



The Pomfret School

CHALLENGING THE MIND ★ ENCOURAGING THE HEART

CODE: D12

HARASSMENT of EMPLOYEES

A. STATEMENT OF POLICY

This policy is intended to comply with the requirements of 16 V.S.A. §565 regarding the prohibition by school boards of unlawful harassment.

It is the policy of the Pomfret School District to maintain a learning and working environment that is free from unlawful harassment. The School District prohibits any form of unlawful harassment on the basis of race, creed, color, national origin, marital status, sex, sexual orientation or disability.

B. GENERAL PROVISIONS

1. Violation. It is a violation of this policy for any student, teacher, administrator, or other school personnel unlawfully to harass a student, teacher, administrator, or other school personnel through conduct or communication on the basis of disability, marital status, national origin, race, religion, sex, or sexual orientation.

2. Complaint. Any student, teacher, administrator, or other school personnel who believes he or she has been subjected to unlawful - and/or pursue other remedies provided by federal and state law.

C. DEFINITIONS AND EXAMPLES

1. Definitions.

a. "*Unlawful harassment*" means verbal or physical conduct based on a person's disability, marital status, national origin, race, religion, sex, or sexual orientation which has the purpose or effect of substantially interfering with a person's performance or creating an intimidating, hostile or offensive environment.

b. "Sexual Harassment" is a form of unlawful harassment which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(i) Submission to that conduct is made either explicitly or implicitly a term or condition of that person's position:

(ii) Submission to or rejection of such conduct by a person is used as a component of the basis for decisions affecting that person, or

(iii) The conduct has the purpose or effect of substantially interfering with a person's performance or creating an intimidating, hostile or offensive environment.

c. "School personnel" means school board members, school district employees, agents of the school district, unpaid, volunteers, contractors and persons, other than students, who are subject to the supervision and control of the School District.

2. Examples. Examples of behaviors which, if sufficiently severe, pervasive or persistent to interfere with a person's ability to participate in or benefit from school programs, would be unlawful harassment include but are not limited to physical aggression or force, the threat of gestures, name-calling, graffiti, stalking, sexual advances, use of nicknames emphasizing stereotypes, comments on manner of speaking, negative references to customs, and derogatory comments regarding surnames.

D. REPORTING

1. Voluntary report.

a. *Students*. A student may report an allegation of unlawful harassment he or she has experienced or witnessed at school or during school sponsored activities to any adult school personnel designated, in accordance with procedures developed under this policy, to receive complaints of unlawful harassment.

b. *Adult school personnel*. Any adult school personnel may report an allegation of unlawful harassment he or she has experienced at school or during school sponsored activities to a person designated, in accordance with procedures developed under this policy, to receive complaints of unlawful harassment.

2. Mandatory report. Any adult school personnel who witnesses or receives a report, formal or informal, written or oral, of unlawful harassment at school or during school-sponsored activities shall report it in accordance with procedures developed under this policy.

3. Privacy. The School District shall respect the privacy of the complainant, the individual(s) against whom the report is directed, and the witnesses to the extent consistent with the School District's obligations to investigate, take appropriate action, and conform to any discovery or disclosure obligations.

E. INVESTIGATION

The School District shall conduct an investigation, in accordance with procedures adopted under this policy, as soon as practicable but not later than 14 days following receipt or complaint, formal or informal, written or oral, alleging unlawful harassment.

F. ACTION

1. Duty to act. The School District shall take appropriate action in all cases where this policy has been violated. Any person found to have violated this policy may be subject to appropriate consequences and/or remedial action including, but not limited to, warning, exclusion, suspension, expulsion, transfer, dismissal, or remedial action such as training, education, or counseling. The School District shall not take any action which is inconsistent with applicable collective bargaining agreements, state and federal laws, and other School District policies.

2. False report. The School District shall take appropriate action against any student, teacher, administrator or other school personnel who makes a false report of unlawful harassment knowing it to be false.

3. Retaliation. The School District shall take appropriate action against any student, teacher, administrator, or other school personnel who retaliates against any person making a good faith report of unlawful harassment or for participating in an investigation or other part of the process established by this policy. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. The procedures established to implement this policy shall include a statement that retaliation for reporting harassment or cooperating in an investigation of harassment is unlawful under nine V.S.A. §4502 (a) (5).

G. APPEAL

A person determined to have violated 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, which shall be consistent with the provisions of any applicable collective bargaining agreement.

H. MANDATORY REPORTING OF ABUSE

Under certain circumstances, alleged harassment may also be possible abuse under Vermont law. The statutory obligation to report suspected abuse, therefore, may be applicable.

I. DISSEMINATION AND TRAINING

1. Dissemination. This policy shall be:

- a. Posted conspicuously throughout each school building in areas accessible to all persons;
- b. Printed in any school district publication that sets forth the comprehensive rules, procedures, and standards of conduct for students; and
- c. Printed in any school district publication that sets forth the comprehensive rules, procedures, and standards of conduct for school district employees.

2. Training. The Superintendent shall develop a method of discussing this policy with students and employees.

3. Review. The School Board shall review this policy periodically for compliance with state and federal law.

Date Warned: August 17, 1995

Policy Adopted: September 11, 1995

Re-warned: April 11, 2005

Re-adopted: May 9, 2005

UNLAWFUL HARASSMENT PROCEDURES

The School Board hereby adopts the following procedures to implement the School District's policy with respect to unlawful harassment.

A. MANDATORY REPORTING

1. To Principal. Any adult school personnel who witnesses or receives a report, formal or informal, written or oral, of unlawful harassment at school or during school sponsored activities shall report it to the principal. If the report involves the school principal, the reporter shall make the report directly to the Superintendent.

2. Principal's duty. Upon receipt of unlawful harassment, the principal shall decide whether to retain and act upon it at the school site or to forward it directly to the School District Equity Coordinator.

a. Retained by principal. If the principal acts upon the report at the school site and if the matter is not resolved informally, in accordance with Section B, he or she shall forward to the School District Equity Coordinator, within 5 days, a report of any action taken.

b. Forwarded to School District Equity Coordinator. If the principal decides to forward the report directly to the School District Equity Coordinator, he or she shall do so immediately, without screening or investigating the report. The principal may request, but not insist upon, a written complaint. The principal shall forward to the School District Equity Coordinator:

- (i) a written statement of the complaint within 24 hours; and
- (ii) any available supporting documentation as soon as practicable.

3. Equity Coordinator. The Superintendent shall designate one individual within the School District/Supervisory Union as the School District Equity Coordinator to receive reports of unlawful harassment. If the report involves the School District Equity Coordinator, the reporter shall make it directly to the Superintendent. The School District shall post the name, mailing address, and telephone number of its Equity Coordinator I: conspicuously. The District Equity Coordinator for Windsor Central Supervisory Union is Steve Michlovitz, Curriculum Coordinator, 496-2 Woodstock Road, Woodstock, VT 05091. (802) 457-1213 ext. 212

B. INFORMAL RESOLUTION

1. Students. If the complainant and respondent(s) are adult school personnel, they may agree to a meeting facilitated by a school employee. If each student involved agrees the situation has been resolved by such a meeting, the school employee shall report to the principal only that the matter has been resolved informally. If any student involved does not agree that the situation has been resolved, he or she may proceed to a formal investigation.

2. Adult School Personnel. If the complainant and respondent(s) are adult school personnel, they may agree to a meeting facilitated by a school employee. If each school personnel involved agrees the situation has been resolved by such a meeting, the school employee shall report to the principal only that the matter has been resolved informally. If any school personnel involved does not agree that the situation has been resolved, he or she may proceed to a formal investigation.

C. INVESTIGATION

1. Who. Unless the matter is resolved in accordance with Section B, the School District Equity Coordinator or designee shall conduct an investigation upon receipt of a report or complaint alleging unlawful harassment.
2. How. The Investigator may interview individuals involved and any other persons who may have knowledge of the circumstances giving rise to the complaint and may use other methods and documentation.
3. When. The Investigator shall complete the investigation as soon as practicable, but in no event later than fourteen (14) days following receipt of the complaint.
4. Result. Upon completion of the investigation, the investigator shall decide if a violation of this policy has occurred and report that decision, along with the evidence supporting-it, to the Superintendent or, if the complaint involves the Superintendent, directly to the School Board, for appropriate action in accordance with School District disciplinary policy.

D. APPEAL

A person determined to have violated the policy on unlawful harassment and subjected to action under it may appeal the determination and/or the action taken as follows:

1. Student. If the person filing the appeal is a student, the appeal shall proceed in accordance with school district policy governing discipline of students with law.
2. Staff
 - a. *Applicable collective bargaining agreement*. If the person filing the appeal is an adult school personnel who has applicable appeal rights under the grievance procedure in a collective bargaining agreement, the appeal shall proceed in accordance with the person's rights in that agreement.
 - b. *Other*. If the person filing the appeal is an adult school personnel who does not have applicable appeal rights under the grievance procedure in a collective bargaining agreement, the appeal shall proceed in accordance with school district policy governing personnel discipline and with law.

E. RETALIATION

Retaliation for reporting harassment or cooperating in an investigation of harassment is unlawful under 9 V.S.A. §4502 (a) (5).

F. RECORD KEEPING AND NOTIFICATION

1. Record keeping. The Superintendent shall assure that a record of any complaint and investigation of unlawful harassment is maintained by the School District in a confidential file.

2. Notification. The Superintendent shall assure that the complainant is notified whether allegations of unlawful harassment were found to be correct, whether a violation of the policy was found, and whether action was taken as a result.

G. NOTICE

The Superintendent shall provide notice of the policy on unlawful harassment and these procedures to all school personnel and to custodial parents or guardians of students. The notice shall:

1. Be in age-appropriate language;
2. Include examples of behaviors which, if sufficiently severe, pervasive or persistent to interfere with a person's ability to participate in or benefit from school programs, would be unlawful harassment; and
3. Provide the following information about additional methods of pursuing claims of unlawful harassment:

A person may make a complaint of harassment to the Vermont Attorney General's Office or the federal Equal Employment Opportunity Commission at the following places:

Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001
(802)828-3171

Equal Employment Opportunity Commission
1 Congress Street
Boston, MA 02114
(617)565-3200

- In addition, an individual may seek other remedies through private legal action and, in some circumstances, through criminal prosecution.