

**PROHIBITION OF DISCRIMINATION, SEXUAL HARASSMENT
AND OTHER UNLAWFUL HARASSMENT OF STUDENTS**

WHEREAS Tech Valley High School is committed to safeguarding the well-being of all its students, to fostering the efficient and effective provision of services to all BOCES constituencies and stakeholders, and to acting in the spirit of its educational mission by excluding from all TVHS learning environments, to the fullest extent possible, any form of discrimination, sexual harassment and other unlawful harassment;

NOW, THEREFORE, BE IT RESOLVED that the Board adopt the following policy:

**DISCRIMINATION, SEXUAL HARASSMENT AND OTHER UNLAWFUL
HARASSMENT OF STUDENTS**

The Operating Board is committed to safeguarding the right of all students to learn in an environment that is free from all forms of sexual harassment, including but not limited to any act of sexual violence. The Operating Board recognizes that sexual harassment depends not only on the offender's intention but also upon how the person who is the target of the alleged harassment perceives the behavior or is offended by it. The Operating Board further recognizes that sexual harassment can be committed by a person of either sex against a person of either the opposite sex or the same sex, and by student peers as well as employees, interns and vendors.

The Operating Board therefore condemns and prohibits all unwelcome behavior of a sexual nature that is directed at a student and also behavior that has the purpose or effect of creating an intimidating, hostile or offensive learning environment for students.

The Operating Board does not discriminate against students on the basis of actual or perceived race, color, weight, national origin, ethnic group, sex, disability, religion, religious practice, sexual orientation, or gender (including gender identity or expression), or other characteristic protected by federal or state law (collectively, the "protected characteristics") in its programs and activities, including but not limited to K-12 and adult education programs, extracurricular activities, and services. The Operating Board strictly prohibits discrimination and all forms of unlawful harassment of students on the basis of any protected characteristic.

The following persons at Tech Valley High School have been designated to handle inquiries regarding this anti-harassment policy and the complaints of discrimination, sexual harassment or other unlawful harassment on the basis of any protected characteristic: the Questar III Title IX Coordinator, the Questar III Section 504 Coordinator, or any other designated Compliance Officer. The Questar III Title IX Coordinator may be contacted at: Questar III Administrative Offices, 10 Empire State Blvd., Castleton, NY. The Questar III Section 504 Coordinator may be contacted at: Questar III Administrative Offices, 10 Empire State Blvd., Castleton, NY. Other designated Compliance Officer, and their contact information, is as follows: the Dignity Act Coordinator designated for Tech Valley High School. The phone number for the

Questar III Administrative Offices is: 518-477-8771. Inquiries and complaints may also be submitted to Compliance Officers by email: compliance@questar.org .

The District Superintendents shall develop or cause to be developed and implement specific procedures on reporting, investigating and remedying allegations of discrimination, sexual harassment or other unlawful harassment on the basis of any prohibited characteristic. Appropriate corrective action shall be taken promptly, up to and including discharge of the offender, if an employee or intern. Appropriate disciplinary action shall be taken promptly, if a student. In the absence of a victim's complaint, Tech Valley High School shall, upon either learning of or having reason to suspect the occurrence of discrimination, sexual harassment or other unlawful harassment on the basis of any protected characteristic related to educational programs, extracurricular activities, and services, ensure that an investigation is commenced immediately by appropriate individuals.

Such procedures shall be consistent with New York Education Law § 3214, and federal and state laws governing disciplinary action against students with disabilities, when applicable.

A copy of this policy and whatever regulations are developed to ensure its implementation shall be distributed to all students in adult education programs and to parents of students in Tech Valley High School, and shall also be posted on the Tech Valley High School website and in appropriate places.

ADOPTED:

Reference

Tech Valley High School Code of Conduct Policy

ADOPTED:

**DISCRIMINATION, SEXUAL HARASSMENT AND OTHER
UNLAWFUL HARASSMENT COMPLAINT PROCEDURE
FOR STUDENTS**

ADMINISTRATIVE REGULATION

The Operating Board has adopted a policy prohibiting discrimination, sexual harassment and other unlawful harassment of students and has directed the District Superintendents to establish procedures to address complaints of such discrimination or harassment. These regulations establish such procedures. All students are encouraged to pursue questions and complaints regarding discrimination, sexual harassment and other unlawful harassment.

I. Responsibilities of All Employees and Interns

- A. Tech Valley High School is committed to maintaining environments free of discrimination and unlawful harassment. Tech Valley High School employees and interns are expected to engage themselves in a professional manner and to avoid all conduct that could be perceived by a reasonable person to create, bolster or perpetuate a hostile workplace or education environment.
- B. Any employee who knows that harassment of or retaliation against a student is occurring, or receives information that such might be occurring, is required to immediately contact a designated Compliance Officer (identified below) to discuss appropriate and immediate action. Any employee who knows or receives information that a student is being discriminated against is required to immediately contact a designated Compliance Officer with such information.
- C. Unlawful harassment of students is also prohibited by the Tech Valley High School Code of Conduct in accordance with the Dignity for All Students Act. All investigations shall include coordination with the designated Dignity Act Coordinator.

II. Making and Resolving Complaints

A. Definitions -

- 1. *Complainant* shall mean a student who alleges, either directly, or for K-12 students, by a parent or guardian, that he or she has been discriminated against or harassed on the basis of any protected characteristic.
- 2. *Complaint* shall mean any alleged violation of Tech Valley High School's policies prohibiting discrimination, sexual harassment or other unlawful harassment.
- 3. *Compliance Officer* shall mean the Questar III Title IX Coordinator, the Questar III Section 504 Coordinator, or other designated Compliance Officer, including the Dignity Act Coordinator for Tech Valley High School.

4. *Hostile Environment* shall mean an educational environment which is both subjectively and objectively perceived as abusive, intimidating, or threatening, as a result of sexual or other unlawful harassment. Relevant considerations include the frequency or severity of the conduct or communications, whether or not physical contact has occurred and the relationship of the alleged victim and harasser. An isolated incident, unless extremely severe, usually will not give rise to a hostile environment.
5. *Protected Characteristic* shall mean actual or perceived race, color, weight, national origin, ethnic group, sex, disability, religion, religious practice, sexual orientation, or gender (including gender identity or expression), or other characteristic protected by federal or state law.
6. *Representative* shall mean any person, other than an attorney, designated by the complainant or the alleged perpetrator to act on her/his behalf.
7. *Sexual Harassment* shall mean any act of sexual violence, and any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of a student's education or participation in extra-curricular activities or services; or
 - b. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting a student's education or participation in extra-curricular activities or services; or
 - c. the conduct or communication has the purpose or effect of substantially or unreasonably interfering with a student's academic performance or participation in extra-curricular activities or services, or creating an intimidating, hostile or offensive educational environment.
8. *Sexual Violence* shall mean any nonconsensual sexual act proscribed by federal or state law, including when the victim lacks capacity to consent. Sexual violence includes rape, sexual assault, sexual abuse, forcible touching, aggravated sexual contact, and other offenses defined in N.Y. Penal Law Article 130.
9. *Unlawful Harassment* shall mean harassment on the basis of any protected characteristic. Unlawful harassment occurs when the educational environment becomes intimidating, hostile or offensive as a result of conduct or communications which have the purpose or effect of substantially or unreasonably interfering with a student's academic performance or participation in extra-curricular activities or services.
10. *Unlawful Discrimination* shall mean discrimination on the basis of any protected characteristic.

B. Initial Complaint Procedures

1. Any student who believes he or she has been discriminated against, harassed, or has been the subject of retaliation, should immediately take one or more of the following steps, either directly, or for K-12 students, by his or her parent or guardian:
 - a. Tell the offender that the conduct is offensive;
 - b. Discuss the matter with his or her teacher or other member of the instructional staff or building principal;
 - c. Discuss the matter with the Questar III Title IX Coordinator, Questar III Section 504 Coordinator, or other designated Compliance Officer;
 - d. If the student is not satisfied, the student, either directly, or for K-12 students by his or her parent or guardian, should file a written complaint, using the form attached to these regulations (also available at [NEED TVHS WEBSITE LINK](#)). When necessary, the Compliance Officer shall assist the student in completing the complaint form. Tech Valley High School, however, will investigate reported sexual or other unlawful harassment in the absence of a written complaint.
 - e. When the complainant and/or the alleged perpetrator is a K-12 student, the student's parent(s)/guardian(s) will be notified of and receive a copy of the written complaint.
 - f. Any student may also file an external complaint with the U. S. Department of Education, Office of Civil Rights ("OCR") as follows:

Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: 646-428-3900
FAX: 646-428-3843;
Email: OCR.NewYork@ed.gov

2. Interim Remedial Measures: Upon receipt of a complaint or report, the Compliance Officer, in consultation with the District Superintendents, and the complainant's parent(s)/guardian(s), for K-12 students, shall determine whether the complainant needs any accommodations to ensure his or her safety and well-being pending the outcome of the investigation. Interim remedial measures may be incorporated into a written safety plan and may include:

- A “permanent” hall pass that allows the student to visit a designated staff member at any time;
- Access to private bathroom facilities;
- Access to private locker room facilities;
- An escort during passing periods;
- If the student feels unsafe in a specific class, an opportunity for individual tutoring or independent study until the case is resolved;
- An opportunity for independent study at home with BOCES-provided tutor until the case is resolved;
- Permission to use a personal cell phone in the event that the student feels threatened and needs immediate access to a parent or guardian; or
- Other safety measures targeted to meet the needs of the student.

Tech Valley High School may also offer information on health services and mental health counseling services, rape victim or other victim advocacy services, and the right to report an act of sexual violence to local law enforcement. In determining what, if any, interim remedial measures are appropriate, the Compliance Officer and District Superintendents should consider a number of factors including any specific need expressed by the complainant, the severity or pervasiveness of the alleged conduct, any continuing effects on the complainant, and the proximity of the complainant and alleged perpetrator.

3. Investigation: The standard of evidence used to evaluate a complaint or report of discrimination, sexual harassment or other unlawful harassment is a “preponderance of the evidence.” Under this standard, a determination must be made on the basis of whether it is more likely than not that the alleged perpetrator violated the policy prohibiting sexual or other unlawful harassment.

In investigating the complaint or report, the designated Compliance Officer shall:

- a. Meet with the appropriate individuals and review all appropriate records that bear on the case, including but not limited to records that may be retained by the Dignity Act Coordinator.
- b. Discuss the allegations in the complaint or report with the complainant and the alleged perpetrator at separate meetings, and provide the complainant and the alleged perpetrator with equal opportunities to identify witnesses and present evidence supporting their respective positions at these meetings.
- c. Provide the complainant and the alleged perpetrator with the same opportunities for a non-attorney representative of their choice throughout the process, including any meeting, conference, hearing or other procedural action. Students in grades K-12 may be accompanied by a parent/guardian.

- d. Attempt, where appropriate, to resolve the complaint by exploring and suggesting possible solutions to the problem with all involved parties, provided, however, that the complainant will not be required to participate in mediation with the alleged perpetrator.

All students and employees of Tech Valley High School shall cooperate fully with the Compliance Officer and any designee of the Compliance Officer in such investigation.

4. As soon as possible, usually within twenty (20) business days after receipt of the complaint or report, the Compliance Officer shall make a finding in writing, using the preponderance of the evidence standard, that there has or has not been a violation of Tech Valley High School's policy prohibiting sexual or other unlawful harassment. If, due to the complexity of the investigation or other extenuating circumstances, a written decision cannot be issued within twenty business days, the Compliance Officer shall provide a written status report to both parties, and shall advise both parties of the estimated date by which a written determination shall be issued. In the event that the Compliance Officer finds that there has been a violation, she/he shall propose a resolution of the complaint. Such proposed resolution may include the implementation or continuation of remedial measures/accommodations to ensure the safety and well-being of the victim.
5. Both the complainant and the alleged perpetrator shall be notified in writing of the outcome of the investigation. When the complainant and/or the alleged perpetrator is a K-12 student, the student's parent(s)/guardian(s) will be notified of the outcome of the investigation.
6. If the complainant is not satisfied with the finding of the Compliance Officer, or with the proposed resolution of the complaint, then the complainant, either directly, or for K-12 students, by his or her parent or guardian, may within ten (10) business days after she/he has received the Compliance Officer's report, file a written request for review by the District Superintendents.
7. The District Superintendents retain the authority to initially direct the complaint to their consideration. The District Superintendents may designate another person(s), such as the School Attorneys, to carry out his/her responsibility with respect to either an initial investigation or review of the Compliance Officer's findings and proposed resolution, as set forth below.

C. Review by the District Superintendent

1. The District Superintendents may request that a complainant, the alleged perpetrator, and the Compliance Officer present a written statement to her/him setting forth any information that such person has relating to the complaint and the facts surrounding it. When the complainant or the alleged perpetrator is a

- K-12 student, a parent or guardian may submit a written statement on behalf of the student.
2. The District Superintendents shall notify all parties concerned as to the time and place where separate meetings will be held where each party may appear and may present oral and written statements supplementing their positions in the matter. The complainant and the alleged perpetrator shall have the same right to be accompanied by a non-attorney representative at such meetings. Such meetings shall be held as soon as possible, but no later than fifteen (15) days after the receipt of a direct complaint or the appeal by the District Superintendent.
 3. As soon as possible, but not later than fifteen (15) days after the meetings with each party, the District Superintendents shall render their joint determination in writing, using the preponderance of the evidence standard. Such determination shall include a finding that there has or has not been a violation of Tech Valley High School's policies prohibiting discrimination, sexual harassment or other unlawful harassment and also a proposal for equitably resolving the complaint, including any remedial measures/accommodations for the victim, when appropriate. When the complainant and/or the alleged perpetrator is a K-12 student, the student's parent(s)/guardian(s) will be notified of the District Superintendents' determination.

E. Retaliation

All students have the right to be free from retaliation or reprisal for bringing a complaint of discrimination, sexual or other unlawful harassment under Tech Valley High School policies. Any student who believes that he or she has been retaliated against should bring his or her concern to the attention of the Questar III Title IX Coordinator, Questar III Section 504 Coordinator, other designated Compliance Officer, or the Tech Valley High School Principal and Chief Academic Officer.

Regulations Adopted:

**DISCRIMINATION, SEXUAL HARASSMENT OR OTHER UNLAWFUL
HARASSMENT COMPLAINT FORM
Students**

The Tech Valley High School Operating Board has prohibited discrimination, sexual harassment and other unlawful harassment of students. Tech Valley High School is committed to safeguarding the right of all students to learn in an environment that is free from discrimination and all forms of harassment on the basis of actual or perceived race, color, weight, national origin, ethnic group, sex, disability, religion, religious practice, sexual orientation, or gender (including gender identity or expression), or other characteristic protected by federal or state law (collectively, the "protected characteristics").

Instructions: This form may be completed by the complainant, the parent(s)/guardian(s) of a K-12 student, or a reporting designee. The complainant, or parent(s)/guardian(s) of a K-12 student, must sign the form. The form must be immediately filed with the Questar III Title IX Coordinator, Questar III Section 504 Coordinator:at10 Empire State Blvd., Castleton, NY 12033; or with the Tech Valley High School Dignity Act Coordinator; or by email: compliance@questar.org

Name of Complainant: _____ Date: _____

School Building and/or Program: _____

Home Address of Complainant: _____

Home Phone Number of Complainant: _____

Date(s) of Alleged Incidents: _____

Name(s) of Persons(s) Accused of Harassment or Discrimination: _____

Time and Place of Incident(s): _____

Name(s) of Witness(es), if any: _____

Basis of the alleged harassment (check all that apply):

_____ race

_____ sex

_____ color

_____ religion

_____ weight

_____ religious practice

_____ national origin

_____ sexual orientation

_____ ethnic group

_____ gender (including gender identity or expression) other (specify)_____

_____ disability

Description of incident(s): *Describe actions and statements of all persons involved, including yourself. Be specific. Use additional pages if necessary.*

Remedy Requested by Complainant:

This complaint is filed based upon my honest belief that I have been subjected to discrimination, sexual harassment or other unlawful harassment. I certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Signature of Complainant: _____ Date: _____
(or Parent/Guardian)

Complaint Received By: _____ Date: _____

Complaint Received by Compliance Officer: