded by Marie Brown for the Board to adopt the following resolution:

Vote: Yes – 7, No – 0.

BE IT HEREBY RESOLVED, upon the recommendation of the Superintendent that the Board approve the overnight field trip for the senior theatre students to attend the NYSTEA Theatre Conference at The Villa Roma, Callicoon, New York from January 11, 2019 to January 13, 2019, with all costs being paid for by ESM Community for the Arts.

## **STUDENT SERVICES**

Acknowledged receipt and review of recommendations from the Committees on Special Education.

## **POLICY**

Policy Review – Policy No. 4531, Field Trips and Excursions

## **COMMITTEE REPORTS**

- Facilities Committee – Allocation of funds to service the generator at the junior-senior high school with Relle Electric as it has not been serviced in over five years.
- Legislative Committee – Waiting to hear from both Thiele and LaValle’s office about the legislation they are working on that will be introduced when session begins in January.
- Policy Committee – Mrs. Weiss will prioritize the findings of the Risk Assessment Audit Report.
- Security Committee (Health & Safety)
  - Not in favor of combining the two committees. Mrs. Hack and Mrs. Kesnig will chair the Health & Safety Committee.
  - Secondary lockdown devices “Nightlock” will not be approved by NYSED and waiting to hear their recommendations.
  - SCPD were at DAS to review the lockdown drill procedures. Southampton Town PD was at TAS for Stranger Danger Training. There has been an increased presence at all schools.
  - SCPD closed the roads for our South Street students to go to Waterdrinkers Farm.
  - Educated staff/community members of the committee about armed security in the school buildings. There is a petition to place a proposition on the ballot for private armed security. The committee is asking for feedback from the administration and central office administration. Mr. Vero will contact the attorneys for guidance on the structure of the proposition which should include the cost.

## **COMMUNICATIONS ACKNOWLEDGEMENT**

Revenue Budget Status & Appropriations Status Report as of 10/12/18; Memo on sexual harassment prevention and competitive bidding; NYSIR Legal Digest; “*The Tide*” article, Townhomes Project Moves Forward.

## **GENERAL DISCUSSION**

None.

## **ESM PRIDE**

- The Sweethearts & Heroes Community Presentation.
- Girls Cross Country are undefeated league champions.
- Field Hockey – Division I Champions and are playing in the semi-finals Friday at Northport.
- Girls Soccer – Undefeated League Champions.
- Football – Playing Saturday for the Big Four Championship.
- Girls Volleyball – Undefeated League Champions.
- Boys Volleyball – Ranked #2 in Suffolk County for Division II.
- Boys Cross Country – Undefeated League Champions.
- The combined record of these teams that have either won or are competing for a league championship this weekend is 53.4.3.

## **PUBLIC PARTICIPATION**

Lynda Wygonik.

## **ADJOURNMENT**

**MOTION** made by Marie Brown, seconded by Cheryl Hack for the Board to adjourn the meeting at 10:16 p.m.

Vote: Yes – 7, No – 0.

Respectfully submitted,

Sharon P. Murray  
District Clerk

DRAFT

## SEXUAL HARASSMENT

**(X) Required**

( ) Local

(X) Notice

***NEW NOTE:** We sent an earlier version of our sample sexual harassment policy and regulation in July 2018, based on initial changes in New York State Law. At that time, we were waiting for a model policy to be developed by the NYS Department of Labor (DOL), because the law requires employers' policies to be consistent with that model. On August 23, 2018, the DOL released a draft model policy, draft minimum standards for employers' policies, draft minimum standards for sexual harassment training, draft model sexual harassment training, and draft Frequently Asked Questions (FAQ).*

*Public comments on the draft minimum standards and model policy were accepted until September 12, 2018. On October 1, final versions of these materials were released (available at <https://www.ny.gov/combating-sexual-harassment-workplace/employers>). The deadline to adopt a policy is October 9th, 2018. We have made changes to our sample policy and regulation to conform to the final DOL model policy.*

*Your district is free to adopt or modify the DOL model policy itself (available at <https://www.ny.gov/sites/ny.gov/files/atoms/files/SexualHarassmentPreventionModelPolicy.pdf>). However, the DOL model policy only addresses sexual harassment of employees, interns (paid and unpaid), applicants for employment, and non-employees (contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace). It does not address sexual harassment of students. Our sample policy and accompanying regulation outlines the Board's and the district's responsibilities with regard to handling and resolving **both** student and staff complaints of sexual harassment.*

*While the changes to our sample policy and regulation were made to conform to the DOL's minimum standards and model policy, we have modified the material from the DOL so it applies in the school setting to students as well as employees. Underlined text is to be added; ~~strikeout~~ text is to be deleted.*

*All employers in the state are also required to provide a complaint form with its policy. The model complaint form developed by the DOL is available at <https://www.ny.gov/sites/ny.gov/files/atoms/files/CombatHarassmentComplaint%20Form.pdf>. We have modified that form so it applies in a school setting for both students and employees. See new exhibit 0110-E.*

The Board of Education recognizes that harassment of students, employees (including all staff, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, regardless of immigration status) and certain "non-employees" (which includes contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees) on the basis of sex, gender and/or sexual orientation is abusive and illegal behavior that harms targets and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board further recognizes that preventing and remedying such harassment in schools is essential to ensure a healthy, nondiscriminatory environment in which students can learn and employees and "non-employees" can work productively.



*NEW NOTE: We have revised the definition of sexual harassment in this policy to align more closely to the definition in the DOL model policy. However, we have modified this definition so that it applies in the school setting for students as well as employees. These changes have also necessitated using one single term of "sexual harassment" to apply to what we previously separated as "sexual harassment" and "gender-based harassment".*

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of actual or perceived or self-identified sex, sexual orientation, gender identity, gender expression, and transgender status. Sex-based harassment can be comprised of two types of behavior: sexual harassment and/or gender-based harassment. Sexual harassment is unwelcome conduct of a sexual nature, which can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature (see regulation 0110-R for examples). Gender-based harassment includes verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes (see regulation 0110-R for examples). Sexual or gender-based harassment of a student can deny or limit the student's ability to participate in or to receive benefits, services, or opportunities from the school's program.

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:

- a. submission to that conduct is made either explicitly or implicitly a term or condition of an individual's employment or a student's education;
- b. submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment or a student's education; or
- c. the conduct has the purpose or effect of unreasonably interfering with an employee's or "non-employee's" work or student's school performance or creating an intimidating, hostile or offensive work or educational environment, even if the complaining individual is not the intended target of the sexual harassment;

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes. Examples of sexual harassment can be found in the accompanying regulation (0110-R).

*NEW NOTE: State Labor Law section 201-g mandates that the policy on sexual harassment for employees must clearly state that sexual harassment is a form of employee misconduct, that sanctions will be enforced against both those who commit sexual harassment, and against supervisory and managerial personnel who knowingly allow it to continue. Individual liability is also addressed in the DOL model policy. It is important to include that harassment can occur outside of the school building, and that this policy extends to school events, traveling on district business, and harassment by electronic means. We have added the underlined text below.*

The Board is committed to providing an educational and working environment that promotes respect, dignity and equality and that is free from all forms of sexual harassment. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside the district, or outside the school setting if the harassment impacts the individual's education or employment in a way that violates their legal rights, including when employees and "non-employees" travel on district business, or when harassment is done by electronic means (including on social media). For employees, sexual harassment is considered a form of employee misconduct. Sanctions will be

enforced against all those who engage in sexual harassment, and against supervisory and managerial personnel who knowingly allow such behavior to continue or engage in retaliation.

Sexual harassment may subject the district to liability for harm done to targets. Harassers may also be individually subject to civil liability if sued in a court of law or criminal liability if prosecuted.

*NEW NOTE: The new section 201-g of the New York State Labor Law requires certain elements to be included in the mandatory sexual harassment policy. One such requirement is to include information concerning the federal and state legal protections against sexual harassment, and a statement that there may be applicable local laws.*

*The reference to the Code of Conduct below is intended to address appropriate and inappropriate behavior, including sexual harassment, for all persons on school property, regardless of whether specific legal protections apply.*

Under various state and federal laws, students, employees and “non-employees” have legal protections against sexual harassment in the school environment as described above. Those laws are listed in the references section. Additionally, local laws (e.g., county, city, town, village) may apply to the district. The district’s Code of Conduct also addresses appropriate behavior in the school environment. Sexual harassment can occur between persons of all ages and genders.

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all targets of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The district will promptly investigate all complaints of sexual harassment, either formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation. If the complainant reports that they feel unsafe at school due to the nature of the complaint, the district will determine if accommodations need to be made until the issue is resolved.

If, after appropriate investigation, the district finds that a student, an employee, “non-employee” or a third party has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, contract, district policy and state law. Individual nondisclosure agreements may only be used as permitted by law, described in the accompanying regulation. Mandatory arbitration clauses are prohibited in all district contracts and agreements.

*NEW NOTE: We have added the text below to be more consistent with the DOL model policy regarding retaliation, and to clarify that training for employees must be done annually.*

All complainants and those who participate in sexual harassment complaints or the investigation of a complaint of sexual harassment have the right to be free from retaliation of any kind, when they do so with a good faith belief that sexual harassment has occurred. Such prohibited retaliation can include, but is not limited to, discipline, discrimination, demotion, denial of privileges, or any action that would keep a person from coming forward to make or support a sexual harassment claim. Such actions need not be job- or education-related, or occur in the workplace or educational environment, to constitute unlawful retaliation.

The Superintendent of Schools is directed to develop and implement regulations for reporting, investigating and remedying allegations of sexual harassment. These regulations are to be attached to this policy. In addition, training programs shall be established for students, and annually for employees, to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment. Age-appropriate instructional materials will be incorporated into the curriculum to educate students so that they can recognize and reduce the incidence of sexual harassment.

This policy shall be posted in a prominent place in each district facility, on the district's website, and shall also be published in student registration materials, student, parent and employee handbooks, and other appropriate school publications.

*NOTE: The Board is not required to include the following statement in the policy. However, some language should be included that addresses periodic review of the district's sexual harassment policy and procedures.*

A committee of administrators, teachers, parents, students and the school attorney shall be convened annually to review this policy's effectiveness and compliance with applicable state and federal law, and to recommend revisions to Board.

Ref:

Education Amendments of 1972, Title IX, 20 U.S.C. §1681 *et seq.*  
Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 *et seq.*  
Executive Law §296-d (prohibition of sexual harassment of non-employees)  
Labor Law §201-g (required sexual harassment policy and training)  
Civil Practice Law and Rules §§5003-b (nondisclosure agreements optional); 7515 (mandatory arbitration prohibited)  
General Obligations Law §5-336 (nondisclosure agreements optional)  
*Davis v. Monroe County Board of Education*, 526 U.S. 629, 652 (1999)  
*Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998)  
*Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)  
*Burlington Industries v. Ellerth*, 524 U.S. 742 (1998)  
*Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)  
*Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992)  
*Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986)  
Office for Civil Rights *Revised Sexual Harassment Guidance (January 19, 2001)*  
Office for Civil Rights, *Dear Colleague Letter: Sexual Harassment Issues (2006)*  
Office for Civil Rights, *Dear Colleague Letter: Bullying (October 26, 2010)*

Adoption date:

Adoption Date:

Classification:

Revised Dates: ; **10.18**

## SEXUAL HARASSMENT REGULATION

***NEW NOTE:** We sent an earlier version of our sample sexual harassment policy and regulation in July 2018, based on initial changes in New York State Law. At that time, we were waiting for a model policy to be developed by the NYS Department of Labor (DOL), because the law requires employers' policies to be consistent with that model. On August 23, 2018, the DOL released a draft model policy, draft minimum standards for employers' policies, draft minimum standards for sexual harassment training, draft model sexual harassment training, and draft Frequently Asked Questions (FAQ).*

*On October 1, final versions of these materials were released. The deadline to adopt a policy is October 9th, 2018. We have made changes to our sample policy and regulation to conform to the final DOL model policy.*

*However, we have modified the material from the DOL so it applies in the school setting to students as well as employees. Underlined text is to be added; ~~strikeout~~ text is to be deleted.*

*This policy applies to students, staff, and certain "non-employees" (contractors, subcontractors, vendors, consultants or other persons providing services pursuant to a contract, or their employees). Among other things, this regulation provides detailed guidelines to assist staff in determining whether alleged misconduct constitutes sexual harassment (i.e., harassment based on sex, gender, or sexual orientation) and outlines potential sanctions and penalties for violating district policy/regulation.*

This regulation is intended to create and preserve an educational and working environment free from unlawful sexual harassment on the basis of sex, gender, and/or sexual orientation in furtherance of the district's commitment to provide a healthy and productive environment for all students, employees (including all staff, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, regardless of immigration status) and "non-employees" (i.e., contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees) that promotes respect, dignity and equality.

### Sexual Harassment Defined

***NEW NOTE:** We have revised the definition of sexual harassment to align more closely to the definition in the DOL model policy. However, we have modified this definition so that it applies in the school setting for students as well as employees. These changes have also necessitated using one single term of "sexual harassment" to apply to what we previously separated as "sexual harassment" and "gender-based harassment".*

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of actual or perceived or self-identified sex, sexual orientation, gender identity, gender expression, and transgender status.

~~"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature.~~

~~"Gender-based harassment" means verbal, non-verbal or physical aggression, intimidation or hostility that is based on actual or perceived gender identity or expression.~~

Sexual or gender-based harassment occurs when includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex, gender, or sexual orientation, when:

1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of an employee's or "non-employee's" employment or a student's education (including any aspect of the student's participation in school-sponsored activities, or any other aspect of the student's education); or
2. submission to or rejection of that conduct or communication by an individual is used as the basis for a factor in decisions affecting an employee's or "non-employee's" employment or a student's education; or
3. the conduct or communication has the purpose or effect of substantially or unreasonably interfering with an employee's or "non-employee's" work performance or a student's academic performance or participation in school-sponsored activities, or creating an intimidating, hostile or offensive working or educational environment, even if the complaining individual is not the intended target of the sexual harassment.

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes.

### **Unacceptable Conduct**

*REVISED NOTE: It is important for the district's regulation to include examples of sexual harassment to help students and staff recognize when sexual harassment is occurring (see below). These examples already aligned well with the DOL model policy, but we have added the underlined text below.*

School-related conduct that the district considers unacceptable and which may constitute sexual harassment includes, but is not limited to, the following:

1. rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the State Penal Law;
2. unwelcome sexual advances or invitations or requests for sexual activity, including but not limited to those in exchange for grades, promotions, preferences, favors, selection for extracurricular activities or job assignments, homework, etc., or when accompanied by implied or overt threats concerning the target's work or school evaluations, other benefits or detriments;
3. unwelcome and or offensive public sexual display of affection, including kissing, hugging, making out, groping, fondling, petting, inappropriate touching of one's self or others (e.g., pinching, patting, grabbing, poking), sexually suggestive dancing, and massages;
4. any unwelcome communication that is sexually suggestive, sexually degrading or derogatory or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual jokes; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings lists;" howling, catcalls, and whistles; sexually graphic computer files, messages or games, etc;
5. unwelcome and offensive name calling or profanity that is sexually suggestive or explicit, sexually degrading or derogatory, implies sexual intentions, or that is based on sexual stereotypes or sexual orientation, gender identity or expression;
6. unwelcome physical contact or closeness that is sexually suggestive, sexually degrading or derogatory, or sexually intimidating such as the unwelcome touching of another's body parts, cornering or blocking an individual, standing too close, spanking, pinching, following, stalking, frontal body hugs, etc.;
7. unwelcome and sexually offensive physical pranks or touching of an individual's clothing, such as hazing and initiation, "streaking," "mooning," "snuggies" or "wedgies" (pulling underwear up at the waist so it goes in between the buttocks), bra-snapping, skirt "flip-ups," "spiking"

- (pulling down someone's pants or swimming suit); pinching; placing hands inside an individual's pants, shirt, blouse, or dress, etc.;
8. unwelcome leers, stares, gestures, or slang that are sexually suggestive; sexually degrading or derogatory or imply sexual motives or intentions;
  9. clothing with sexually obscene or sexually explicit slogans or messages;
  10. unwelcome and offensive skits, assemblies, and productions that are sexually suggestive, sexually degrading or derogatory, or that imply sexual motives or intentions, or that are based on sexual stereotypes;
  11. unwelcome written or pictorial display or distribution (including via electronic devices) of pornographic or other sexually explicit materials such as signs, graffiti, calendars, objects, magazines, videos, films, Internet material, etc.;
  12. other hostile actions taken against an individual because of that person's sex, sexual orientation, gender identity or transgender status, such as interfering with, destroying or damaging a person's work or school area or equipment; sabotaging that person's work or school activities; bullying, yelling, or name calling; or otherwise interfering with that person's ability to work or participate in school functions and activities; and
  13. any unwelcome behavior based on sexual stereotypes and attitudes that is offensive, degrading, derogatory, intimidating, or demeaning, including, but not limited to:
    - a. disparaging remarks, slurs, jokes about or aggression toward an individual because the person displays mannerisms or a style of dress inconsistent with stereotypical characteristics of the person's sex;
    - b. ostracizing or refusing to participate in group activities with an individual during class projects, physical education classes or field trips because of the individual's sex, gender expression or gender identity;
    - c. taunting or teasing an individual because they are participating in an activity not typically associated with the individual's sex or gender.

For purposes of this regulation, action or conduct shall be considered "unwelcome" if the student, employee or non-employee did not request or invite it and regarded the conduct as undesirable or offensive. ~~In addition, in the remainder of this regulation, the term sexual harassment will refer to both sexual and gender based harassment.~~

Sexual harassment may occur on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside the district, or outside the school setting if the harassment impacts the individual's education or employment in a way that violates their legal rights, including when employees or "non-employees" travel on district business, or when the harassment is done by electronic means (including on social media).

### **Determining if Prohibited Conduct is Sexual Harassment**

*NOTE: This material puts individuals on notice of the standards that will be used to evaluate allegations of sexual harassment.*

Complaints of sexual harassment will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the above definition of sexual harassment and should therefore be treated as sexual harassment. Not all unacceptable conduct with sexual connotations may constitute sexual harassment. In many cases (other than quid pro quo situations where the alleged harasser offers academic or employment rewards or threatens punishment as an inducement for sexual favors), unacceptable behavior must be sufficiently severe, pervasive and objectively offensive to be considered sexual harassment. If the behavior doesn't rise to the level of sexual harassment, but is found to be objectionable behavior, the individual will be educated and counseled in order to prevent the behavior from continuing.

In evaluating the totality of the circumstances and making a determination of whether conduct constitutes sexual harassment, the individual investigating the complaint should consider:

1. the degree to which the conduct affected the ability of the student to participate in or benefit from his or her education or altered the conditions of the student's learning environment or altered the conditions of the employee's or "non-employee's" working environment;
2. the type, frequency and duration of the conduct;
3. the identity of and relationship between the alleged harasser and the subject of the harassment (e.g., sexually based conduct by an authority figure is more likely to create a hostile environment than similar conduct by another student or a co-worker);
4. the number of individuals involved;
5. the age and sex of the alleged harasser and the subject of the harassment;
6. the location of the incidents and context in which they occurred;
7. other incidents at the school; and
8. incidents of gender-based, but non-sexual harassment.

### **Reporting Complaints**

***NEW NOTE:** We suggest changing the verbiage below to encourage, rather than require, targets to report sexual harassment. This aligns with the DOL model policy, and uses language less likely to blame targets for not coming forward. We have also added language to encourage witnesses to come forward, which also aligns with the model policy. The district must investigate all complaints of sexual harassment, even those that are received verbally.*

Any person who believes he or she has been the target of sexual harassment by a student, district employee or "non-employee" or third party related to the school is ~~required~~ encouraged to report complaints as soon as possible after the incident in order to enable the district to promptly and effectively investigate and resolve the complaint. Any person who witnesses or is aware of sexual harassment of a student, employee, or "non-employee" is also encouraged to report the incident or behavior to the district. Targets are encouraged to submit the complaint in writing; however, complaints may be filed verbally.

***NOTE:** We have listed the Principal or Title IX Coordinator as the individuals to receive harassment complaints. If this is not the case in your district, please revise this section.*

Complaints should be filed with the Principal or the Title IX coordinator.

***NEW NOTE:** The second sentence of this paragraph is suggested as a way to assist "non-employees" in making complaints, and has been modified to also address employees making complaints on behalf of other employees and "non-employees." This is not required by law. However, we have added the last sentence below to make clear, as required by Labor Law section 201-g and the DOL model policy, what the responsibilities are for supervisory and managerial personnel.*

Any school employee who receives a complaint of sexual harassment from a student shall inform the student of the employee's obligation to report the complaint to the school administration, and then shall immediately notify the Principal and/or the Title IX coordinator. School employees receiving complaints of sexual harassment from employees and "non-employees" shall either direct the complainant to the Building Principal, or may report the incident themselves. Supervisory and managerial personnel are required to report complaints of sexual harassment received by staff, and will be subject to discipline for failing to report suspected or reported sexual harassment, knowingly allowing sexual harassment to continue, or engaging in any retaliation.

In order to assist investigators, targets should document the harassment as soon as it occurs and with as much detail as possible including: the nature of the harassment; dates, times, places it has occurred; name of harasser(s); witnesses to the harassment; and the target's response to the harassment.

### **Confidentiality**

It is district policy to respect the privacy of all parties and witnesses to complaints of sexual harassment. To the extent possible, the district will not release the details of a complaint or the

identity of the complainant or the individual(s) against whom the complaint is filed to any third parties who do not need to know such information. However, because an individual's need for confidentiality must be balanced with the district's legal obligation to provide due process to the accused, to conduct a thorough investigation, or to take necessary action to resolve the complaint, the district retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know. The staff member responsible for investigating complaints will discuss confidentiality standards and concerns with all complainants.

If a complainant requests that his/her name not be revealed to the individual(s) against whom a complaint is filed, the staff member responsible for conducting the investigation shall inform the complainant that:

1. the request may limit the district's ability to respond to his/her complaint;
2. district policy and federal law prohibit retaliation against complainants and witnesses;
3. the district will attempt to prevent any retaliation; and
4. the district will take strong responsive action if retaliation occurs.

If the complainant still requests confidentiality after being given the notice above, the investigator will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not preclude the district from responding effectively to the harassment and preventing the harassment of other students or employees.

## Investigation and Resolution Procedure

*NEW NOTE: The law does not address investigation and resolution of sexual harassment complaints of "non-employees" as distinct from employees. The model policy from the DOL treats employees and non-employees the same with regard to investigations. The underlined text in the paragraph below was taken from the DOL model policy.*

### A. Initial (Building-level) Procedure

*NEW NOTE: The DOL model policy includes language regarding prompt and thorough investigations, which should be completed as soon as possible.*

The Principal or the Title IX coordinator shall conduct a preliminary review when they receive a verbal or written complaint of sexual harassment, or if they observe sexual harassment. Except in the case of severe or criminal conduct, the Principal or the Title IX coordinator should make all reasonable efforts to resolve complaints informally at the school level. The goal of informal investigation and resolution procedures is to end the harassment and obtain a prompt and equitable resolution to a complaint. All persons involved in an investigation (complainants, witnesses and alleged harassers) will be accorded due process to protect their rights to a fair and impartial investigation. This investigation shall be prompt and thorough, and shall be completed as soon as possible.

*NEW NOTE: The district's regulation should include a time frame within which the investigation will commence. The DOL model policy indicates that investigations must commence "immediately" but this is not defined. Below we suggest changing three working days to two, but recommend consulting with your attorney who may advise beginning investigations on a different timeframe.*

~~As soon as possible~~ Immediately, but no later than ~~three~~ two working days following receipt of a complaint, the Principal or Title IX coordinator ~~should~~ shall begin an investigation of the complaint according to the following steps:

*NEW NOTE: We have added the underlined text below to conform to the DOL model policy regarding verbal complaints (see item 2), employee cooperation (see item 6), and documentation (see items 3 and 10).*

1. Interview the target and document the conversation. Instruct the target to have no contact or communication regarding the complaint with the alleged harasser. Ask the target specifically what action he/she wants taken in order to resolve the complaint. Refer the target, as appropriate, to school social workers, school psychologists, crisis team managers, other school staff, or appropriate outside agencies for counseling services.



2. Review any written documentation of the harassment prepared by the target. If the target has not prepared written documentation, ~~instruct~~ ask the target to do so, providing alternative formats for individuals with disabilities and young children, who have difficulty writing and need accommodation. If the complainant refuses to complete a complaint form or written documentation, the Principal or Title IX coordinator shall complete a complaint form (see exhibit 0110-E) based on the verbal report.
3. Request, review, obtain and preserve relevant evidence of harassment (e.g., documents, emails, phone records, etc.), if any exist.
4. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Document the conversation. Provide the alleged harasser an opportunity to respond to the charges in writing.
5. Instruct the alleged harasser to have no contact or communication regarding the complaint with the target and to not retaliate against the target. Warn the alleged harasser that if he/she makes contact with or retaliates against the target, he/she will be subject to immediate disciplinary action.
6. Interview any witnesses to the complaint. Where appropriate, obtain a written statement from each witness. Caution each witness to keep the complaint and his/her statement confidential. Employees may be required to cooperate as needed in investigations of suspected sexual harassment.
7. Review all documentation and information relevant to the complaint.
8. Where appropriate, suggest mediation as a potential means of resolving the complaint. In addition to mediation, use appropriate informal methods to resolve the complaint, including but not limited to:
  - a. discussion with the accused, informing him or her of the district's policies and indicating that the behavior must stop;
  - b. suggesting counseling and/or sensitivity training;
  - c. conducting training for the department or school in which the behavior occurred, calling attention to the consequences of engaging in such behavior;
  - d. requesting a letter of apology to the complainant;
  - e. writing letters of caution or reprimand; and/or
  - f. separating the parties.
9. Parent/Student/Employee/"Non-Employee" Involvement and Notification
  - a. Parents of student targets and accused students shall be notified within one school day of allegations that are serious or involve repeated conduct.
  - b. The parents of students who file complaints are welcome to participate at each stage of both informal and formal investigation and resolution procedures.
  - c. If either the target or the accused is a disabled student receiving special education services under an IEP or section 504/Americans with Disabilities Act accommodations, the committee on special education will be consulted to determine the degree to which the student's disability either caused or is affected by the discrimination or policy violation. In addition, due process procedures required for persons with disabilities under state and federal law shall be followed.
  - d. The Principal or Title IX Coordinator (i.e., the investigator) shall submit a copy of all investigation and interview documentation to the Superintendent.
  - e. The investigator shall report back to both the target and the accused, notifying them in writing, and also in person as appropriate regarding the outcome of the investigation and the action taken to resolve the complaint. The investigator shall instruct the target to report immediately if the objectionable behavior occurs again or if the alleged harasser retaliates against him/her.
  - f. The investigator shall notify the target that if he/she desires further investigation and action, he/she may request a district level investigation by contacting the Superintendent of Schools. The investigator shall also notify the target of his/her right to contact the U.S. Department of Education's Office for Civil Rights and/or a private attorney. Employees may also contact the U.S. Equal Employment Opportunity Commission or the New York State Division of Human Rights.
10. Create a written documentation of the investigation, kept in a secure and confidential location, containing:

- a. A list of all documentation and other evidence reviewed, along with a detailed summary;
- b. A list of names of those interviewed along with a detailed summary of their statements;
- c. A timeline of events;
- d. A summary of prior relevant incidents, reported or unreported; and
- e. The final resolution of the complaint, together with any corrective action(s).

If the initial investigation results in a determination that sexual harassment did occur, the investigator will promptly notify the Superintendent, who shall then take prompt disciplinary action in accordance with district policy, the applicable collective bargaining agreement or state law.

*NOTE: The law addresses when "non-employees" are the target of sexual harassment, but not where they are the alleged harasser. We suggest discussing with the district's counsel including language in contracts that addresses actions the vendors/contractors will take to protect the school environment in allegations of harassment, including serious, extreme or criminal misconduct. Such actions could include barring the alleged harasser from the school setting or having contact with school personnel, pending the outcome of the investigation.*

If a complaint received by the Principal or the Title IX Coordinator contains evidence or allegations of serious or extreme harassment, such as employee to student harassment, criminal touching, quid pro quo (e.g., offering an academic or employment reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint shall be referred promptly to the Superintendent. In addition, where the Principal or the Title IX coordinator has a reasonable suspicion that the alleged harassment involves criminal activity, he/she should immediately notify the Superintendent, who shall then contact appropriate child protection and law enforcement authorities. Where criminal activity is alleged or suspected by a district employee, the accused employee shall be suspended pending the outcome of the investigation, consistent with all contractual or statutory requirements.

Any party who is not satisfied with the outcome of the initial investigation by the Principal or the Title IX coordinator may request a district-level investigation by submitting a written complaint to the Superintendent within 30 days.

#### B. District-level Procedure

The Superintendent shall promptly investigate and resolve all sexual harassment complaints that are referred to him/her by a Principal or Title IX coordinator, as well as those appealed to the Superintendent following an initial investigation by a Principal or Title IX coordinator. In the event the complaint of sexual harassment involves the Superintendent, the complaint shall be filed with or referred to the Board President, who shall refer the complaint to a trained investigator not employed by the district for investigation.

The district level investigation should begin as soon as possible but not later than three working days following receipt of the complaint by the Superintendent or Board President.

In conducting the formal district level investigation, the district will use investigators who have received formal training in sexual harassment investigation or that have previous experience investigating sexual harassment complaints.

If a district investigation results in a determination that sexual harassment did occur, prompt corrective action will be taken to end the harassment. Where appropriate, district investigators may suggest mediation as a means of exploring options of corrective action and informally resolving the complaint.

No later than 30 days following receipt of the complaint, the Superintendent (or in cases involving the Superintendent, the Board-appointed investigator) will notify the target and alleged harasser, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Superintendent or Board-appointed investigator will provide all parties with a written status report within 30 days following receipt of the complaint.

The target and the alleged harasser have the right to be represented by a person of their choice, at their own expense, during sexual harassment investigations and hearings. ~~In addition, targets have the right to register sexual harassment complaints with the U.S. Department of Education's Office for Civil Rights.~~

## **External Remedies**

*NEW NOTE: We have moved the above sentence (struck out) regarding the Office of Civil Rights (OCR) to be in this separate section, and have added contact information for the OCR, Equal Employment Opportunity Commission and the NYS Division of Human Rights.*

In addition, targets have the right to register sexual harassment complaints with the U.S. Department of Education's Office for Civil Rights (OCR). The OCR can be contacted at (800) 421-3481, 400 Maryland Avenue SW, Washington, DC 20202-1100, or at <https://www2.ed.gov/about/offices/list/ocr./docs/howto.html>.

Employee targets also have the right to register complaints with the federal Equal Employment Opportunity Commission (EEOC) and the New York State Division of Human Rights (DHR). The EEOC can be contacted at (800) 669-4000, <https://www.eeoc.gov/employees/howtofile.cfm>, [info@eeoc.gov](mailto:info@eeoc.gov), or at 33 Whitehall Street, 5th Floor, New York, NY 10004 or 300 Pearl Street, Suite 450, Buffalo, NY 14202. The DHR can be contacted at (888) 392-3644, [www.dhr.ny.gov/complaint](http://www.dhr.ny.gov/complaint), or at 1 Fordham Plaza, Fourth Floor, Bronx, NY 10458.

*NEW NOTE: We have added the underlined text below to refer to the right of targets to contact law enforcement, as included in the DOL model policy. We have also added a clarification that contracts or agreements may not include binding arbitration clauses after July 11, 2018 (contracts currently in effect are exempt).*

*Mandatory arbitration clauses for sexual harassment are prohibited by the State Civil Practice Law and Rules §7515. Mandatory arbitration clauses are provisions in a contract or collective bargaining agreement which require conflicts to be addressed by an arbitrator before bringing the matter to court. While mandatory arbitration clauses are not common in employee agreements, please make sure that no contract entered into after July 11, 2018 (including those with contractors, vendors, and consultants) contains a mandatory arbitration clause.*

Nothing in these regulations shall be construed to limit the right of the complainant to file a lawsuit in either state or federal court, or to contact law enforcement officials if the sexual harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, which may constitute a crime. No district contract or collective bargaining agreement entered into after July 11, 2018 may include a binding arbitration clause for sexual harassment requiring arbitration before bringing the matter to a court.

## **Nondisclosure agreements**

*NOTE: The paragraph below addresses nondisclosure agreements, which are only permitted at the complainant's discretion under State General Obligations Law (§5-336) and Civil Practice Law and Rules (§5003-b). Complainants have 21 days to consider such agreements, and 7 days to revoke the agreements.*

The district may include nondisclosure agreements (to not disclose the underlying facts and circumstances of a sexual harassment complaint) in any sexual harassment settlement agreement or resolution only if it is the complainant's preference. Any such nondisclosure agreement shall be provided to all parties. Complainants shall have twenty-one days to consider any such nondisclosure provision before it is signed by all parties, and shall have seven days to revoke the agreement after signing. Nondisclosure agreements shall only become effective after this seven-day period has passed.

## Retaliation Prohibited

*NEW NOTE: We have added the underlined text below to include other forms of retaliation listed in the DOL model policy, and to clarify that protections apply to those acting in good faith.*

Any act of retaliation against any person who opposes sexually harassing behavior, or who has filed a complaint in good faith, is prohibited and illegal, and therefore subject to disciplinary action. Likewise, retaliation against any person who has in good faith, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a sexual harassment complaint is prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing phone calls, discipline, discrimination, demotion, denial of privileges, any action that would keep a person from coming forward to make or support a sexual harassment claim, and any other form of harassment. Such actions need not be job- or education-related, or occur in the workplace or educational environment, to constitute unlawful retaliation. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension or termination.

## Discipline/Penalties

Any individual who violates the sexual harassment policy by engaging in prohibited sexual harassment will be subject to appropriate disciplinary action. Disciplinary measures available to school authorities include, but are not limited to the following:

**Students:** Discipline may range from a reprimand up to and including suspension from school, to be imposed consistent with the student conduct and discipline policy and applicable law.

**Employees:** Discipline may range from a warning up to and including termination, to be imposed consistent with all applicable contractual and statutory rights.

**Volunteers:** Penalties may range from a warning up to and including loss of volunteer assignment.

**"Non-employees"** (i.e., contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees): Penalties may range from a warning up to and including loss of district business.

**Other individuals:** Penalties may range from a warning up to and including denial of future access to school property.

## False Complaints

False or malicious complaints of sexual harassment may result in corrective or disciplinary action taken against the complainant.

## Training

*NEW NOTE: We have modified the paragraph below to conform to DOL guidance and FAQ about providing this policy and regulation to employees.*

All students and employees shall be informed of this policy in student and employee handbooks, on the district website and student registration materials. A poster summarizing the policy shall also be posted in a prominent location at each school. All secondary school student body officers shall receive district training about the policy at the beginning of each school year. The district shall provide all existing employees with either a paper or electronic copy of the district's sexual harassment policy and regulation, and shall provide the same to new employees before the employee starts his/her job.

In addition, age-appropriate curricular materials will be made available so that it can be incorporated in instruction K-12 to ensure that all students are educated to recognize and report sexual harassment.

***NEW NOTE:** Training for existing employees must be completed by October 9, 2019, under the final DOL materials (under the draft materials it was to have been January 1, 2019). We have modified the paragraph below regarding training to conform to guidance from the DOL regarding new employees. Note that if the district employs minors/students, they must receive training as well. However, employees under 14 can be provided with simplified training.*

All new employees shall receive ~~information about~~ training on this policy and regulation at new employee orientation or as soon as possible after starting their job, unless he/she can demonstrate that they have received equivalent training within the past year from a previous employer. All other employees shall be provided ~~information~~ training at least once a year regarding this policy and the district's commitment to a harassment-free learning and working environment. Principals, Title IX coordinators, and other administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment shall receive yearly training on this policy, regulation and related legal developments.

***NEW NOTE:** Labor Law 201-g requires annual sexual harassment training for employees. The DOL is charged with developing a model training program in consultation with the NYS Division of Human Rights. All employers (including school districts and BOCES) must either use this training program or one that at least meets the minimum standards of the model. The paragraph below outlines the main requirements, and has been modified to include elements from the model training and guidance from the DOL. The DOL model training and standards can be found at <https://www.ny.gov/combating-sexual-harassment-workplace/employers>.*

Annual employee training programs shall be interactive and include: (i) an explanation of sexual harassment consistent with guidance issued by the NYS Department of Labor and the NYS Division of Human Rights; (ii) examples of conduct that is unlawful sexual harassment; (iii) information on federal and state laws about sexual harassment and remedies available to victims of sexual harassment; ~~and~~ (iv) information concerning employees' right to make complaints and all available forums for investigating complaints; and (v) address the conduct and responsibilities of supervisors.

***NEW NOTE:** The new law does not address how "non-employees" are to be notified of the district's sexual harassment policy. We suggest discussing with the district's counsel including language in contracts that addresses the actions that vendors/contractors will take to inform their employees of the district's sexual harassment policy and regulation, as well as the district's role. The DOL FAQ advises that employers are not required to train "non-employees" and do not need to provide a copy of their sexual harassment policy.*

Principals in each school and program directors shall be responsible for informing students and staff on a yearly basis of the terms of this policy, including the procedures established for investigation and resolution of complaints, general issues surrounding sexual harassment, the rights and responsibilities of students and employees, and the impact of sexual harassment on the target.

***NOTE:** The Board should be aware that the Public Employment Relations Board (PERB) has held that to the extent that a school district's sexual harassment regulations relate to investigatory and disciplinary procedures involving employees, the regulation is a mandatory subject of bargaining. (Patchogue-Medford UFSD, 30 PERB ¶ 3041 (1997)). Before adopting this regulation, the Board should consult with its labor counsel to determine whether the provisions contained in the regulation dealing with investigations of employee conduct and employee discipline represent a change in existing district practice or are in conflict with existing collective bargaining agreements.*

Adoption date:

Adoption Date:  
Classification:  
Revised Dates: ; **10.18**

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NYSSBA Sample Policy

Required  
 Local  
 Notice

### “CHARGING” SCHOOL MEALS AND PROHIBITION AGAINST SHAMING

***NOTE:** As part of the 2018-19 NY state budget, Education Law §908 requires certain\* school districts that participate in the National School Lunch Program or School Breakfast Program to take actions to prevent student “meal shaming.” This includes providing a student who has insufficient funds with the reimbursable meal of the student’s choice (i.e., alternate meals are no longer permitted), unless the parent/guardian has provided written permission to withhold meals. Districts also may not utilize debt collectors (i.e., third parties or collection agencies), nor may they charge interest or fees in connection with unpaid meals.*

*Education Law §908 requires that districts must provide students with the reimbursable meal of the student’s choice (of that day’s choices) when they have unpaid meal fees, and can “charge” parents for those meals. However, the law also says that it is not intended to allow for the unlimited accrual of debt. The law does not set a limit on how many charges can be accrued, or what school districts should do once a student has accrued a “high” amount of debt.*

*The law only requires districts to provide students with access to reimbursable meals. In addition, the USDA does not allow districts to permit students to charge anything else, such as à la carte items, snacks, extra meals, or adult meals. Your district may find it difficult to discreetly enforce this provision. If a student wished to purchase just part of a reimbursable meal (e.g., a side dish or entrée), but had insufficient funds, the student would not be permitted to charge just that item (at a lower cost than the full meal), and would be forced to take, and be charged for, the full meal cost. Likewise, if a student wished to purchase a snack, or extra side dish with a meal, but had insufficient funds or a negative balance, that snack or side dish would have to be refused or taken away. This may be embarrassing to the student, but is not prohibited by law.*

*Some solutions are: have all snack items sold in a separate area, not sell any à la carte items, restrict such items to middle and upper grades, require such items be purchased with cash only, have the point of sale be at the beginning of the line, help students determine which items they can have prior to purchase, or allow students to check their balances prior to purchase.*

*\* This policy is not required if all schools in the district participate in either “Community Eligibility” where all students receive free meals because at least 40% of students are eligible for other assistance programs, or “Provision 2” where the district receives reimbursement for a fixed proportion of free, reduced price, and paid meals, provides all students receive free meals, and makes up the difference, for a four-year period. Under these scenarios (or if the district has approved the local tax levy to provide all meals free), no student pays for a meal, thus none would need to charge a meal.*

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The Board of Education recognizes that on occasion, students may not have enough funds for a meal. To ensure that students do not go hungry, the Board will allow students who do not have enough funds to “charge” the cost of meals to be paid back at a later date subject to the terms in this policy.

To comply with State guidelines and maintain a system for accounting for charged meals, regarding both full and reduced-price meals, the Board shall:

1. allow only regular reimbursable meals to be charged, excluding extras, à la carte items, side dishes, additional meals, and snacks (“competitive foods”); and
2. use a computer-generated point of sale system, which identifies and records all meals as well as collects repayments.

Charged meals must be counted and claimed for reimbursement on the day that the student charged (received) the meal, not the day the charge is paid back. When charges are paid, these monies are not to be considered “à la carte” transactions, as a section on the daily cash report or deposit summary reads “charges paid.”

Students shall not be denied a reimbursable meal, even if they have accrued a negative balance from other cafeteria purchases, unless the parent/guardian has provided written permission to the school to withhold a meal. No student with unpaid charges will be prohibited from purchasing food if they have money that day.

If school food authorities (SFAs) suspect that a student may be abusing this policy, written notice will be provided to the parent/guardian.

***NOTE:** The following paragraph reflects the requirements of Education Law §908, except the last sentence, which we believe is not prohibited by law. We believe students should understand why they are not allowed to charge a la carte items, as long as it is done discreetly.*

Students who cannot pay for a meal or who have unpaid meal debt shall not be publicly identified or stigmatized (including wristbands or hand stamps), required to do chores or work to pay for meals, or have meals thrown away after they have been served. District staff shall not discuss a student’s unpaid meal debt in front of other students. The district shall not take any action directed at a student to collect unpaid school meal fees. However, the district may discreetly notify students of their account balances, and why certain items (e.g., à la carte, etc.) could not be provided with charged meals.

### Student Account Balance Notification

***NOTE:** Districts using automated systems for payment or collections should address automatic low balance notifications and automatic replenishment options.*



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[*Optional sentence:*] The district's payment system allows for automatic replenishment when a balance reaches a certain amount set by the parent/guardian. The district shall encourage parents/guardians to utilize this option.

*NOTE: The law requires schools to notify parents/guardians when an account is at \$0 and unpaid meal charges are due. We believe notifying parents/guardians when an account balance nears zero is beneficial, rather than waiting until it is at zero.*

Parents/guardians shall be discreetly notified of student account balances regularly. When a student's account balance falls to \$ \_\_\_\_\_ (*insert dollar amount above \$0.00, e.g., \$10.00*) and whenever a meal is charged, the district will discreetly notify the parent/guardian of the balance, and the process to refill the account. This notification will continue regularly until the account is replenished. Parents/guardians must repay all unpaid charges remaining at the end of the year or before their child leaves the district, whichever occurs first.

*NOTE: It is beneficial to both parents/guardians and the district if all children who are eligible for free or reduced price meals actually receive free or reduced price meals. If a child eligible for free or reduced price meal eats at the full rate, but leaves charges unpaid, the charges accrued are higher than they need to be. Additionally, the district receives less federal and state reimbursement for the full price meal, and would have to make up a higher amount.*

*Schools must also contact parents/guardians when a student owes money for five or more meals in order to assist the parent/guardian with applying for free or reduced price meals, as well as determine if the student is eligible for direct certification or if there are other household issues.*

The district shall discreetly notify parents/guardians of students with negative balances of at least five meals, determine if the student is directly certified to be eligible for free meals, and attempt to reach the parent/guardian to assist them in the application process for free and/or reduced price meals, and determine if there are other issues within the household causing the insufficient funds and offer appropriate assistance. If a parent/guardian regularly fails to provide meal money and does not qualify for free or reduced price meals, the district may take other actions as appropriate, including notifying the local department of social services if neglect is suspected.

The school district shall notify all parents/guardians in writing on an annual basis at the start of the school year and to families transferring during the year, outlining the requirements of this policy. The policy shall also be published in appropriate school and district publications. All staff involved in implementing and enforcing this policy shall also be notified of these requirements and their responsibilities. The district's enrollment process shall include the application process for free and reduced price meals. If the district becomes aware that a student is so eligible, it shall file an application for the student. Staff responsible for assisting foster, homeless and migrant students shall coordinate with the food services staff to ensure such students receive free school meals.

Unpaid Meal Charges and Debt Collection

*NOTE: Federal regulations permit the cost of collection activities to be charged to the federal school food program, not to exceed the actual amount owed. However, students with unpaid meal charges at the start of the school year must still be allowed to charge reimbursable meals, and the district may not engage outside collection agencies.*

Unpaid meal charges are a financial burden to the district and taxpayers and can negatively affect the school program. Unpaid meal charges shall be considered “delinquent” as per the district’s accounting practices. The district shall attempt to recover unpaid meal charges before the end of the school year, but may continue efforts into the next school year. The district shall notify parents/guardians of unpaid meal charges at regular intervals, and may engage in collection activities by district staff, which do not involve debt collectors as defined in federal law (15 USC §1692a), and may not charge fees or interest. The district shall offer repayment plans, and may take other actions that do not result in harm or shame to the child, until unpaid charges are paid.

*NOTE: Any delinquent debt remaining for a student, which the district determines is no longer collectible, becomes “bad debt” and must be made up for with non-federal funding sources. We have not included a specific timeframe or method of determining when delinquent debt becomes bad debt. That can be done according to the district’s specific accounting practices. We believe it is not prudent to publicize a time after which debt will no longer be collected. Note also that under federal regulations, repayment of bad debt from unpaid meal charges are not an allowable expense for federal funds. Such alternate funding could come from donations, fundraisers, or other sources. If additional guidance is released, this policy may need further revision.*

Remaining Account Balances

*NOTE: Federal regulations require that children eligible for reduced price meals pay a certain maximum amount per meal; retaining unused funds would result in the per meal price exceeding this amount. Therefore, all excess funds remaining for these children must be refunded.*

Remaining funds may be carried over to the next school year. When students leave the district or graduate, the district will attempt to contact the parent/guardian to return remaining funds. Parents/guardians may request that funds be transferred to other students (e.g., siblings, unpaid accounts). All transfer requests must be in writing. Unclaimed funds remaining after [*insert amount of time, such as: three months*] shall be absorbed by the school meal account.

Staff

*NOTE: Because subsidized food programs are meant to benefit students and not adults, and because unpaid balances are burdensome to the district, SED advises that staff members should*

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*not be allowed to buy food that is not paid for at that time. The second paragraph reflects a requirement under Education Law §908.*

Staff members are allowed to purchase food from the district's food services. However, all purchases must be paid for at the point of sale (*insert as applicable:*) cash, payment account, credit/debit card). Staff members are not allowed to charge meals to be repaid later.

Building Principals, working with the head of food services, shall ensure that all district and food service staff with responsibilities under this policy will be trained on the provisions of this policy and the requirements of Education Law section 908.

Cross-ref: 8520, Free and Reduced Price Meal Services

Ref: 42 USC §1779 (Child Nutrition Act of 1966)  
42 USC §§1758(f)(1); 1766(a) (National School Lunch Act)  
2 CFR §200.426 (accounting for debt in federal programs)  
7 CFR §§210.9 210.12; 210.19; 220.13; 245.5 (accounting in federal school meal programs)  
Healthy, Hunger-Free Kids Act (Public Law 111-296), §143  
15 USC §1692a (debt collector defined)  
Education Law §908  
USDA Report to Congress, *Review of Local Policies on Meal Charges and Provision of Alternate Meals*, June 2016, [www.fns.usda.gov/sites/default/files/cn/unpaidmealcharges-report.pdf](http://www.fns.usda.gov/sites/default/files/cn/unpaidmealcharges-report.pdf)  
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*Meal Charge Plan Template*, NYSED (5/1/18), <http://www.cn.nysed.gov/content/meal-charge-and-prohibition-against-meal-shaming-policy-template>

Adoption date: