

## **Anti-Harassment and Discrimination Policy**

### **Commitment and Expectations**

Phillips Exeter Academy is committed to providing a place where people can thrive. The Academy thinks it is in the best interest of each individual and the Academy that we dedicate ourselves to creating an educational and working environment that promotes respect, dignity and equality and that is free from all forms of harassment, exploitation, intimidation, illegal discrimination and retaliation. These behaviors are demeaning to all persons involved. They are unacceptable conduct and will not be tolerated.

The Academy expects all employees, students and members of the Academy community to conduct themselves as outlined in the Code of Conduct, in an appropriate and professional manner, and with respect for the personal dignity of fellow employees, students and visitors. Harassment of any member of the Academy community by any other member of the Academy community or by vendors or visitors will not be tolerated. The Academy prohibits unlawful discrimination, sexual harassment, other unlawful harassment, and retaliation, whether intended or not.

Any employee with a concern about unlawful harassment, discrimination or retaliation should follow the procedures set forth below.

### **Definitions**

***Member of Academy Community*** refers to Academy employees, students and volunteers.

***Unlawful Discrimination*** refers to the denial of equal employment or educational opportunities based upon an individual's "legally protected status" (as defined below). The Academy is also committed to providing reasonable accommodations for qualified individuals with known disabilities, in accordance with the Americans with Disabilities Act and applicable state law.

***Legally Protected Status*** refers to race, color, religion, creed, sex, pregnancy, age, national origin, marital status, sexual orientation, genetic information, gender identity, gender expression, veteran status, application for military service, physical or mental disability, or any other status protected by applicable law.

***Unlawful Harassment*** refers to conduct or behavior, whether verbal, physical, written or visual, that denigrates or shows hostility or aversion toward an individual because of the individual's legally protected status, and that has the purpose or effect of creating an intimidating, hostile or offensive working or educational environment, or has the purpose or effect of unreasonably interfering with an individual's work or educational performance.

Examples of unlawful harassment include, but are not limited to, the following behavior when related to legally protected status: conduct or comments that threaten physical violence; offensive (to a reasonable person) unsolicited remarks; unwelcome gestures or physical contact; display or circulation of written materials, items or pictures degrading to any person's gender, race, ethnicity, religion, age, disability, or other legally protected status; and verbal abuse or

insults about or directed to any student, employee, or other individual, or group of students, employees or other individuals, because of their relationship to any of the groups listed above.

### ***Sexual Harassment***

Harassment on the basis of sex or gender shall not be tolerated. For the purpose of this definition, the word “sex” includes pregnancy and medical conditions that result from pregnancy. Sexual harassment means sexual advances; requests for sexual favors; verbal, non-verbal or physical conduct of a sexual nature; and/or any unwelcome conduct that is directed at an individual because of that individual’s sex or gender, when: (1) submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of employment or educational opportunity, or the basis for an employment or educational decision; or (2) such conduct has the purpose or effect of unreasonably interfering with work or educational performance or creating an intimidating, hostile, or sexually offensive work or educational environment for the intended target of the sexual harassment or anyone else who sees or experiences the conduct.

While it is not possible to list all of the circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment, depending on the circumstances:

- • sexual gossip or personal comments of a sexual nature;
- • sexually suggestive or foul language;
- • sexual jokes;
- • whistling or catcalling;
- • spreading rumors or lies of a sexual nature about someone;
- • demanding sexual favors;
- • forcing sexual activity by threat of punishment or offer of employment or educational reward;
- • obscene or sexually suggestive graffiti;
- • displaying, storing or sending of pornographic pictures or objects;
- • offensive touching, pinching, grabbing, kissing or hugging;
- • restraining someone’s movement in a sexual way;
- • repeatedly asking another person to socialize or for a date after the person has said no; or
- • hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity, and/or the status of being transgender, such as interfering with, destroying or damaging an individual’s workstation, tools, or equipment, or otherwise interfering with the individual’s ability for work or educational performance.

It is a violation of this policy (and possibly the law) for any employee or volunteer to make sexual advances or engage in sexual conduct with a student. Each employee and each volunteer must exercise their good judgment to avoid engaging in conduct that may reasonably be perceived by others as harassment.

***Racial, Color, and National Origin Harassment:*** Harassment on the basis of a person's actual or perceived race, color, or national origin includes but is not limited to the use of nicknames emphasizing racial stereotypes, racial slurs, and derogatory comments or conduct directed at an individual's manner of speaking, national customs, surname, ethnic characteristics or language. "National origin" includes ancestry.

***Religious Harassment:*** Harassment on the basis of a person's actual or perceived religion or creed includes but is not limited to the use of nicknames emphasizing religious stereotypes, religious slurs, and derogatory comments or conduct directed at an individual's religion, religious traditions, religious symbols or religious clothing.

***Sexual Orientation or Gender Identity/Expression Harassment:*** Harassment on the basis of a person's actual or perceived sexual orientation or gender identity/expression includes but is not limited to name-calling, using nicknames emphasizing sexual or gender stereotypes, and imitating physical characteristics or mannerisms associated with a person's sexual orientation or gender identity or expression.

***Disability Harassment:*** Harassment based on a person's actual or perceived physical and/or mental disability (or the individual's record of a disability) includes but is not limited to name-calling, making derogatory references to the disability, imitating manners of speech and/or movement associated with the disability, or interfering with access to or use of necessary adaptive equipment, aids, or other accommodation.

### **Options for Responding If You Believe You Have Been Harassed, Discriminated Against, or the Object of Retaliation**

Phillips Exeter Academy seeks to achieve, through education, communication and mediation, a welcoming and respectful work and school environment free of hostility, intimidation, harassment, sexual harassment and discrimination. If an employee experiences or witnesses sexual or other unlawful harassment in the workplace, the employee should immediately report it to the Academy, utilizing the guidelines described below. Please note that there is no requirement to exhaust one procedure before another, and employees should feel free to utilize any procedure they choose. Employees should not allow an inappropriate situation to continue by not reporting it.

#### ***Direct Communication***

ø If you feel that you (or someone you know) has been the target of unlawful harassment or discrimination, or that someone is acting or speaking inappropriately and is making you (or someone you know) feel uncomfortable and/or angry, it may be possible for you to approach the individual, expressing your concerns as honestly and directly as you can, and request an end to the conduct. In situations involving supervisors or perceived threats to circumstances of employment, it may be advisable to seek advice from the individuals listed below before engaging in direct communication.

#### ***Mediating a Resolution***

ø If you think an intermediary may assist you in resolving the problem:

♦ You may ask your supervisor or any person in the positions mentioned below to seek a mediated resolution to the situation. In most cases, the process will consist of written communication or a mediated conversation between you and the person you feel may have harassed or discriminated against you. Mediation of a matter involving administrators or staff will be handled primarily by the Director of Human Resources. Mediation of faculty concerns will be handled primarily by the Dean of Faculty. The Dean of Students may help to address issues involving students. Please note that a mediated resolution with a student will only be available so long as such an approach is in the best interest of the student. Employees may seek advice from any person in the positions mentioned below.

### *Reporting*

ø You may also report the incident. Employees should report to their supervisor or any person in the following positions:

- ♣ Dean of Faculty
- ♣ Assistant Principal
- ♣ Director of Human Resources
  
- ♣ General Counsel

ø You may also file a report online with EthicsPoint, as outlined in the Whistleblower Policy. Reports of unlawful harassment or retaliation may be made orally or in writing.

### *EthicsPoint Report*

ø The Academy has contracted with EthicsPoint to act as an independent intermediary for the reporting of concerns. If an employee is uncomfortable discussing a complaint with a supervisor or the persons in the positions listed above, they should feel free to use EthicsPoint to report concerns. Such complaints can be reported either by phone at 888- 572-8028 or online at EthicsPoint.

EthicsPoint will take anonymous reports and will also ensure that the information is reviewed by administrators other than those, if any, against whom allegations have been made.

### **Responsibilities of Supervisors and Administrators**

All supervisors and administrators who receive a report or any information about suspected sexual harassment, other unlawful harassment or retaliation, or who observe what may be sexual harassment, other unlawful harassment, or retaliation, or who otherwise have any reason to suspect that sexual harassment, other unlawful harassment or retaliation is occurring, are required to promptly report such conduct to the Director of Human Resources.

In addition to being subject to discipline for engaging in conduct that violates this policy, supervisors and administrators will also be subject to discipline for failing to report suspected sexual harassment, other unlawful harassment or retaliation to the Director of Human Resources or otherwise knowingly allowing sexual harassment, other unlawful harassment or retaliation to continue.

## **What the Academy Will Do If It Learns of Possible Unlawful Harassment, Discrimination or Retaliation**

### *Investigation*

In the event that the Academy receives a complaint of unlawful harassment, discrimination or retaliation, or otherwise has reason to believe that unlawful harassment, discrimination or retaliation may have occurred, the Academy will conduct a fair, timely and thorough investigation in such a way as to maintain confidentiality to the extent practicable under the circumstances. The Academy is committed, and required by law, to take action if it learns of potential unlawful harassment, discrimination or retaliation, even if the aggrieved employee, student, or student's parent(s)/guardian(s) does not wish to formally file a report. All reports or information about unlawful harassment, discrimination or retaliation will be investigated, whether that information was reported orally or in writing. All employees, including supervisors and administrators, are required to cooperate with investigations. The investigation will be conducted in such a way as to protect confidentiality to the extent practicable.

While the process may vary from case to case, an investigation generally includes a prompt review of the report of harassment, discrimination or retaliation; consideration of whether any interim actions are appropriate; obtaining, reviewing and preserving relevant documents, emails or phone records; interviewing all parties involved (including any relevant witnesses); creating a confidential written record of the investigation; promptly notifying the individual who reported, and the individual about whom the report was made, of the final determination (while maintaining the confidentiality of any employment actions); and implementation of any corrective actions that are warranted based on the findings of the investigation.

### *Academy Response to Harassment*

Sexual and other unlawful harassment are inconsistent with the Academy's values and commitment to providing a respectful and professional workplace. In addition, because sexual and other forms of harassment are unlawful, they subject the Academy to liability for harm to victims of sexual and other unlawful harassment. Harassers may also be individually subject to liability.

If unlawful harassment, discrimination or retaliation is found to have occurred, the Academy will take appropriate disciplinary action (up to and including termination of employment) and corrective action.

The Academy also recognizes that false accusations brought forward by an adult member of our community, especially of sexual harassment, may have serious effects on innocent persons. Bad

faith false accusations of sexual harassment, other unlawful harassment or retaliation may also be subject to appropriate disciplinary action (up to and including termination of employment) and corrective action.

### *Protection Against Retaliation or Misuse of Power*

The Academy also strictly prohibits retaliation against any member of the Academy community in connection with any report of sexual or other unlawful harassment. Retaliation or suspected retaliation should be reported immediately — in the case of students, to the Dean of Students or the student's adviser, and in the case of employees, to the Director of Human Resources or the Dean of Faculty. Retaliation against any individual for reporting violations of this policy, for participating in the investigation, or for supporting a complaint will not be tolerated and will be subject to disciplinary action (up to and including termination of employment) and corrective action.

### *Disciplinary or Corrective Actions*

Any individual who violates this policy by engaging in the prohibited conduct — unlawful harassment, discrimination or retaliation — will be subject to appropriate disciplinary or corrective action. This may include, but is not necessarily limited to, the following:

- •Employees: Discipline may range from a warning up to and including termination of employment.
- •Volunteers: Corrective action may range from a warning up to loss of volunteer assignment or privilege.
- •Vendors: Corrective action may range from a warning up to and including loss of business with the Academy.
- •Other Individuals: Corrective action may range from a warning up to and including a denial of future access to Academy property and programs.

The Academy also reserves the right to impose additional responsive actions as may be appropriate under the circumstances.

### **Legal Protections and External Remedies**

Sexual and other unlawful harassment is not only prohibited by the Academy but is also prohibited by federal, state and local law. Aside from the internal process at the Academy, you 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 agency, you may seek the legal advice of an attorney.

New Hampshire Commission for Human Rights (NHCHR)

2 Industrial Park Drive, Bldg. One  
Concord, NH 03301-8501  
Phone: 603-271-2767

United States Equal Employment Opportunity Commission (EEOC) John F. Kennedy  
Federal Building  
475 Government Center  
Boston, MA 02203-0506

Phone: 617-565-3200 or 800-669-4000