POLICY: EMPLOYEE/NON-EMPLOYEE HARASSMENT

Policy
Harassment is a form of unlawful discrimination, as well as disrespectful behavior, and it 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 violate 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.

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.

2. Non-Employee: For purposes of this policy, non-employee includes volunteers, student teachers, and others not compensated by the school district.

3. Unlawful Harassment: Unlawful harassment is a form of discrimination. It is verbal, written, visual, or physical conduct based on a person’s race, religion, creed, color, national origin, marital status, sex, pregnancy, sexual orientation, gender identity, age, genetic information, political affiliation, ancestry, place of birth, or disability which has the purpose or effect of substantially creating an intimidating, hostile, or offensive environment or interfering with a person’s work.

4. 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.

5. 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.
Examples

Unlawful harassment can include any unwelcome verbal, written, or physical conduct that offends, denigrates, or belittles a person because of their race, religion, creed, color, national origin, marital status, sex, pregnancy, 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, 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. Age: Age harassment includes unwelcome verbal, written or physical conduct directed at someone (an applicant or employee), such as offensive remarks about a person’s ability to perform certain tasks because of his or her age.

6. 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.

7. 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.

8. 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.

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

10. Genetic Information: Genetic information harassment can include, for example, making offensive or derogatory remarks about an applicant or employee’s genetic information,
or about the genetic information of a relative of the applicant or employee. Genetic information includes information about an individual’s genetic tests and the genetic tests of an individual’s family members, as well as information about family medical history.

MRUSD Board
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1 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.

2 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.

3 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.

4 21 V.S.A. §1726(a)(7).

5 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.