



Regulation of the Chancellor

Number: **A-830**

Subject: **ANTI-DISCRIMINATION POLICY AND PROCEDURES FOR FILING INTERNAL COMPLAINTS OF DISCRIMINATION**

Category: **STUDENTS**

Issued: **October 19, 2023**

SUMMARY OF CHANGES

This regulation replaces and supersedes Chancellor's Regulation A-830 dated February 17, 2022.

Changes:

- Adds "height" and "weight" as protected categories in Sections I.A.1 (Equal Employment Opportunity) and I.C.1 (Access for Parents and Others who Interact with DOE).



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ABSTRACT

This regulation sets forth the New York City Department of Education's Anti-Discrimination Policy. It also establishes an internal review process for employees, applicants for employment, parents of students, students, and others who do business with the DOE, work with DOE employees or students, use DOE facilities or otherwise interact with the DOE who wish to file complaints of unlawful discrimination or harassment by DOE employees or individuals who are not employed by the DOE but who work with DOE employees or students based on a protected classification, including sexual harassment, or retaliation based on such complaints. Complaints of peer sexual harassment and harassment based on a protected classification, intimidation and/or bullying by one student against another may be filed in accordance with Chancellor's Regulation A-831, Student-to-Student Sexual Harassment, or Chancellor's Regulation A-832, Student-to-Student Discrimination, Harassment, Intimidation, and/or Bullying. Allegations of discrimination/harassment by students directed toward DOE employees must be addressed in accordance with Chancellor's Regulation A-443 and the Citywide Behavioral Expectations to Support Student Learning (Discipline Code).

I. POLICY

This regulation sets forth the New York City Department of Education (DOE) policy on equal employment and educational opportunities.

A. Equal Employment Opportunity

1. It is the policy of the DOE to provide equal employment opportunities in accordance with applicable laws and regulations and without regard to actual or perceived race, color, religion, creed, ethnicity, national origin, alienage, citizenship status, age, marital status, partnership status, disability, sexual orientation, gender, height, weight, military status, unemployment status, prior record of arrest or conviction, caregiver status, consumer credit history, predisposing genetic characteristics, sexual and reproductive health decisions, or status as a victim of domestic violence, sexual offenses, or stalking.
2. The definitions of terms and protected classifications are located in Section IX (Definitions).
3. It is also the policy of the DOE to maintain a workplace environment free of harassment on the basis of the above protected classifications, including sexual harassment, and to comply with all laws and provisions in the DOE's collective bargaining agreements prohibiting discrimination.
4. It is a violation of this regulation for any DOE employee to engage in conduct, whether on school property/DOE facilities or during a DOE program or activity, including online learning/working, that subjects another employee to discrimination and/or harassment on the basis of any of the above protected classifications, including sexual harassment (as defined in Section IX), where such conduct: (1) subjects a DOE employee/applicant to inferior terms, conditions, or privileges of employment; or (2) creates a hostile, offensive, or intimidating work environment.
5. It is also a violation of this regulation for any DOE employee to engage in discriminatory conduct and/or harassment on the basis of any of the above protected classifications, including sexual harassment, with respect to applicants for employment and other individuals who do business with the DOE, work with DOE employees or students, use DOE facilities or otherwise interact with the DOE.
6. Except as otherwise permitted by law, the DOE is prohibited from inquiring about a job applicant's salary history or from relying on their salary history in determining the salary, benefits or other compensation for such applicant during the hiring process, including the negotiation of a contract.
7. Individuals who are not employed by the DOE but who work with DOE employees or students are prohibited from engaging in the conduct described in Section I.A and such conduct must be reported in accordance with Sections II.C and III.A.1.

B. Equal Educational Opportunity

1. It is the policy of the DOE to provide equal educational opportunities, including ensuring that all students are provided access to DOE programs, services, activities, and facilities, in accordance with applicable laws and regulations and without regard to actual or perceived race, color, religion, age, creed, ethnicity, national origin, alienage, citizenship status, disability, sexual orientation, gender, or weight.
2. The definitions of terms and protected classifications are located in Section IX (Definitions).
3. It is also the policy of the DOE to maintain an educational environment free of harassment on the basis of any of the above protected classifications, including sexual harassment.
4. It is a violation of this regulation for any DOE employee to discriminate against or create a hostile school environment for a student by conduct, whether on school property/DOE facilities, during a DOE program or activity, including online learning/working, on the basis of any of the above-noted grounds, including sexual harassment (as defined in Section IX), where such conduct: (1) has or would have the effect of unreasonably and substantially interfering with a student's ability to participate in or benefit from an educational program, school-sponsored activity or any other aspect of a student's education; or (2) has or would have the effect of unreasonably and substantially interfering with a student's mental, emotional or physical well-being; or (3) reasonably causes or would reasonably be expected to cause a student to fear for their physical safety; or (4) reasonably causes or would be expected to cause physical injury or emotional harm to a student. It is also a violation of this regulation for any DOE employee to engage in the conduct noted above off school property/DOE facilities when such conduct disrupts or would foreseeably disrupt the educational process or endangers or would foreseeably endanger the health, safety, morals, or welfare of the school community.
5. Such conduct may include but is not limited to: denial of access to restrooms, changing rooms, locker rooms, and/or field trips on the basis of the above-noted protected classifications; enforcement of a dress code, specific grooming or appearance standards in a manner that discriminates against a student on any of the above noted protected classifications; or the use of name(s) or pronoun(s) or pronunciation of name(s) in a manner that discriminates against a student on any of the above-noted protected classifications (e.g., deliberately using a pronoun that is not consistent with the student's gender identity asserted in school).
6. Individuals who are not employed by the DOE but who work with students are prohibited from engaging in the conduct described in Section I.B and such conduct must be reported in accordance with Sections II.B and III.A.1.

C. Access for Parents and Others who Interact with DOE

1. It is the policy of the DOE to ensure DOE programs, services, and activities are accessible to parents (whenever used in this regulation, “parent” means the student’s parent or guardian, or any person in a parental or custodial relationship to the student, or the student if they are an emancipated minor or have reached eighteen (18) years of age) and others who do business with the DOE, work with DOE employees or students, use DOE facilities, or otherwise interact with the DOE without regard to actual or perceived race, color, religion, age, creed, ethnicity, national origin, alienage, citizenship status, disability, sexual orientation, gender, height, weight, marital status, partnership status, or military status. Complaints alleging a violation of this section may be filed in accordance with the procedures in Sections III.A.2 and III.A.3 and may be referred for appropriate follow-up action.

D. Conduct, Expectations, and Follow Up

1. Every DOE employee is expected to be an exemplary role model in the schools and offices in which they serve and is responsible for maintaining a positive and supportive learning and working environment that is free of discrimination and harassment on the basis of any of the protected classifications covered under this regulation, including sexual harassment, and/or retaliation.
2. Conduct prohibited by Sections I.A and I.B above includes acts that are verbal, nonverbal, physical, written, or electronically communicated via technology (including, but not limited to internet, cell phone, email, personal digital assistant, texting, apps, wireless handheld device, social media, chat rooms, gaming systems, and blogs).
3. Conduct prohibited by Sections I.A and I.B above violates this regulation, whether or not intentionally offensive or directed at a particular person or group.
4. A DOE employee who engages in conduct which violates this regulation may be subject to appropriate follow-up action or discipline, up to and including termination, even if such conduct does not rise to the level of violating federal, state or local anti-discrimination laws.
5. Nothing in this regulation prevents a principal or supervisor from counseling or disciplining a DOE employee for inappropriate conduct that is not otherwise in violation of this regulation. The term “supervisor” refers to a DOE employee acting in a supervisory capacity and who may be in a site other than a school.
6. All DOE employees are required to appear for an interview if summoned by the Office of Equal Opportunity & Diversity Management (OEO) and to cooperate with OEO investigations of complaints. Where the parties and/or witnesses do not participate in the investigation, OEO will conduct an investigation to the extent feasible.
7. Any attempt to tamper with or impede an OEO investigation constitutes a violation of this regulation, must be reported immediately to the Office of the Special Commissioner of Investigation (SCI), and may result in disciplinary action.

8. It is the policy of the DOE to prohibit retaliation against any individual who objects to discriminatory practices in the workplace, who complains of discrimination or harassment on the basis of any of the protected classifications as described in Section I.A, I.B, or I.C above, or who files or participates in the investigation of an internal or external complaint of discrimination. Any adverse act against individuals due to their participation in a protected activity is considered retaliatory.
9. Except as set forth below in Section I.D.10, complaints filed in accordance with Sections I.A.7 and II.B.6 may be investigated by OEO as set forth in Section III or referred to the external employer for appropriate follow-up action.
10. OEO shall forward all complaints alleging sexual harassment against a student to SCI for appropriate follow-up action.

II. REPORTING

- A. DOE employees, applicants for employment, parents, students, and others who do business with the DOE, work with DOE employees or students, use DOE facilities or otherwise interact with the DOE may file complaints alleging they were subjected to conduct that may violate of this regulation, as set forth in Section III.A.
- B. Any DOE employee who becomes aware of conduct against a student, that may violate Section I.B, or who has knowledge or information, or receives notice, that a student may have been the victim of such conduct, must orally report the alleged incident to the principal/designee, or supervisor if the reporting employee is not a school-based employee, within one (1) school day. Within two (2) school days of making the oral report, the reporting DOE employee also must electronically file a written complaint as set forth in Section III.A.1 below and notify the principal/designee or supervisor that the complaint has been filed. If the allegation is against the principal or supervisor, the reporting DOE employee need only electronically file a complaint with OEO as set forth in Section III.A.1.
- C. Any principal or supervisor who becomes aware of conduct that may violate Section 1.A must immediately file an online complaint with OEO as set forth in Section III.A.1 below. A principal's or supervisor's failure to file a complaint with OEO in accordance with this paragraph constitutes a violation of this regulation.
- D. Individuals other than those who are required to file are strongly encouraged to report conduct that may violate this regulation in accordance with Section III.A.2.
- E. DOE employees must notify the New York City Police Department of all reports of alleged conduct which may constitute criminal activity in accordance with the policy and procedures set forth in Chancellor's Regulation A-412 (<https://www.schools.nyc.gov/docs/default-source/default-document-library/a-412-security-in-the-schools-english>).

III. COMPLAINT PROCEDURES

A. Procedures for Filing Complaints

1. Electronic complaints filed in accordance with Sections II.B and II.C must be filed using the online complaint form available at <https://www.nycenet.edu/oeo>.
2. Individuals other than those who are required to file complaints in accordance with Sections II.B and II.C may file a complaint by notifying OEO by email, phone, mail, or in person at the number or addresses provided at the end of this regulation. Complaints of sexual or gender-based harassment or discrimination may also be filed by notifying the DOE Title IX Coordinator by email, phone, mail, or in person at the number or addresses provided at the end of this regulation.
3. Individuals other than those who are required to file complaints in accordance with Sections II.B and II.C may file an anonymous complaint alleging a violation of this regulation. OEO shall review anonymous complaints to determine how they should be processed in light of the information provided.
4. Except as set forth in Sections II.B and II.C above, in order to facilitate the prompt, thorough, and fair resolution of complaints, all complaints must be filed with OEO as soon as possible and no later than one (1) year after the alleged incident. Where there are extenuating circumstances, OEO may investigate complaints filed more than one (1) year after the alleged incident.

Complaints alleging conduct prohibited by Section I.B of this regulation committed against students are not subject to a filing time limit.

B. Parent Notification

1. If a complaint alleging conduct prohibited by this regulation against a student has been filed by someone other than the parent of the alleged victim, the principal/designee must promptly notify the parent of the alleged victim that a complaint has been filed.
2. If the principal is the subject of the complaint, the superintendent/designee must promptly notify the parent of the alleged victim that a complaint has been filed.

C. Supports and/or Interventions

1. Supports and/or interventions may be offered, as appropriate, to any parties or witnesses after the complaint is filed, even if the report does not result in an investigation or the allegations are not substantiated.
2. When a complaint is filed alleging conduct prohibited by Section I.A or Section 1.B, OEO shall notify the principal and/or supervisor who shall determine whether supports and/or interventions for the parties and witnesses are appropriate, and ensure that such supports and/or interventions are documented for students and DOE employees.
3. Supports and/or interventions for students include but are not limited to:

- a. referral to in-school or out-of-school medical services;
 - b. guidance interventions (e.g., referral to the school social worker, guidance counselor, psychologist, or other appropriate school resource);
 - c. referral to community-based agencies for counseling, support, and/or education or mental health services;
 - d. academic supports and adjustments (e.g., change in classes, lunch/recess, or after-school program schedules; extension of deadlines); and/or
 - e. development of an individual support plan.
4. Employment-related supports and/or interventions include but are not limited to the following (consistent with applicable collective bargaining agreements):
- a. leaves of absence;
 - b. modification of work schedules;
 - c. modification of work assignments; and/or
 - d. changes in work locations.

D. Procedures for Investigating Complaints

1. Upon receipt of a complaint, OEO shall determine whether the complaint alleges discrimination, harassment, and/or retaliation prohibited under this regulation. If OEO determines that the allegations are not prohibited by this regulation, OEO shall refer the complaint for follow-up action, if appropriate.
2. Except as set forth in Section I.D.9, if OEO determines that the complaint alleges conduct prohibited by this regulation, OEO shall conduct an investigation in accordance with the procedures described in this Section. The OEO Title IX Coordinator and Title IX Liaisons or another OEO investigator will investigate complaints alleging sexual and/or gender-based harassment prohibited by Section 1.A and gender-based harassment against a student prohibited by Section 1.B.
3. If OEO initiates an investigation, OEO shall promptly notify the parties (and the parent of a student party) in writing of the complaint and of the following:
 - a. OEO shall conduct an investigation, which will involve interviewing the parties and witnesses and reviewing relevant evidence;
 - b. Individuals alleged to have engaged in conduct prohibited by this regulation have the right to respond to the allegations;
 - c. The parties have the right to present any relevant evidence and/or provide the name(s) of witnesses;
 - d. DOE employees who are parties to the complaint have the right to choose a union representative or a non-attorney representative to attend their investigative interview, so long as that representative has not been identified as a party or witness in the instant case;
 - e. The parties may receive supports and/or interventions, as appropriate while the case is being investigated; and
 - f. A written determination will be issued within ninety (90) school days of OEO's receipt of the complaint, absent an extension of this timeframe for good cause.
4. OEO shall interview the parties and any relevant witnesses and obtain any relevant evidence.

5. At the conclusion of the investigation, OEO shall make written findings and a recommendation as to whether there has been a violation of this regulation, and submit the report of findings and recommendation to the Chancellor or their designee.
6. The Chancellor or their designee shall review OEO's report and issue a written determination as to whether there has been a violation of this regulation within ninety (90) school days of OEO's receipt of the complaint, absent an extension of this timeframe for good cause.
7. The parties (and the parent of a student party) will be informed in writing of the determination.
8. Where, for good cause, an investigation or a determination cannot be issued within ninety (90) school days, OEO shall notify the complainant and respondent of the extension and projected timeframe for the issuance of the determination.
9. If the determination is that a violation of this regulation has occurred, OEO shall confer with the principal or supervisor who shall determine if any disciplinary or corrective action is required and if supports and/or interventions or other follow-up action is appropriate.
10. If the determination is that there was not a violation of this regulation, OEO shall consult with the appropriate principal or supervisor, as set forth in Section III.C, to determine if supports and/or interventions or other follow-up action are appropriate.
11. OEO shall maintain an investigative file for each complaint.

E. Confidentiality

It is the DOE's policy to respect the privacy of all parties and witnesses regarding complaints brought under this regulation. However, the need for confidentiality must be balanced against the obligation to cooperate with lawful investigations, to provide due process to the accused, and/or to take appropriate follow-up action to address the complaint. Therefore, information regarding the complaint may need to be disclosed in certain appropriate circumstances.

F. False Accusations of Discrimination

An individual who knowingly makes a false accusation of discrimination or knowingly provides false information in the course of an investigation of a complaint, may be subject to discipline. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

IV. DISSEMINATION OF THESE PROCEDURES

- A. In addition, each office and school must prominently post the DOE's Anti-Discrimination Policy (<https://www.schools.nyc.gov/about-us/policies/non-discrimination-policy>), which provides contact information for OEO, and indicates where a copy of this regulation may be obtained. Notice of the DOE's Anti-Discrimination Policy and the complaint and reporting procedures set forth in this regulation must be provided to all DOE employees, including principals and supervisors, annually.

- B. In accordance with Chancellor’s Regulations A-831 and A-832, each school must annually distribute or make electronically available the written materials prepared by the Office of Safety and Youth Development (available at <https://www.schools.nyc.gov/school-life/school-environment/respect-for-all/respect-for-all-handouts>) highlighting the policies and procedures set forth in those regulations, including the procedures for how to make a report, to all school employees, parents, and students. Those materials also inform students and parents of the DOE’s Anti-Discrimination Policy and the procedures for students and parents to file complaints of discrimination/harassment against DOE employees on the basis of any of the protected classifications as described in Section I.B above.

V. REASONABLE ACCOMMODATION OF DISABILITIES

A. Employees and Applicants

Any DOE employee (including a substitute employee) who is a qualified individual with a disability may request a reasonable accommodation in order to assist in performing the essential functions of their present assignment. DOE employees are strongly encouraged to first discuss the request with their supervisor to start the interactive process and engage in a cooperative dialogue. If the employee disagrees with the determination, or the request cannot be provided through the supervisor, the employee may initiate an application in the DOE’s Self-Service Online Leave Application System (SOLAS). Requests submitted in SOLAS will be reviewed by the DOE’s HR Connect Office of Medical, Leaves and Records, and by the DOE Office of Disability Accommodations (ODA).

Any prospective employee (applicant) who is a qualified individual with a disability may request a reasonable accommodation in order to participate in the application process on an equal basis as applicants who do not have a disability, by contacting their interview team or ODA.

Additional information on the reasonable accommodation process is set forth in DOE Personnel Memorandum No. 5, 2020-2021.

B. Students

Chancellor’s Regulation A-710 (Section 504 Policy and Procedures for Students, <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-710>) sets forth the DOE policies and procedures, including complaint procedures, for students attending DOE schools and programs who are qualified individuals with disabilities as defined in Section 504 of the Rehabilitation Act of 1973 and who are in need of reasonable accommodations in order to participate in DOE programs and activities on an equal basis as their peers who do not have disabilities.

VII. ALTERNATIVE COMPLAINT PROCEDURES

These internal procedures do not deny the right of any individual to pursue other avenues of recourse, which may include filing charges with any of the external agencies noted below.

- U.S. Department of Education, Office for Civil Rights
- U.S. Equal Employment Opportunity Commission
- New York State Division of Human Rights
- New York City Commission on Human Rights

The time frames for filing with these agencies may vary. Where a complaint is filed with an external agency or a court of competent jurisdiction, OEO shall transfer the matter to the DOE's Office of the General Counsel.

VIII. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Office of Equal Opportunity & Diversity Management

NYC Department of Education
110 William Street, 15th Floor
New York, NY 10038
Telephone: 718-935-3320
Email: oeoinquiries@schools.nyc.gov

Title IX Coordinator

110 William Street, 15th Floor
New York, NY 10038
Telephone: 718-935-4987
Email: [Title IX Inquiries@schools.nyc.gov](mailto:Title_IX_Inquiries@schools.nyc.gov)
Website: <https://www.schools.nyc.gov/about-us/policies/non-discrimination-policy/title-ix>

Office of Disability Accommodations

Email: ODA@schools.nyc.gov

IX. DEFINITIONS

The following information is intended to provide guidance to assist individuals in avoiding discriminatory practices but is not exhaustive.

Alienage/Citizenship: actual or perceived immigration status or status as a citizen of a country other than the United States of America. It shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status or to make inquiry as to a person's alienage or citizenship status or to give preference to a person who is a citizen or native of the United States when such preference is expressly permitted or required by a federal, city or state law or regulation.

Caregiver Status: actual or perceived status as a caregiver. The term caregiver means person who provides direct and ongoing care for a minor child or a care recipient. A care recipient is defined as a person with a disability who: (i) is a covered relative, or a person who resides in the caregiver's household; and (ii) relies on the caregiver for medical care or to meet the needs of daily living. A covered relative includes a caregiver's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of the caregiver's spouse or domestic partner, or any other individual in a familial relationship with the caregiver.

Color: actual or perceived skin color complexion.

Consumer Credit History: an individual's credit worthiness, credit standing, credit capacity, or payment history. Employers may not request or use the consumer credit history of an applicant or employee for the purpose of making any employment decisions, including hiring, compensation, and other terms and conditions of employment unless expressly permitted or required by law or regulation.

Disability: actual or perceived physical, medical, mental, or psychological impairment or history or record of such impairment, or a condition regarded by others as a disability. For more information on accommodating students with disabilities under Section 504 of the Rehabilitation Act of 1973, see Chancellor's Regulation A-710 (<https://www.schools.nyc.gov/docs/default-source/default-document-library/a-710>).

Ethnicity/National Origin: actual or perceived national origin or ethnic identity. National origin is distinct from race/color or religion/creed because people of several races and religions or their forbearers may come from one nation. The term "national origin" includes members of all national groups and groups of persons of common ancestry, heritage, or background; it also includes individuals who are married to or associated with a person or persons of a particular national origin.

Gender: actual or perceived gender, pregnancy, or conditions related to pregnancy or childbirth. The prohibition against gender discrimination includes sexual harassment.

The term "gender" also includes a person's actual or perceived gender identity and gender expression, meaning their self-image, appearance, behavior, expression, or other gender-related characteristic, regardless of the sex assigned to that person at birth. Gender discrimination may include, but is not limited to, denial of access to restrooms, changing rooms, locker rooms, and/or DOE programs or activities on the basis of gender or the use of name(s) or pronoun(s) in a manner that discriminates (e.g., deliberately using a pronoun that is not consistent with the individual's gender identity asserted in school, work, or other DOE program or activity).

Military Status: a person's participation in the military service of the United States or the military service of the state, including but not limited to, the Armed Forces of the United States, the Army National Guard, the Air National Guard, the New York Naval Militia, the New York Guard and such additional forces as may be created by the federal or state government as authorized by law.

Partnership Status: actual or perceived status of being in a registered domestic partnership.

Predisposing Genetic Characteristic: any inherited gene or chromosome, or alteration thereof, determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or is associated with a statistically significant increased risk of development of a physical or mental disease or disability.

Prior Arrest/Conviction: record of prior arrests and convictions for criminal offenses. After the extension of a conditional offer, the DOE requires a background investigation, including fingerprint information, which is reviewed under Chancellor's Regulation C-105 (Background Investigations of Pedagogical and Administrative Applicants and Procedures in Cases of the Arrest of Employees, <https://www.schools.nyc.gov/docs/default-source/default-document-library/c-105-2-11-2003-final-remediated-wcag2-0>) as well as any applicable laws and regulations.

Race: actual or perceived "race" includes personal characteristics historically associated with race such as hair texture and protective hairstyles (e.g., braids, locks, and twists, wigs or other headwear), skin color, or certain facial features.

Religion/Creed: actual or perceived religion or creed (set of fundamental beliefs, whether or not they constitute a religion). An employee requesting a reasonable accommodation for religious reasons should follow the procedures in Chancellor's Regulation C-606 (Time Off for Religious Observance, <https://www.schools.nyc.gov/docs/default-source/default-document-library/c-606-english>). A student requesting a reasonable accommodation for religious reasons should follow the procedures in Chancellor's Regulation A-630 (Religious Accommodation of Students, <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-630-english>).

Salary History: "Salary history" includes the applicant's current or prior wage, benefits, or other compensation, but not any objective measure of the applicant's productivity such as revenue, sales, or other production reports. Except as otherwise permitted by law, such as for internal transfer or promotion within DOE, the DOE is prohibited from inquiring about a job applicant's salary history or from relying on their salary history in determining the salary, benefits or other compensation for such applicant during the hiring process, including the negotiation of a contract.

Sexual Harassment:

Sexual harassment may take different forms, including explicit sexual propositions or threats, sexual advances, requests for sexual favors, sexual innuendos, sexually suggestive comments, sexually oriented jokes, obscene gestures, verbal, nonverbal, physical, written, or electronically communicated conduct or communication, and physical contact, such as touching, patting, pinching or brushing against another's body. Such conduct can constitute sexual harassment whether it is directed at persons of the same or a different gender and may also constitute criminal conduct.

A. Employment Related Sexual Harassment:

Sexual harassment prohibited by Section 1.A of this regulation includes situations where:

1. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or is made either explicitly or implicitly a term or condition of an individual's employment; or
2. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

B. Sexual Harassment of Students:

Sexual conduct between a DOE employee or individual working with students and a student

can never be considered welcome or appropriate. Sexual harassment of a student prohibited by Section I.B of this regulation includes situations where:

1. submission to such conduct is a condition of the student's advancement or obtaining an education;
2. submission to or rejection of such conduct by a student is used as a basis for evaluating or grading a student or as a factor in decisions affecting the student's education; or
3. such conduct has the purpose or effect of unreasonably interfering with a student's education or creating an intimidating, hostile or offensive educational environment.

For information on sexual harassment of students by students, please refer to Chancellor's Regulation A-831 (Student-to-Student Sexual Harassment,

<https://www.schools.nyc.gov/docs/default-source/default-document-library/a-831-10-23-2019-final-remediated-wcag2-0>).

Sexual and Reproductive Health Decision: the term refers to any decision by an individual to receive services, which are arranged for or offered or provided to individuals relating to sexual and reproductive health, including the reproductive system and its functions. Such services include, but are not limited to, fertility-related medical procedures, sexually transmitted disease prevention, testing, and treatment, and family planning services and counseling, such as birth control drugs and supplies, emergency contraception, sterilization procedures, pregnancy testing, and abortion.

Sexual Orientation: an individual's actual or perceived romantic, physical or sexual attraction to other persons, or lack thereof, on the basis of gender. A continuum of sexual orientation exists and includes, but is not limited to, heterosexuality, homosexuality, bisexuality, asexuality, and pansexuality.

Unemployment Status: The term unemployment means not having a job, being available for work and seeking employment. However, there are allowances in the law that permit an employer to consider an applicant's unemployment when there is a substantially-job related reason for doing so or to inquire into the circumstances surrounding an applicant's separation from prior employment.

Victim of Domestic Violence, Sexual Offenses, or Stalking: An actual or perceived victim of domestic violence is a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person who is cohabitating with or who has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature or a person who is or has continuously or at regular intervals lived in the same household as the victim.

An actual or perceived victim of sex offenses or stalking is a person who has been subjected to such acts that would constitute violations of article 130 of the penal law or a victim of acts that would constitute violations of sections 120.45, 120.50, 120.55, or 120.60 of the penal law.

An employee may request a reasonable accommodation due to their status as an actual or perceived victim of domestic violence, sex offenses or stalking in order to fulfill the essential requests of a job. The employee may be asked to provide certification that they are a victim of domestic violence, sex offenses or stalking. An employee requesting the reasonable accommodation shall provide a copy of such certification within a reasonable period after the request is made. The certification requirement may be satisfied by providing a police or court record, documentation from an employee, agent, or volunteer of a victim services organization,

an attorney, a member of the clergy, or a medical or other professional service provider that the employee or that employee's family or household member sought assistance as an actual or perceived victim of domestic violence, sex offenses, or stalking and/or the effects of the violence or stalking; or other information consistent with the employee's disclosure and the request for accommodation.