

## POLICY: HARASSMENT OF EMPLOYEES

### A. Policy

The \_\_\_\_\_ School District is committed to providing all employees a safe and supportive work environment in which all members of the school community are treated with respect. Harassment is a form of unlawful discrimination, as well as disrespectful behavior, which will not be tolerated.

The \_\_\_\_\_ School District shall provide employees a work environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct, or communications constituting harassment as defined and otherwise prohibited by state and federal law.

### B. Definitions

1. **School Community:** Includes but is not limited to all students, school employees, contractors, unpaid volunteers, work study students, interns, student teachers, and visitors.
2. **Employee:** For purposes of this policy, employee means any person who may be permitted, required or directed by the school district, in consideration of direct or indirect gain or profit, to perform services.<sup>2</sup>
3. **Adverse Action:** Includes any form of intimidation, reprisal or harassment such as suspension, termination, change in working conditions, loss of privileges or benefits or other disciplinary action in the case of employees.
4. **Harassment:** Harassment means unlawful harassment and constitutes a form of discrimination. It is verbal or physical conduct based on an employee's race, religion, creed, color, national origin, marital status, sex, sexual orientation, gender identity, age,<sup>3</sup> political affiliation,<sup>4</sup> ancestry, place of birth<sup>5</sup> or disability<sup>6</sup> which has the purpose or effect of substantially interfering with an employee's work or creating an intimidating, hostile or offensive environment.

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<sup>1</sup> 21 V.S.A. §495h(b)(1) requires a sexual harassment policy with specific components of all employers. This model policy applies to harassment on the basis of other protected classes as well. *See also* 29 C.F.R. § 1604.11(f). "An effective preventative program should include an explicit policy against sexual harassment that is clearly and regularly communicated to employees and effectively implemented." *See also* Questions and Answers for Small Employers on Employer Liability for Harassment by Supervisors, U.S. Equal Employment Opportunity Commission at [www.eeoc.gov/policy/docs/harassment-facts.html](http://www.eeoc.gov/policy/docs/harassment-facts.html).

<sup>2</sup> *See* 21 V.S.A. §495d(2). This is the definition of employee used in the Vermont Fair Employment Practices Act. A definition including volunteers, student teachers and others not compensated by the school district could, at the option of the board, be used to expand the protections provided by this policy.

<sup>3</sup> 21 V.S.A. §1726(a)(7) makes it an unfair labor practice for a municipal employer to discriminate on the basis of age over 40. School districts are considered municipal employers for purposes of the unfair labor practices provisions of the Municipal Labor Relations Act. *See* 21 V.S.A. §1722(13); 1735.

<sup>4</sup> 21 V.S.A. §1726(a)(7).

<sup>5</sup> 21 V.S.A. §495(a)(1). The Vermont Fair Employment Practices Act makes it unlawful for an employer to discriminate on the basis of ancestry or place of birth. Harassment is generally considered one form of discrimination.

<sup>6</sup> *See* 9 V.S.A. §4502. Public Accommodations Act.

5. **Sexual Harassment:** Is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
- a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
  - b) Submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting such individual; or
  - c) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

### **C. Examples**

Harassment can include any unwelcome verbal, written or physical conduct which offends, denigrates, or belittles an individual because of an employee's race, religion, creed, color, national origin, marital status, sex, sexual orientation, gender identity age, ancestry, place of birth or disability. Such conduct includes, but is not limited to, unsolicited derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name calling, graffiti, innuendo, gestures, physical contact, stalking, threatening, bullying, extorting or the display or circulation of written materials or pictures.

#### **1. Sexual Harassment**

Sexual harassment may include, but is not limited to, unwelcome touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, pressure for sexual activity whether written, verbal or through physical gestures, display or sending of pornographic pictures or objects, obscene graffiti, and spreading rumors related to a person's alleged sexual activities.

#### **2. Racial and Color Harassment**

Racial or color harassment can include unwelcome verbal, written or physical conduct directed at the characteristics of a person's race or color such as nicknames emphasizing stereotypes, racial slurs, comments on manner of speaking, and negative references to racial customs.

#### **3. Creed Harassment**

Harassment on the basis of creed includes unwelcome verbal, written or physical conduct directed at the characteristics of a person's religion or creed such as derogatory comments regarding surnames, religious tradition, or religious clothing, or religious slurs or graffiti.

#### **4. National Origin Harassment**

Harassment on the basis of national origin includes unwelcome verbal, written or physical conduct directed at the characteristics of a person's national origin such as negative comments regarding surnames, manner of speaking, customs, language or ethnic slurs.

## **5. Marital Status Harassment**

Harassment on the basis of marital status includes unwelcome verbal, written or physical conduct directed at the characteristics of a person's marital status, such as comments regarding pregnancy or being an unwed mother or father.

## **6. Sexual Orientation Harassment**

Harassment on the basis of sexual orientation includes unwelcome verbal, written or physical conduct directed at the characteristics of a person's sexual orientation such as negative name calling and imitating mannerisms.

## **7. Gender Identity Harassment**

Harassment on the basis of gender identity includes unwelcome verbal, written or physical conduct directed at an individual's actual or perceived gender identity, or gender-related characteristics intrinsically related to an individual's gender or gender identity, regardless of the individual's assigned sex at birth.

## **8. Disability Harassment**

Harassment on the basis of a person's disabling mental or physical condition includes any unwelcome verbal, written or physical conduct directed at the characteristics of a person's disabling condition such as imitating manner of speech or movement, or interference with necessary equipment.

Harassment includes, but is not limited to, examples cited in this policy.

## **D. Reporting**

### **1. By Employees**

It is the express policy of the \_\_\_\_\_ School District to encourage employee targets of harassment and employees who have first-hand knowledge of such harassment to report such claims. Employees who witness or are targets of harassment are encouraged to report the incident(s) immediately to their immediate supervisor or another administrator who is not the subject of the complaint as may be appropriate under the circumstances.

Targets of harassment are encouraged to directly inform the person engaging in the harassing conduct or communication that such conduct or communication is offensive and must stop.

### **2. Privacy**

Complaints will be kept confidential to the extent possible given the need to investigate and act on investigative results.

### **3. Retaliation**

There will be no adverse action taken against a person for making a complaint of harassment when the complainant honestly believes harassment has occurred or is occurring, or for participating in or cooperating with an investigation. Any individual who retaliates against any employee or student who reports, testifies, assists or participates in an investigation or hearing relating to a harassment complaint will be subject to discipline by the School District.

## **Administrative Responsibility and Action**

### **1. Reporting**

An employee who receives a complaint of harassment shall promptly inform the Principal (or designee) or another administrator who is not the subject of the complaint.

### **2. Investigation**

The school district is responsible for acting on any information regarding harassment of which it is aware. The Superintendent shall provide for a thorough, prompt investigation of the incident; the investigation and written report shall be completed in a timely fashion in accordance with school procedures after a report or complaint, formal or informal, written or oral, has been received. No person who is the subject of a complaint shall conduct such an investigation.

### **3. Final Action on Complaint**

The school district shall take disciplinary or remedial action as appropriate in order to ensure that further harassment does not occur. Such action may include, but is not limited to, education, training, counseling, transfer, suspension and/or expulsion of a student and education, training, counseling, transfer, suspension and/or termination of an employee.

### **4. False Complaint**

Any person who knowingly makes a false accusation regarding harassment will be subject to disciplinary action up to and including discharge of employees, or suspension and expulsion of students.

### **5. Appeal**

A person judged to be in violation of this policy and subjected to action under it may appeal the determination and/or the action taken in accordance with procedures adopted under this policy. The procedures shall be consistent with the provisions of any applicable collective bargaining agreement.

### **6. Dissemination**

The superintendent shall use all reasonable means to inform students, employees, and the community that the district will not tolerate harassment. A copy of this policy shall be provided to students, employees and parents each year and shall be included in the appropriate materials that are disseminated to the school and community.

### **7. Training**

The superintendent shall develop age-appropriate methods of discussing the meaning and substance of this policy with employees and students in order to help prevent harassment. Training may be implemented in the context of employee professional development and the school curriculum to develop broad awareness and understanding among all members of the school community.

### **8. State and Federal Discrimination Enforcement Agencies**

<sup>7</sup>A complainant who is dissatisfied with this employer's action, or is otherwise interested in doing so, may file a complaint by writing any of the following state or federal agencies.

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<sup>7</sup> Required by 21 V.S.A. §495h(b)(F).

**Vermont Attorney General's Office**, Civil Rights Unit, 109 State Street, Montpelier VT 05609. Tel: 802-828-3171.

**Equal Employment Opportunity Commission**, 1 Congress Street, Boston MA 02114. Tel: 617-565-3200.

*Date Warned:*

*Date Adopted:*

*Legal Reference(s):* 9 V.S.A. §§4502 et seq. (Public accommodations)  
16 V.S.A. 11(a)(26) (Definitions)  
21 V.S.A. §§495 et seq. (Unlawful employment practice, sexual harassment)  
42 U.S.C. §§2000e et seq. (Title VII of the Civil Rights Act of 1964)  
29 C.F.R. 1604.11 (Equal Opportunity Employment Commission)

*Cross Reference:* Harassment of Students (F20)  
Board Commitment to Non-Discrimination (C6)