

# KIPP: Capital Region

PUBLIC SCHOOLS

## ANTI-DISCRIMINATION, HARASSMENT, AND RETALIATION POLICY

### ABOUT US

KIPP Capital Region is a part of a national network of high-performing public Charter Schools committed to creating joyful, academically excellent, and prepared students with the skills, ability, and confidence to pursue their paths to college, career, and beyond.

### ANTI-DISCRIMINATION, HARASSMENT, AND RETALIATION

KIPP Capital Region is committed to providing a work environment free from all forms of discrimination, harassment, or retaliation.

Discrimination of any kind, including sexual harassment, is a violation of our policies, is unlawful, and may subject KIPP Capital Region to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability, and employers or supervisors who fail to report or act on harassment may be liable for aiding and abetting such behavior. Employees at every level who engage in harassment, retaliation, or discrimination, including managers and supervisors who engage in harassment, retaliation, or discrimination or who allow such behavior to continue, will be penalized for such misconduct.

All employees and covered individuals are encouraged to report any harassment or behaviors that violate this policy. All employees will have access to a complaint form to report harassment and file complaints. Use of this form is not required. For anyone who would rather make a complaint verbally or by email, these complaints will be treated with equal priority. An employee or covered individual who prefers not to report harassment to their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency.

Managers and supervisors must report any complaint they receive or any harassment that they observe or become aware of, to Human Resources.

### EQUAL EMPLOYMENT OPPORTUNITY STATEMENT

KIPP Capital Region provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, alienage or citizenship status, marital status, partnership status, physical or mental disability, pregnancy-related condition, predisposing genetic characteristics, military status, sexual orientation, status as a victim of domestic violence, sex offenses or stalking, familial status, reproductive health decision making, traits historically associated with race (such as hair texture and protective hairstyles), as well as religious attire/facial hair or any other characteristic protected by applicable federal, state, or local laws and ordinances. Equal employment opportunity applies to all terms and conditions of employment, including hiring, placement, promotion, termination, layoff, recall, transfer, leave of absence, compensation, and training. KIPP Capital Region will also not unlawfully discriminate against applicants or employees based on arrest or conviction records.

KIPP Capital Region expressly prohibits any form of unlawful employee harassment or discrimination based on any of the characteristics mentioned above. Improper interference with the ability of other employees to perform their expected job duties is not tolerated.

KIPP Capital Region will endeavor to make reasonable accommodation of an otherwise qualified applicant or employee related to an individual's physical or mental disability, sincerely held religious beliefs and practices, and/or any other reason required by applicable law unless doing so would impose an undue hardship upon KIPP Capital Region's business operations.

Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of Human Resources. The organization will not allow any form of retaliation against individuals who raise issues of equal employment opportunity. Employees who feel they have been subjected to any such retaliation should bring it to the attention of Human Resources.

## **PROHIBITED HARASSMENT**

Harassment directed at an employee because of their protected status ("Prohibited Harassment") is a form of discrimination. Prohibited harassment violates not only applicable law but also KIPP Capital Region's commitment to protecting employees' safety. Consistent with applicable law and KIPP Capital Region's commitment to the health and safety of each employee, harassment based on race, color, creed, criminal history, religion, sex, sexual orientation, gender identity or expression, age, national origin, alienage or citizenship status, marital status, partnership status, physical or mental disability, pregnancy-related condition, predisposing genetic characteristics, military status, sexual orientation, status as a victim of domestic violence, sex offenses or stalking, familial status, reproductive health decision making, traits historically associated with race (such as hair texture and protective hairstyles), as well as religious attire/facial hair or any other characteristic protected by law, violates this policy and will not be tolerated. Any employee or individual covered by this policy who engages in unlawful harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).

Prohibited Harassment includes verbal, visual or physical conduct directed at an individual because of their protected status. Examples of Prohibited Harassment include but are not limited to:

- verbal conduct such as threats, epithets, derogatory comments or slurs;
- visual conduct such as derogatory posters, photographs, cartoons, drawings, gestures, emails, file transfers and postings on personal websites, social networks, weblogs and similar forms of social media;
- physical conduct such as assault, unwanted touching or blocking normal movement.

## **MICROAGGRESSIONS**

Microaggressive language or behavior within the workplace is a form of Prohibited Harassment and is against the Anti-Discrimination, Harassment, and Retaliation policy. Microaggressive conduct directed at a specific person or members of a historically marginalized group(s), such as subtle verbal, behavioral, and environmental indignities, whether intentional or unintentional, that cultivates a bias, hostile, derogatory, or negative work environment, is strictly prohibited.

Microaggressions are identity based everyday slights, insults, putdowns, invalidations, and offensive behaviors that people experience in daily interactions with generally well-intentioned individuals who may be unaware that they have engaged in demeaning ways.

Examples of Prohibited Micro aggressive include but are not limited to:

- environmental microaggression conduct, such as the display of images associated with culturally biased or derogatory themed mascots, nicknames, stereotypical representation, and logos.

- myth of meritocracy conducts such as statements that assert that individuals in a protected category or status do not play a role in life successes.
- pathologizing cultural values and communication styles based on the notion that the values and communication styles of one group of people is more dominant than the other.
- ascription of intelligence conduct, such as assigning intelligence to a person based on physical characteristics and traits.
- identity blindness conduct such as behaviors that deny a person or group of people's identities and/or experiences.

## SEXUAL HARASSMENT

Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment based on sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination, including gender role stereotyping and treating employees differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment.

The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary:

- A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female.
- A transgender person is someone whose gender is different from the sex they were assigned at birth.
- A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere between or completely outside the gender binary.

Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of KIPP Capital Region policy.

The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts.

Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual) or is of a sexual nature when:

- The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment. The impacted person does not need to

be the intended target of the sexual harassment.

- Employment depends implicitly or explicitly on accepting such unwelcome behavior.
- Decisions regarding an individual's employment are based on an individual's acceptance of or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of Sexual Harassment:

- Behaviors that contribute to a hostile work environment include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature or which are directed at an individual because of that individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements that an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance.
- Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment, or any other terms, conditions, or privileges of employment. This is also called quid pro quo harassment.

Any employee or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. This list is just a sample of behaviors and should not be considered exhaustive. Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

Physical acts of a sexual nature, such as:

- Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or
- Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).

Unwanted sexual advances or propositions, such as:

- Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits:
- This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially in those industries where hospitality and tips are essential to the customer/employee relationship.
- Subtle or obvious pressure for unwelcome sexual activities; or
- Repeated requests for dates or romantic gestures, including gift-giving.

Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to

interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.

Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:

- Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or
- Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.

Sexual or discriminatory displays or publications anywhere in the workplace, such as:

- Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.

Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:

- Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
- Sabotaging an individual's work;
- Bullying, yelling, or name-calling;
- Intentional misuse of an individual's preferred pronouns; or
- Creating different expectations for individuals based on their perceived identities;
- Dress codes that place more emphasis on women's attire;
- Leaving parents/caregivers out of meetings.

Please note that sexual harassment is gender-based and therefore can be directed at or perpetrated by individuals of either gender.

Sexual harassment is unacceptable. Any employee or covered individual who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for employees. In New York, harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.

All KIPP Capital Regional employees will be required to complete an annual sexual harassment training as a requirement of employment.

## **PROHIBITED DISCRIMINATION BASED ON REPRODUCTIVE HEALTH DECISIONS**

KIPP Capital Region prohibits employment discrimination based on an employee's or a dependent's reproductive health decision-making. Conduct prohibited by this policy, includes, but not limited to, the

discrimination based on an employee's decision to use or access a particular drug, device or medical service. The law prohibits KIPP Capital Region from:

- Accessing an employee's personal information regarding the employee's (or the employee's dependent's) reproductive health decisions, without the employee's prior informed affirmative written consent.
- Discriminating or taking any retaliatory personnel action against an employee with respect to compensation, terms, conditions or privileges of employment because of or based on the employee's (or the employee's dependent's) reproductive health decisions.
- Requiring an employee to sign a waiver or other document that purports to deny employees the right to make their own reproductive health care decisions.

Discrimination based on Reproductive Health Decisions is not only prohibited by KIPP Capital Region but is also prohibited by law.

Aside from the internal process at KIPP Capital Region, employees may also choose to pursue legal remedies. The law permits an employee to bring a civil action in any court of competent jurisdiction. Legal remedies available for violations of this law exceed those normally available in other discrimination cases. Those legal remedies include but are not limited to back pay, benefits, and reasonable attorney fees and costs, as well as injunctive relief and reinstatement against any employer that "commits or proposes to commit" a violation of the law.

Separately, the law provides for an additional award of civil penalties against retaliation against an employee for bringing a complaint under the law.

### **PROHIBITED PAY TRANSPARENCY DISCRIMINATION**

KIPP Capital Region will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of specific employees or applicants as a part of their essential job functions cannot disclose the pay of specific employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information. KIPP Capital Region also publishes pay schedules and grades for all categories of employees and those schedules and grades are available for employees to access at any point.

### **WORKPLACE PROTECTIONS FOR DOMESTIC VIOLENCE VICTIMS**

KIPP Capital Region prohibits workplace discrimination based on domestic violence victim status.

Specifically, for purposes of the NYSHRL's workplace protections, "victim of domestic violence" is now defined as any person over the age of 16, any married person, or any parent accompanied by their minor child in a situation where the person or their minor child is the victim of an act committed by a family or household member that violates the penal law (such as acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation or strangulation). The act must result in, or create a substantial risk of, physical or emotional injury to the person or the person's minor child.

The amended state law enumerates certain unlawful discriminatory practices with respect to victims of domestic violence in the workplace, including:

- Refusing to hire or terminating someone because he or she is a victim of domestic violence.
- Discriminating against a victim of domestic violence with respect to compensation or terms, conditions or privileges of employment.
- Printing or circulating a statement, advertisement or publication expressing any limitation, specification or discrimination about someone's status as a victim of domestic violence.
- Using an employment application or making an inquiry about prospective employment expressing any limitation, specification or discrimination about someone's status as a victim of domestic violence.

KIPP Capital Region will provide certain reasonable accommodations to an employee who is known to be a victim of domestic violence. Specifically, we may allow employee's reasonable time off for the following reasons:

- To seek medical attention for injuries caused by domestic violence.
- To obtain services from a domestic violence shelter, program or rape crisis center.
- To obtain psychological counseling related to an incident of domestic violence.
- To participate in safety planning or to take other actions to increase safety from future incidents of domestic violence.
- To obtain legal services, assist in the prosecution of the offense or appear in court in relation to the incident of domestic violence.

KIPP Capital Region will provide the accommodation unless the employee's absence constitutes an undue hardship (reviewing at the size of the Program, number of employees, type of facilities, budget, and composition and structure of the workforce). KIPP Capital Region may charge the time off given as an accommodation to any paid time off that the employee has available. If no paid time off is available, the time off may be treated as leave without pay.

Victims of domestic violence who must be absent from work must provide KIPP Capital Region with advance notice. If advance notice is not feasible, the employee must provide a certification to the KIPP Capital Region within a reasonable time after the absence, such as a police report; court order; or documentation from a medical professional, advocate or counselor.

## **PREGNANCY RIGHTS FOR EMPLOYERS IN THE WORKPLACE**

KIPP Capital Region may not fire an employee because she is pregnant or may become pregnant. Additionally, we may not change an employee's terms, conditions, and privileges of employment because of the employee's pregnancy, childbirth, or related conditions, including refusing to hire or promote a candidate because she is pregnant.

We will provide pregnant workers with requested reasonable accommodations for any pregnancy-related conditions, including:

- occasional breaks to rest or drink water,
- a modified work schedule,
- Allow to take PTO for related medical needs,
- available light duty assignments, and
- transfers away from hazardous duty

KIPP Capital Region may not require an employee to take leave because she is pregnant. If an employee takes a medical leave due to a pregnancy-related condition or childbirth, we will hold her job as applicable under other KIPP Capital Region leave related policies, the federal Family and Medical Leave Act, the New York State Disability Benefits Law, and the New York State Paid Family Leave Law.

## **TECHNOLOGY AND SOCIAL NETWORKING**

Although KIPP Capital Region respects the right of employees to access and use personal websites, social networking sites and similar forms of social media, any use of social media, our technology or the Internet to discriminate, harass or retaliate is unlawful and prohibited by this policy.

## **INDIVIDUALS AND CONDUCT COVERED**

This policy applies to all employees, applicants for employment, paid or unpaid interns, suppliers, vendors, visitors, students, consultants, contractors or any other party who does business with or on behalf of KIPP Capital Region, regardless of immigration status. In this document, the term “employees” refers to this collective group. Also included are people providing equipment repair, cleaning services, or any other services through a contract with KIPP Capital Region. All non-discrimination standards apply to all individuals in the workplace (even non-employees).

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

Harassment can occur when employees are working remotely from home as well. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

Harassment, retaliation or discrimination prohibited by this policy will not be tolerated. Any employee or individual covered by this policy who engages in harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, separation of employment).

## **NOTICE OF POLICY VIOLATION**

KIPP Capital Region is committed to protecting employees’ safety and helping employees respond appropriately to incidents of perceived discrimination, prohibited harassment, and retaliation. Any employee who believes their has been the subject of discrimination, prohibited harassment, or retaliation should report it immediately. KIPP Capital Region encourages open communication and encourages you to tell the offending individual(s) to stop the unwelcome behavior. If you do not feel comfortable about confronting the individual, or if you do confront the individual and the behavior continues, immediately report the situation to your direct supervisor, School Leader or a member of your Human Resources Team, other than the alleged offender. If the alleged offender is your supervisor, immediately report the situation to a member of your Human Resources Team.

Any employee who is aware of behavior which violates this policy is expected to promptly report it to his/her supervisor or the Human Resources Department. Any supervisor who is or becomes aware of a potential violation of this policy (either through observation or through a report) must immediately notify the Human Resources Department. A supervisor will be subject to discipline for failing to report suspected harassment or otherwise knowingly allowing harassment to continue.

Reports of discrimination, harassment or retaliation may be made verbally or in writing. To assist with KIPP Capital Region’s investigation of your complaint, please be prepared to provide details such as the nature of the complaint, where and when the alleged incident(s) occurred, what was said or done by whom, and if there



were any witnesses to the allegation(s). A Complaint Form is attached to this policy which can be used to report discrimination, harassment or retaliation.

KIPP Capital Region recognizes making a complaint of discrimination is an emotional event and takes the following steps to protect your safety during the course of its investigation and resolution of your complaint:

- All inquiries, complaints, and investigations are treated confidentially to the greatest extent possible;
- Discrimination complaints will be thoroughly and promptly investigated by the Vice President of Human Resources or her/his designee.
- An employee who makes a complaint will not be compelled to confront the person who is the subject of their complaint.
- Retaliation against an employee who raises a discrimination concern or who participates in an investigation of discrimination is prohibited, as discussed more fully below.
- The complaining party will be promptly notified of the results of the investigation. Appropriate remedial action will be taken in response to substantiated complaints of discrimination, which may include training, restoring lost employment benefits or opportunities, and disciplinary action against any employee who violates this policy, up to and including separation of employment.
- KIPP Capital Region will endeavor to follow up with you to ensure the discrimination has not resumed and you have not suffered retaliation.

## **RETALIATION PROHIBITED**

KIPP Capital Region will not permit retaliation of any kind against anyone who opposes a discriminatory practice, makes a good faith complaint about discrimination, or furnishes information or participates in any manner in an investigation of such a complaint. Retaliation includes any conduct, whether or not workplace or employment-related, directed at someone because he or she made a complaint of discrimination or participated in such an investigation, which might deter a reasonable worker from making or supporting a charge of harassment or discrimination. Retaliation is unlawful and will not be tolerated. Any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual from making a formal complaint or supporting a sexual harassment, retaliation or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Examples of retaliation may include, but are not limited to:

- Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an employee as “difficult” and excluding them from projects to avoid “drama”;
- Undermining an individual’s immigration status; or
- Reducing work responsibilities, passing over for a promotion, or moving an individual’s desk to a less desirable office location.

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Made a complaint of sexual harassment or discrimination, either internally or with any government agency;
- Testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law;
- Opposed sexual harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of suspected harassment;
- Reported that another employee has been sexually harassed or discriminated against; or
- Encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Any individual who believes he or she has been subject to retaliation should file a complaint using the procedure set forth above. Any employee who engages in retaliatory behavior will be disciplined, up to and including separation of employment.

KIPP Capital Region will use its best efforts to protect reporting employees against retaliation. Reports will be handled with sensitivity, discretion, and confidentiality to the extent allowed by the circumstances and law. This protection from retaliation is not intended to prohibit leadership from taking action, including disciplinary action in the usual scope of their duties and based on valid performance related factors.

## **REPORTING HARASSMENT, DISCRIMINATION & RETALIATION**

Everyone must work toward preventing harassment, discrimination, or retaliation, but leadership matters. Supervisors and managers have a special responsibility to ensure employees feel safe and that workplaces are free from harassment, discrimination, or retaliation. Any employee or covered individual is encouraged to report harassing or discriminatory behavior to a supervisor, manager, or Human Resources. Anyone who witnesses or becomes aware of potential harassment, discrimination, or retaliation should report such behavior to a supervisor, manager, or Human Resources.

Reports of harassment, discrimination, or retaliation may be made verbally or in writing. A written complaint form is in the appendix of this handbook if an employee would like to use it, but the complaint form is not required. Employees reporting harassment, discrimination, or retaliation on behalf of other employees may use the complaint form and should note that it is on another employee's behalf. A verbal or otherwise written complaint (such as an email) is also acceptable for oneself or another employee.

Employees and covered individuals who believe they have been a target of harassment, discrimination, or retaliation may at any time seek assistance in additionally available forums, as explained below in the section on Legal Protections.

## **SUPERVISORY RESPONSIBILITIES**

Supervisors and managers have a responsibility to prevent harassment, discrimination, or retaliation. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that harassment, discrimination, or retaliation is occurring, are required to report such suspected harassment, discrimination, or retaliation to Human Resources. Managers and supervisors should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act.

Supervisors and managers can be disciplined if they engage in sexually harassing, retaliating or discriminatory behavior themselves. Supervisors and managers can also be disciplined for failing to report suspected

harassment, discrimination, or retaliation or allowing harassment, discrimination, or retaliation to continue after they know about it.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment, discrimination, or retaliation, supervisors and managers must be mindful of the impact that harassment, discrimination, or retaliation and a subsequent investigation has on victims. Being identified as a possible victim of harassment, discrimination, or retaliation and questioned harassment, discrimination, or retaliation can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment, discrimination, or retaliation to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

## **BYSTANDERS INTERVENTION**

Any employee witnessing harassment, discrimination, or retaliation as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment, discrimination, or retaliation is required to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment, discrimination, or retaliation and wants to help.

- A bystander can interrupt the harassment, discrimination, or retaliation by engaging with the individual being harassed and distracting them from the harassing behavior;
- A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment, discrimination, or retaliation;
- A bystander can record or take notes on the harassment, discrimination, or retaliation incident to benefit a future investigation;
- A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
- If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment, discrimination, or retaliation in the workplace. Any employee witnessing harassment, discrimination, or retaliation as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment, discrimination, or retaliation is required to report it.

## **COMPLAINTS AND INVESTIGATIONS OF HARASSMENT, DISCRIMINATION OR RETALIATION**

All complaints or information about harassment, discrimination, or retaliation will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected harassment, discrimination, or retaliation will be prompt, thorough, and started and completed as soon as possible. The investigation will be kept confidential to the extent possible. All individuals involved, including those making a harassment claim, witnesses, and alleged harassers, deserve a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected harassment, discrimination, or retaliation. KIPP Capital Region will take disciplinary action against anyone engaging in retaliation against employees who file complaints, support another's complaint, or participate in harassment, discrimination, or retaliation investigations.

KIPP Capital Region recognizes that participating in a harassment, discrimination, or retaliation investigation can be uncomfortable and has the potential to retraumatize an employee. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, investigations will be done in accordance with the following steps. Upon receipt of a complaint, Human Resources:

- Will conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment, discrimination, or retaliation), as appropriate. If the complaint is verbal, request that the individual completes the complaint form in writing. If the person reporting prefers not to fill out the form, Human Resources will prepare a complaint form or equivalent documentation based on the verbal reporting.
- Will take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, emails or phone records that may be relevant to the investigation. Human Resources will consider and implement appropriate document request, review, and preservation measures, including for electronic communications.
- Will seek to interview all parties involved, including any relevant witnesses.
- Will create a written documentation of the investigation (such as a letter, memo, or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Will keep the written documentation and associated documents in a secure and confidential location;
- Will promptly notify the individual(s) who reported the harassment, discrimination, or retaliation and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and
- Will inform the individual(s) who reported of the right to file a complaint or charge externally as outlined in the next section.

## LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Sexual harassment is not only prohibited by KIPP Capital Region, but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at KIPP Capital Region, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental organization, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

### **State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to KIPP Capital Region does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Go to [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at **1(800) HARASS3** for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

### **The United States Equal Employment Opportunity Commission**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

## **NYS Sexual Harassment Hotline**

The New York State Division of Human Rights established a toll-free, confidential hotline for complainants of workplace sexual harassment. Employees can call the hotline and receive advice on their legal rights as applied to their specific circumstances from attorneys, who staff the hotline pro bono. As of July 20, 2022, the hotline is operational from 9 a.m. to 5 p.m., and can be reached at 1-800-HARASS-3 (1-800-427-2773).

## **Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

The policy outlined above is aimed at providing employees at KIPP Capital Region and covered individuals an understanding of their right to a harassment, discrimination, or retaliation free workplace. All employees should feel safe at work. Though the focus of this policy is on sexual harassment and gender discrimination, the New York State Human Rights law protects against discrimination in several protected classes, including sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or domestic violence survivor status. The prevention policies outlined above should be considered applicable to all protected classes.

