

Addison Northwest Supervisory Union Policy

SECTION: PERSONNEL

CODE: D12

TITLE: UNLAWFUL EMPLOYEE HARASSMENT

Policy

The school boards of the Addison Northwest Supervisory Union, hereinafter referred to as “the District”, are 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 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.

Definitions

1. **Adverse Action:** Includes any form of intimidation, reprisal or harassment such suspension, termination, change in working conditions, loss of privileges or benefits or other disciplinary action in the case of employees.
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.
3. **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, ancestry, place of birth or disability which has the purpose or effect of substantially interfering with an employee’s work or creating an intimidating, hostile or offensive environment.
4. **School Community:** Includes but is not limited to all students, school employees, contractors, unpaid volunteers, interns, student teachers, and visitors.
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:
 - o Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
 - o 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
 - o 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.

Examples

Harassment can include any unwelcome verbal, written or physical conduct which offends, denigrates, or belittles an individual because of an employee’s race, creed (religion), color, national origin, marital status, sex, sexual orientation, gender identity, age, ancestry or disability. Such conduct includes, but is not limited to, unsolicited derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking,

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name calling, graffiti, innuendo, gestures, physical contact, stalking, threatening, bullying, extorting or the display or circulation of written materials or pictures.

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.

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.

Religious or Creed Harassment

Harassment on the basis of religion or 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.

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.

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.

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.

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.

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.

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Reporting

1. **Mandatory:** It is the express policy of the District to *encourage* those who are targets of harassment and *employees who* have first-hand knowledge of such harassment to report such claims. *Employees who witness or are targets of such 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*. All 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 an employee or student for reporting, testifying, assisting or participating in an investigation or hearing related to a harassment complaint will be subject to discipline by the 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 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 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, staff 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 staff and students in order to help prevent harassment. Training

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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.

Date Adopted/Revised:

February, 2006; November, 2011

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 References:

Procedures for Unlawful Employee Harassment (D12-R)

Harassment of Students (F20)

Board Commitment to Non-Discrimination (C6)

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PROCEDURES FOR THE PREVENTION OF HARASSMENT OF EMPLOYEES

The school boards of the Addison Northwest Supervisory Union hereinafter referred to as “the District”, have adopted the following administrative procedures to implement the District’s policy with respect to unlawful harassment of school district employees.

Reporting and Response

1. **To Principal** (or designee): Any adult school employee who witnesses or receives a report, formal or informal, written or oral, of 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 District Equity Coordinator or Superintendent.
2. **Principal’s duty:** Upon receipt of a report of harassment, the Principal shall decide whether to retain and act upon it at the school site or to forward it directly to the District Equity Coordinator.
 - *Retained by Principal.* If the Principal acts upon the report at the school site and if the matter is not resolved informally as described below, he or she shall forward to the District Equity Coordinator, within 5 calendar days, a report of any action taken.
 - *Forwarded to District Equity Coordinator.* If the Principal decides to forward the complaint to the 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 District Equity Coordinator:
 - a written statement of the complaint within 24 hours; and
 - any available supporting documentation as soon as practicable.
 - **District Equity Coordinator:** The Superintendent shall designate at least one (or two - one of each gender) individual(s) within the Supervisory Union as the District Equity Coordinator(s) to receive reports of harassment. If the report involves the District Equity Coordinator(s), the reporter shall refer the complaint directly to the Superintendent. The District shall prominently post the name, mailing address, and telephone number of its Equity Coordinator per the notice requirements of this procedure.

Informal Inquiry and Resolution

The complainant and the alleged harasser(s) may agree to a meeting facilitated by a school employee. If all parties involved agree the situation has been resolved during such meeting, the facilitator shall report to the Principal only that the matter has been resolved informally. If any party involved does not agree that the situation has been resolved, a formal investigation shall be initiated.

Investigation

1. **Who.** Unless the matter is resolved informally, the Principal or District Equity Coordinator or designee shall conduct an investigation upon receipt of a report or complaint alleging harassment.
2. **How.** The investigator will 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) calendar days following receipt of the complaint.

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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 Principal or District Equity Coordinator and the Superintendent or, if the complaint involves the Superintendent, directly to the School Board, for appropriate action in accordance with School District disciplinary policy.

Appeal

A person judged to be in violation of 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 and with legal due process requirements.
2. **Staff:**
 - i. *Applicable collective bargaining agreement.* If the person filing the appeal is an adult school employee 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 as outlined in that agreement.
 - ii. *Other.* If the person filing the appeal is an adult school employee 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 employee discipline and with legal due process requirements.

Retaliation

Retaliation for reporting harassment or cooperating in an investigation of harassment is unlawful under 21 V.S.A. §495(a) (5) and 9 V.S.A. §4503(a) (5).

Record Keeping and Notification

1. **Record keeping:** The Superintendent shall assure that a record of any complaint and investigation of harassment as well as the disposition of the complaint and any disciplinary or remedial action taken is maintained by the 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 valid, whether a violation of the policy occurred, and whether action was taken as a result

Notice

The Superintendent shall provide notice of the policy on unlawful employee harassment and these procedures to all school employees, students, and to custodial parents or guardians of students. Copies of the policy and procedures shall appear in the student and employee handbooks (or other similar publications) as well as publications distributed to parents and community members and shall be posted conspicuously in each school. The notice shall:

1. 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 constitute unlawful harassment; and

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2. Provide the following information about additional methods of pursuing claims of 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.