

## SEXUAL HARASSMENT POLICY

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It is the policy of HMS to provide all employees, students and families with a school environment free from all forms of discrimination, including sexual harassment. Sexual harassment, whether verbal, physical or environmental, is unacceptable and will not be tolerated. Failure to comply with this and other practices may result in discipline, up to and including termination, expulsion, and in the case of volunteers or contractors, termination of the existing relationship and disqualification from doing further volunteer work with HMS.

Sexual harassment in the **Employment Context** is defined as a form of sex discrimination that is prohibited by Title VII of the Civil Rights Acts of 1964 (Title VII). The federal agency charged with enforcing Title VII is the Equal Employment Opportunity Commission ("EEOC"). According to the EEOC, "sexual harassment" is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature," when: 1) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, or submission to or rejection of such conduct is used as the basis of employment decisions affecting such individual, known as "**quid pro quo sexual harassment**," or 2) such conduct has the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile or offensive working environment, known as "**hostile environment sexual harassment**."

Sexual harassment in the **Classroom Context** is defined as a form of discrimination that is prohibited by Title IX of the Education Amendments of 1972 (Title IX). The federal agency charged with enforcing Title IX is the Office of Civil Rights for the U.S. Department of Education ("OCR"). According to the OCR, "sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, imposed on the basis of sex, that is: 2) sufficiently severe or pervasive as to disrupt or undermine a person's ability to participate in or receive the benefits, services or opportunities of the school, or 2) otherwise limit a student's enjoyment of any right, privilege, advantage, or opportunity protected by Title IX.

**Unwelcome conduct** is conduct not solicited or incited by the employee, student or community member and/or which is regarded as disruptive or undesirable by the employee, student or community member. Voluntary participation in the conduct does not necessarily imply acquiescence. For example, the individual may have acquiesced out of fear or coercion. Whether or not conduct is welcome will be based on the judgment of whether a "reasonable person" would consider the conduct sufficiently severe or pervasive to create a hostile environment and/or alter the conduct of the employee, student or community member.

**Verbal sexual harassment** may include but is not limited to epithets; unwelcome or derogatory comments or slurs of a sexual nature about an employee's body, appearance, or dress that is not relevant to the work or school environment; questions about his/her sexual activity; sexually suggestive jokes; persistent requests for dates or to have sex when such requests have received a negative reply.

**Physical sexual harassment** may include but is not limited to assault, impeding or blocking movement, or any unwelcome physical contact of a sexual nature such as fondling, hugging, rubbing against the employee's or student's body or rape.

**Visual sexual harassment** may include but is not limited to leering and ogling, the use of publicly visible or accessible sexually explicit or sexually derogatory posters, cartoons, or magazines kept in the workplace or class environment.

Such conduct need not be directed at a particular employee, student or community member. Behavior defined herein as sexual harassment may occur between people of the opposite or same sex.

Sexual harassment is not limited to the workplace or school environment. If work-related or school-related harassment occurs at a work-sponsored or school-sponsored event, or even after regular work hours or school hours, the harasser will still be subject to disciplinary action from the employer.

### **Complaint Procedure**

Any employee, student or community member who believes that he/she has been sexually harassed is encouraged, where possible, to convey to the harasser that the behavior is unwelcome or unacceptable. If the employee, student or community member finds this action not possible for any reason whatsoever or if the matter has not been resolved to the employee's, student's or community member's satisfaction, then:

- **Adults:** Employees and Community Members must file a written complaint and submit it to the Head of School. Should submission of the written complaint to the Head of School be problematic, written notice may be submitted to the Business Manager who will then inform the Board of Trustees.
- **Students:** Students need not file a written complaint. Reporting may be done verbally. All employees are eligible to receive notice on behalf of the school. Should an employee of HMS receive notice from a student, they are to immediately report it to the Head of School.

### **Guidelines for an Investigation if a Student is Involved.**

1. Every complaint must be investigated and documented.
2. **Complaints regarding students will be immediately reported to the Department of Services for Children, Youth and Their Families in accordance with Delaware Code Title 16, Chapter 9, Subchapter I. An immediate oral report shall be made by telephone. Reports and the contents thereof including a written report, if requested by the state, shall be made in accordance with the rules and regulations of the Division, or in accordance with the rules and regulations adopted by the Division.**
  - a. Any student who has been found by HMS, after appropriate investigation, to have sexually harassed another student, will be subject to appropriate disciplinary action depending on the circumstances, ranging from a warning, up to and including expulsion.

### **Guidelines for an Investigation if an Adult is Involved.**

1. Every complaint must be investigated and documented.
2. The investigator will proceed as quickly as possible with an informal investigation that may include interviewing the complainant and the alleged harasser in a neutral setting. In addition, any identified witnesses may be interviewed. The options for proceeding should be discussed with the complainant and, whenever possible, the problem should be resolved in a manner that is consistent with the complainant's request. If it is agreed that the situation is adequately resolved, the investigation should be documented, and no further action should be taken.
3. Documentation should include the circumstances which give rise to the complaint, dates and the nature of the offending behavior and the name of the party engaging in the behavior in question. In the event that the complainant requests a specific remedy, it will be considered and documented.
4. If the investigator believes that sexual harassment has occurred as described in this policy, he/she shall recommend remedies to the situation:
  - a. Any supervisor, employee, or agent of HMS who has been found by HMS, after appropriate investigation, to have sexually harassed another employee, will be subject to appropriate disciplinary action depending on the circumstances, ranging from a warning, up to and including termination.

- b. Any volunteer or visitor who has been found by HMS, after appropriate investigation, to have sexually harassed an HMS employee, will be subject to appropriate remedial action ranging from a verbal warning to removing the harasser from any situation requiring him/her to have any contact with the complainant. This remedial action may require contacting a third party, such as the visitor's agency head or employer if the visitor is on business.

**Confidentiality**

Except to the extent necessary to complete the investigation, all complaints regarding sexual harassment will be kept in strict confidence, and permission must be obtained from the complainant to discuss the matter with HMS staff or outsiders.

Retaliation against an employee, student or community member for complaining about sexual harassment, serving as a witness or otherwise supporting a complainant will not be tolerated, and disciplinary action will be applied if retaliatory actions are found to have occurred.