

# EMPLOYEE HARASSMENT

Updated 4/2/12  
CODE D12  
(Mandatory)<sup>1[1]</sup>

## A. Policy

Harassment is a form of unlawful discrimination, as well as disrespectful behavior, which will not be tolerated. 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 violates this policy. Further, it shall be a violation of this policy to retaliate against any complainant raising good faith allegations of unlawful harassment or witness cooperating in an investigation by the District pursuant to this policy.

## B. Definitions

**1. 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[2]</sup>

**2. Unlawful Harassment:** Unlawful harassment is 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[3]</sup> political affiliation,<sup>4[4]</sup> ancestry, place of birth<sup>5[5]</sup> or disability<sup>6[6]</sup> which has the purpose or effect of substantially interfering with an employee's work or creating an intimidating, hostile or offensive environment.

**3. 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

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<sup>1[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[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[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[4]</sup> 21 V.S.A. §1726(a)(7).

<sup>5[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[6]</sup> *See* 9 V.S.A. §4502. Public Accommodations Act.

- 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.

**4. Retaliation.** Retaliation is adverse action taken against a person for making a complaint of unlawful harassment or for participating in or cooperating with an investigation.

### **C. Examples**

Unlawful harassment can include any unwelcome verbal, written or physical conduct which offends, denigrates, or belittles an employee because of the 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 unwelcome touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, pressure for sexual activity, 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 may 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, and negative references to racial customs.

#### **3. Creed and Religion Harassment**

Creed and religion harassment 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.

#### **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.

## **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**

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

## **D. Procedure**

1. **Duty to Investigate.** In the event the District receives a complaint of unlawful harassment of an employee, or otherwise has reason to believe that unlawful harassment is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and addressed. The District is committed to take action if it learns of potential unlawful harassment, even if the aggrieved employee does not wish to file a formal complaint.

2. **Designated Persons.** Every employee is encouraged to report any complaint of or suspected acts of unlawful harassment. Unlawful harassment should be reported to the Non-Discrimination Coordinators or to the Principal at the following address and telephone number:

Non-Discrimination Coordinators:

Address:

Telephone number:

Principal:

Address:

Telephone number:

3. **Investigation.** Allegations of unlawful harassment will be promptly investigated by a Non-Discrimination Coordinator or his/her designee. At the outset of the investigation, the complainant shall be provided with a copy of this policy. If the allegations are found to have been substantiated by the investigator, the District will take appropriate disciplinary and/or corrective action. The Non-Discrimination Coordinator or his/her designee will inform the complainant(s) and the accused(s) whether the allegations were substantiated. The accused(s) and the complainant(s) shall be warned against any retaliation. If, after investigation, the allegation is found not to have been substantiated, the complainant(s) shall be informed of the right to contact any of the state or federal agencies identified in this policy.

4. **Filing a Complaint.** Employees are encouraged to report the alleged unlawful harassment as soon as possible to the Non-Discrimination Coordinators or the Principal. The complainant will be asked to provide copies of any relevant documents or notes of events and the names of people

who witnessed or were told of the unlawful harassment and will be asked to provide a written description of the unlawful harassment.

5. Alternative Complaint Processes. Employees may file complaints with both the District and with state and federal agencies. If employees are dissatisfied with the results of an investigation, they may file a complaint with state and federal agencies. The agencies are:

a. Vermont Attorney General's Office, Civil Rights Unit, 109 State Street, Montpelier, VT 05602, tel: (802) 828-3171. Complaints should be filed within 300 days of any unlawful harassment.

b. Equal Employment Opportunity Commission, 1 Congress Street, Boston, MA 02114, tel: (617)565-3200 (voice), (617)565-3204 (TDD). Complaints should be filed within 300 days of any unlawful harassment.

*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)

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