

RUSH-HENRIETTA CENTRAL SCHOOL DISTRICT  
**POLICY 0150**

**SEXUAL HARASSMENT**

The Rush-Henrietta Board of Education is committed to creating and maintaining a working and learning environment which is free from harassment, discrimination, and intimidation. Based upon the principles that individuals are entitled to be treated with dignity and respect, it is the policy of the Rush-Henrietta Central School District to strictly prohibit conduct which constitutes sexual harassment in any form. The board recognizes that harassment 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, non-discriminatory environment in which students can learn and employees can work productively.

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 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" is defined as 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," a form of sexual harassment, is defined as verbal, non-verbal or physical aggression, intimidation, or hostility that is based on actual or perceived gender identity, expression, and sexual stereotypes. (Consult Regulation 0150-R for examples of sexual harassment.)

The superintendent of schools is charged with implementing and enforcing a complaint procedure which affords every individual the opportunity to complain of any conduct contrary to this policy, as described in Regulation 0150-R. Employees are urged to report sexual harassment by filing a complaint internally with the district's Title IX coordinator (chief human resources officer) using the required form, Exhibit 0150-E.4. Employees also can file a complaint with a government agency or in court under federal or state anti-discrimination laws. 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, formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. If, after appropriate investigation, the district finds that a student, employee, certain "non-employees" or a third party has violated this policy, prompt corrective action will be taken. Anyone who violates this policy will be subject to disciplinary action, up to and including termination, in accordance with law and applicable collective bargaining agreements. Individual non-disclosure agreements may only be used as permitted by law. Mandatory arbitration clauses are prohibited in all district contracts and agreements.

Retaliation against any individual who complains of harassment, who reports or provides information about harassment, or who participates in investigations of such complaints is prohibited. For the purpose of this policy and associated guidelines and procedures, the term "individual" shall mean student, employee, certain "non-employees" (including contractors,

subcontractors, vendors, consultants, and other persons providing services pursuant to a contract, or their employees) and volunteers, interns, and other non-employees working in the district on a regular basis.

It is the responsibility of all Rush-Henrietta Central School District employees and students to ensure that their behavior and environment are maintained free of sexual harassment. No employee covered by this policy shall be subject to adverse action because the employee reports or provides information related to an incident of sexual harassment, or otherwise assists in any investigation of a sexual harassment complaint. The district will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee who retaliates against anyone involved in a sexual harassment investigation will be subject to disciplinary action, up to and including termination, in accordance with law and applicable collective bargaining agreements. Employees who believe they have been a target of such retaliation may also seek relief in other available forums, as described in Regulation 0150-R.

False accusations of sexual harassment, as determined by the same standards of proof used to judge the validity of allegations of sexual harassment, will be subject to disciplinary action up to and including, termination and referral to legal authorities.

A copy of this policy and its accompanying regulation are to be distributed to all personnel and students and posted in appropriate places, including on the district website. All new employees shall receive information about this policy and related regulations at orientation. All other employees shall be provided information and training at least once a year regarding this policy and the district's commitment to a harassment-free learning and working environment.

The board shall periodically review and update this policy and all related regulations.

Cross-Ref: 0160, Intimidation Prevention  
1521, Civility  
5300, Student Conduct  
5303, Intimidation, Harassment, and Bullying Prevention

Ref: Education Amendments of 1972, Title IX, 20 U.S.C. §1681, et seq.  
Title VII of the Civil Rights Act (1964), 42 U.S.C. §2000-e, 34 CFR §100  
Executive Law §296-d  
Labor Law §201-g  
Civil Practice Law and Rules §§5003-b, 7515

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RUSH-HENRIETTA CENTRAL SCHOOL DISTRICT  
**REGULATION 0150-R**

## **SEXUAL HARASSMENT GUIDELINES**

The Rush-Henrietta Central School District has adopted a policy which protects individuals from sexual harassment. Administrators have a vital role in enforcing the district's sexual harassment policy and the accompanying procedures developed for employees, students, and parents. It is the administrator's responsibility to maintain a non-threatening environment which includes disseminating the policy and procedures and encouraging individuals to come forward if they have been a victim of sexual harassment. Administrators may also be involved in the investigation procedure and the opportunity to be heard. The investigations will culminate in a written report, including recommendations for disciplinary action, if appropriate.

### **Unacceptable conduct**

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" is defined as 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," a form of sexual harassment, is defined as verbal, non-verbal or physical aggression, intimidation, or hostility that is based on actual or perceived gender identity, expression, and sexual stereotypes.

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:

- submission to that conduct is made either explicitly or implicitly a term or condition of an individual's employment or a student's education
- submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment or a student's education
- 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.

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 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 innuendos 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
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.

Any of the behaviors described above that occur on school grounds, school buses, or at any school-sponsored activities, programs or events, including those that take place at locations outside the district or outside the school setting, can be considered sexual harassment if the conduct 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).

Complaints of sexual harassment will be thoroughly investigated to determine whether the behavior and circumstances meet the definition of sexual harassment and should therefore be treated as sexual harassment. Not all unacceptable conduct may constitute sexual harassment; however, employees who engage in objectionable behavior that does not rise to the level of sexual harassment may be subject to disciplinary action, up to and including termination and/or additional mandated training.

### **Complaint and investigation**

The chief human resources officer\* is responsible for investigating sexual harassment complaints made by all individuals except for complaints involving student against student. The school principal or designee will perform this function for students in his/her building with advice and support from the chief human resources officer. The school district is responsible for investigating all reports of sexual harassment regardless of whether a formal complaint is filed. In particular, rumors of improper employee-student relationships should be taken seriously. All supervisors, managers, directors, and administrators who receive a complaint or information about suspected sexual harassment, who observe what may be sexually harassing behavior, or who for any reason suspect that sexual harassment is occurring are required to report such suspected sexual harassment to the chief human resources officer. All complaints and information about sexual harassment, whether verbal or written, will be investigated.

Investigations will follow these guidelines:

- All complaints will be investigated in a timely manner and completed as soon as possible. The chief human resources officer or designee will conduct an immediate review of the allegations and take any interim actions as appropriate (such as instructing alleged harassers from refraining from contact with the complainant).
- The investigation will be kept confidential to the extent possible.
- All persons involved, including complainants, witnesses and alleged harassers, will be accorded due process in accordance with applicable law and collective bargaining agreements in a fair and impartial investigation.
- All pertinent notes, documents, electronic communications, etc., shall be obtained, reviewed, and preserved to the extent possible.
- Written documentation of the investigation will be created and kept in a secure and confidential location. A written report or summary of the investigation will be given to the superintendent of schools.
- The reporting individual(s), as well as the individual(s) about whom the complaint was made, will be notified promptly of the determination of the investigation.
- Corrective actions, as deemed necessary, will be implemented promptly and in accordance with law and applicable collective bargaining agreements. Employees found to have committed sexual harassment will be subject to disciplinary action, up to and including termination.
- The investigator will inform the complainant of the right to file a complaint or charge externally as outlined in this regulation.

\*If deemed more appropriate (e.g., gender issues, previous employment relationships, etc.), the superintendent may appoint another designee to conduct the investigation of the complaint.

## **Legal protections and external remedies**

Sexual harassment is not only prohibited by the district, but also by state and federal law. Aside from the district's internal investigation process, employees may also choose to pursue legal remedies with governmental entities, including:

- State Division of Human Rights – The state Human Rights Law applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns, and non-employees. A complaint alleging violation of the Human Rights Law may be filed with the Division of Human Rights within one year of the conduct. An individual may file suit with the State Supreme Court within three years of the conduct if they have not also filed with the Division of Human Rights.
- Equal Employment Opportunity Commission (EEOC) – The United States EEOC enforces federal anti-discrimination laws. An individual can file a complaint with the EEOC within 300 days of the conduct, and the EEOC will investigate. If the EEOC finds reasonable cause to believe that discrimination has occurred, the individual may have the right to file a complaint in federal court.
- Local protections – Many localities enforce laws protecting individuals from sexual harassment and discrimination. Individuals should contact the county, city, or town in which they live to find out whether such remedies exist.

These external remedies are also available to employees who feel they have been retaliated against after making or supporting a sexual harassment complaint. While a private attorney is not required to file a complaint with a governmental agency, employees may seek the advice of an attorney.

The school district has a great responsibility in this area and faces substantial liability if the law and policies are not enforced. Administrators are encouraged to direct any questions or concerns on this subject to the chief human resources officer.

## **Required training**

All employees shall be provided information and training at least once a year regarding this policy and the district's commitment to a harassment-free learning and working environment. Such training shall include:

- An explanation of sexual harassment consistent with guidance issued by the state Department of Labor and the Division of Human Rights
- Examples of conduct that constitutes unlawful sexual harassment
- Information on federal and state laws about sexual harassment and remedies available to victims of sexual harassment
- Information concerning employees' right to make complaints, the process for complaints, and available in-district and external forums for investigating complaints
- Interactive features to evaluate participants' understanding of the policy and reporting procedures, and to confirm completion of the training
- Contact information for individuals in the district who can provide direct communication and/or in-person consultation about the policy.

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RUSH-HENRIETTA CENTRAL SCHOOL DISTRICT  
**EXHIBIT 0150-E.1**

**SEXUAL HARASSMENT – EMPLOYEES**

Any employee who believes he or she has been the subject of sexual harassment at work is encouraged to promptly report the incident to his/her supervisor or the chief human resources officer. If the immediate supervisor is named in the harassment charge, the employee may report the complaint to the next level of management or to the chief human resources officer. The supervisor who is notified of a sexual harassment charge shall promptly report such information to the chief human resources officer. This process also applies to certain “non-employees” (including contractors, subcontractors, vendors, consultants, and other persons providing services pursuant to a contract, or their employees) and volunteers, interns, and other non-employees working in the district on a regular basis.

The chief human resources officer is charged with investigating all complaints of sexual harassment, consistent with the process described in Regulation 0150-R. This investigation shall be conducted promptly and may include interviews with the complainant, the individual identified as the harasser, and any relevant witnesses.

The report shall be filed with the superintendent, who will determine what, if any, action shall be taken in light of the findings. The superintendent may reverse, amend, or affirm the determination or decide to conduct a further investigation. The superintendent’s decision may be appealed to the Board of Education within 30 days. The board will review the record and may reverse, amend, or affirm the superintendent’s determination.

In the case of a complaint against, or an investigation of the chief human resources officer, the superintendent of schools shall assume responsibility for the conduct of the investigation. In the case of a complaint against, or an investigation of the superintendent, the chief human resources officer will notify the school attorney and the president of the Board of Education. The board will designate an appropriate party to conduct the investigation. The report will be filed with the board to take appropriate action.

If a finding is made that sexual harassment by an employee has occurred, disciplinary action may result, including: a formal letter of reprimand, suspension with or without pay, a fine, or dismissal from employment. Any disciplinary action shall be taken only in accordance with the law and applicable collective bargaining agreements.

If the investigation finds that the accusation of sexual harassment is false, disciplinary action may result, including: a formal letter of reprimand, suspension with or without pay, a fine, or dismissal from employment. Any disciplinary action shall be taken only in accordance with the law and applicable collective bargaining agreements.

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RUSH-HENRIETTA CENTRAL SCHOOL DISTRICT  
**EXHIBIT 0150-E.2**

**SEXUAL HARASSMENT – STUDENTS**

The Rush-Henrietta Central School District has adopted a policy prohibiting sexual harassment in any form. Sexual harassment is defined as unwelcome verbal, non-verbal, or physical conduct of a sexual nature, examples of which are set forth in Regulation 0150-R. If you believe that you have been the victim of sexual harassment by anyone in school, you should report it immediately to your teacher, your counselor, or an administrator in your school. If the principal is involved in your complaint, you are encouraged to contact the chief human resources officer in the school district's administration building.

If the person you have complained about is a student, your complaint will be referred to the school principal or designee, who will be responsible for investigating your complaint. Your complaint will be taken seriously and will be investigated fully. Employees or students who violate the policy on sexual harassment will be subject to disciplinary action, which for students can include suspension from school. Your complaint and any information learned in the course of the investigation will be shared with others only on a need-to-know basis. You will be protected from retaliation by anyone involved. Complaints should be made using the standard form, Exhibit 0150-E.4.

If the person accused of sexual harassment is a teacher or other employee, the investigation will be conducted by the chief human resources officer or by the superintendent of schools. Based upon the investigation, the superintendent shall make a determination as to whether the person complained of has been guilty of sexual harassment and if so, what, if any, disciplinary action shall be taken. In cases involving alleged employee misconduct, if the complaining party is not satisfied with the outcome, he/she may request a review by the superintendent. In either case, such request shall be made in writing and filed with the school district clerk within 30 days following the original determination.

False accusations of sexual harassment may result in disciplinary action including, when appropriate, referral to legal authorities.

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RUSH-HENRIETTA CENTRAL SCHOOL DISTRICT  
**EXHIBIT 0150-E.3**

**SEXUAL HARASSMENT – PARENTS**

The Rush-Henrietta Central School District is responsible for providing a safe environment which is conducive to learning and which promotes the positive development of each student. The parents of Rush-Henrietta students are encouraged to take an active role in the education of their children and to carefully monitor their child's school environment. The school district actively solicits comments, questions, and concerns from parents on issues related to their child's status in school.

A parent, guardian, or other adult who is legally responsible for a Rush-Henrietta student is responsible for notifying the school district whenever he/she believes that the student has been sexually harassed by a Rush-Henrietta school district employee, another student, or any individual associated with the school district. The complaint should be directed to the school principal who is responsible for investigating the matter if it involves one student against another student. The concern should be directed to the chief human resources officer in the school district's administration building in the event of a complaint made against an employee or other adult. Complaints should be made using the standard form, Exhibit 0150-E.4.

Each complaint will be taken seriously and will be investigated fully. The complaint and any information learned in the course of the investigation will be shared with others only on a need-to-know basis. The person who filed the complaint will be advised of the outcome of the investigation, and all necessary steps will be taken to prevent retaliation against the parent and/or student involved in filing the complaint. Parents of students who file complaints are welcome to participate in the investigation of the complaint. Parents of student targets and accused students shall be notified within one school day of allegations that are serious or involve repeated conduct.

In cases involving alleged student misconduct, if the complaining party is not satisfied with the outcome, he/she may request a review by the superintendent of schools. In cases involving alleged employee misconduct, the complaining party may request a review of the superintendent's determination by the Board of Education. In either case, such a request shall be made in writing and filed with the school district clerk within 30 days following the original determination.

False accusations of sexual harassment may result in disciplinary actions including, when appropriate, referral to legal authorities.

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RUSH-HENRIETTA CENTRAL SCHOOL DISTRICT  
**EXHIBIT 0150-E.4**

**SEXUAL HARASSMENT COMPLAINT REPORTING FORM**

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form to report alleged incidents of sexual harassment. This form is intended to be used by students, employees, parents/guardians, and non-employees who work in the district on a regular basis.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form to the best of your ability and submit it to the principal or the district's chief human resources officer. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, the district should complete this form, provide you with a copy, and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form and in Regulation 0150-R. For additional resources, visit <https://www.ny.gov/programs/combating-sexual-harassment-workplace>.

<p><b>YOUR INFORMATION</b> (for all individuals making a complaint)</p>
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Your Name:

Name of Student (for parents/guardians):

Home Address:

Home or Cell Phone:

E-mail:

School and Grade Level (for students):

Work Address (for employees):

Work Phone (for parents/guardians/employees):

Job Title (for employees):

Preferred Communication Method (please select one): phone, e-mail, mail, in person

**SUPERVISOR INFORMATION** (for employees making a complaint)

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

**COMPLAINT INFORMATION** (for all individuals making a complaint)

1. Your complaint of Sexual Harassment is made against:

Name:

Job Title (if an employee):

Grade/Class (if a student):

School Address or Work Location (if known):

Phone (if known):

Relationship to you (please circle one below):

*For employees:*

Supervisor    Subordinate    Co-worker    Student    Other

*For students:*

Teacher    Other Staff Member    Other

*(Please use the space below if the complaint is against multiple people.)*

2. Please describe what happened and how it is affecting you and your work or education.  
*Please use additional sheets, if necessary, and attach any relevant documents or evidence.*

3. Date(s) and location(s) sexual harassment occurred: \_\_\_\_\_

Is the sexual harassment continuing? \_\_\_\_\_ Yes \_\_\_\_\_ No

4. Please list the name and contact information (if known) of any witnesses or individuals who may have information related to your complaint:

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Instructions for the district**

If the district receives a complaint about alleged sexual harassment, it must follow the district's sexual harassment prevention policy by investigating the allegations through actions including:

- Speaking with the complainant
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

Although the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible, and all documentation related to it must be kept in a secure and confidential location.

The investigator must document all findings of the investigation and the basis for those findings, along with any corrective actions taken. The investigator must notify the complainant (and the parent/guardian if the complainant is a student) and the individual(s) against whom the complaint was made. This may be accomplished via e-mail.

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