

**Burlington School District Policy
D 8: SEXUAL HARASSMENT**

Former Policy ACAA

Sexual harassment is a form of unlawful discrimination under state and federal statutes that undermines the integrity of the educational environment and adversely affects students, teachers and other school personnel. Accordingly, sexual harassment is prohibited.

All persons associated with the Burlington School District, including, but not necessarily limited to, all District employees, the Board, agents, visitors, volunteers and the students, are required to conduct themselves so as to provide an atmosphere free from sexual discrimination, including sexual harassment, and to refrain from engaging in sexually discriminatory conduct, discrimination, including sexual harassment, while connected in any way with a school event, regardless of whether it occurs during or after school, or work hours, or on or off of school grounds, will be in violation of this Policy. District employees, agents, volunteers and students who violate this Policy will be subject to appropriate discipline, up to and including dismissal or expulsion if warranted. If others violate this Policy while connected in any way with a school event, the District may take appropriate action within its authority to address such violations. Where appropriate, a person engaging in sexual harassment may also be liable for damages and other relief for the victim, civil penalties and/or criminal penalties.

Anyone who believes he/she has been subjected to sexual discrimination including sexual harassment in violation of this Policy is entitled to utilize an internal complaint procedure. A complaint may be reported to a teacher, the building principal or program director where appropriate, an administrator, or the designated Title IX Coordinator.

Building Principal/Program Director

Title IX Coordinator

(School)

Burlington School Department
Ira Allen Administration Building
150 Colchester Avenue
Burlington, VT 05401
(802) 865-5332

Address

Telephone number

(To be completed prior to posting in each school building.)

Definition of Sexual Harassment: Unwelcome sexual advances; requests for sexual favors; or other verbal or physical conduct of a sexual nature constitutes sexual harassment where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or education, including extra-curricular activities; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment; or
4. There exists a "Relationship of a Sexual Nature". "Relationship of a Sexual Nature" means any kind of physical or verbal conduct by an employee with a student engaged in by the employee for the purpose of obtaining power over the student through sexual activity or to gratify a sexual desire. Any District employee's "Relationship of a Sexual Nature" is prohibited. The District will regard any Relationship of a Sexual Nature between an employee and a student as unwelcome by the student.

Some examples of conduct which could constitute sexual harassment are:

Verbal - sexual language; suggestive sexual comments, insults or threats; jokes of a sexual nature; unwanted flirtations; or sexually degrading words used to describe someone.

Non-Verbal - Sexually suggestive objects or pictures on books, lockers or clothing; suggestive obscene or insulting sounds, whistling, gestures, leering; graffiti or other writings of a sexually insulting nature.

Physical - Unwanted contact including offensive touching, pinching or brushing up against someone's body; coercing sexual intercourse, or assault.

Other unwelcome gender based behavior that is offensive, degrading, intimidating, demeaning or based on sexual stereotypes and attitudes.

The above-described conduct may be sexual harassment of an observer even if the conduct is not directed at the observer. The above-described conduct must be unwelcome by either the recipient or an observer to be sexual harassment except where a Relationship of a Sexual Nature is alleged.

Sexual harassment includes both intentional conduct and actions that were not intended to harm anyone. Sexual harassment may occur between members of the same gender as well as between members of the opposite gender.

In determining whether sexual harassment occurred, the totality of the circumstances will be considered, including but not limited to, the age and maturity of any students involved.

Reporting Sexual Harassment:

Any individual who believes they have been subjected to sexual harassment should immediately notify a teacher, the building principal/program director, an administrator, or the Title IX Coordinator of the incident. Any individual who believes they have witnessed sexual harassment is expected to promptly report the incident to a teacher, the building principal/program director, an administrator, or the Title IX Coordinator. In the event that a complaint is against the individual responsible for the complaint process at any level, the complainant should address the complaint directly to the next appropriate level.

IT IS THE RESPONSIBILITY OF ANY EMPLOYEE WHO HAS REASON TO BELIEVE THAT ANOTHER EMPLOYEE IS HAVING A RELATIONSHIP OF A SEXUAL NATURE WITH A STUDENT TO REPORT SUCH BELIEF TO THE TITLE IX COORDINATOR. FAILURE TO MAKE A REPORT IN SUCH CIRCUMSTANCES WILL ITSELF BE CONSIDERED A MOST SERIOUS VIOLATION OF EMPLOYMENT OBLIGATIONS AND APPROPRIATE DISCIPLINE WILL OCCUR.

All reports and complaints of sexual harassment will be promptly investigated in accordance with the Complaint Procedure provided in the following Procedures. All Burlington School District employees shall cooperate with an investigation conducted under these Procedures and shall be honest and forthcoming with any relevant information. In addition, the District shall promptly investigate situations in which there is a reasonable suspicion that an employee is having a Relationship of a Sexual Nature with a student. The teacher, principal/program director, or the Title IX Coordinator will act immediately to terminate the conduct that prompted the complaint while the investigation is proceeding.

The existence of the Complaint Procedure does not affect the right of any individual or group to pursue any other procedure provided for by contract, or by state or federal law, including, but not limited to, a written or verbal complaint to the State of Vermont Attorney General's Office, 109 State Street, Montpelier, VT 05602, ((802)828-3171 voice/TDD); Vermont Human Rights Commission, 133 State Street, Montpelier, VT 05633-6301, (802)828-2580 (voice/TDD) the Office for Civil Rights, U.S. Department of Education, Region I, McCormack Post Office and Courthouse, Room 22, Post Office Square, Boston, MA 02109 (617) 223-9662; (617)223-9695 (TDD); or the Equal Employment Opportunity Commission, 1 Congress Street, Boston, MA 02114 ((617)565-3200 voice (617)565-3204 TDD). Depending on the law under which the complaint is made, differing time periods exist within which such complaints must be made. Individuals may also consult their own private attorney and file a civil lawsuit within the applicable statute of limitations.

Confidentiality: It is District policy to respect the privacy and anonymity of all parties and witnesses to complaints brought under this Policy. However, because an individual's need for confidentiality must be balanced with the District's obligations to cooperate with police investigations or legal proceedings, to provide due process to the accused, to conduct a thorough investigation, or to take necessary action to resolve a complaint, the District retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know. In evaluating a confidentiality request, the District will consider the seriousness of the conduct, the age of the complainant, whether there are other complaints against the same person and the rights of the accused to receive information about the complainant and the specific allegations if there are formal disciplinary proceedings. The complainant may choose, but will not be required to, confront the alleged harasser.

Where a report alleges sexual harassment such that there is reasonable cause to believe that someone under eighteen is at substantial risk of, or is in a Relationship of a Sexual Nature, has been sexually molested or exploited by any person, then a report will be made to the Commissioner of Social Rehabilitation within twenty-four hours. See Board Policy H 2, Child Abuse and Neglect Reporting. In suitable circumstances, regardless of age, the appropriate law enforcement agency may be contacted regarding reports of sexual harassment.

Intentionally false reports or malicious reports of sexual harassment may result in corrective or disciplinary action.

Consequences:

Upon completion of the investigation and determination, appropriate disciplinary action, if any, shall be imposed. Discipline may include, but is not limited to, time out, behavior contracts, verbal warning or reprimand, written warning or reprimand, suspension, expulsion, referral for psychological assessment or treatment, mandatory sexual harassment training and dismissal. Any discipline imposed will be intended to defer future harassment.

It is the unconditional responsibility of the employee to avoid Relationships of a Sexual Nature, even if instigated by the student. It will be the employee who will be disciplined for any violation of this Policy.

Dismissal will always be the discipline imposed on an employee when a Relationship of a Sexual Nature between an employee and a student involves significant sexual interaction. In other situations, the discipline imposed will be appropriately related to the seriousness and/or the frequency of the offense.

The District will in all cases be cognizant of the fact that giving a warning to an employee who has violated this Policy may not stop the impermissible conduct, but rather increase efforts to conceal it. Consequently, the District will in any such cases actively follow up to be satisfied that impermissible conduct does not reoccur. This follow up will occur regardless of whether the perpetrator remains employed by the District.

If the District concludes that sexual harassment has occurred it will take action which in its judgment is appropriate to address any adverse effects of the harassment on the complainant or others impacted by the harassment.

If a professional educator is determined to have engaged in sexual harassment a report of the finding shall be filed with the Licensing Office of the Vermont Department of Education unless there is an appeal of the determination.

Retaliation Prohibited:

Retaliation in any form against a person making a claim of sexual harassment or participating in any procedures or investigation involving of a claim of sexual harassment is prohibited. Prohibited retaliatory acts include but are not limited to, acts which affect status, grades or work assignments.

Any such acts of retaliation may themselves be the basis for severe discipline and are unlawful pursuant to subdivision 4503(a)(5) of Title 9 of the Vermont Statutes Annotated.

Notice of this Policy and the procedures shall be included in Student Handbooks in age appropriate language and in all District publications which state the rules of conduct for the school and posted in public places accessible to all students, teachers, school personnel and others who interact with the school community.

The District shall conduct age appropriate trainings to ensure students, faculty and staff are informed of the substance of the Policy and procedures.

PROCEDURES: See Procedures for available Complaint Procedures and other procedures.

CROSS REFERENCE:

Non-Discrimination on Basis of Race, Color and National Origin, ACAB; Non-Discrimination on the Basis of Handicap, ACAC; Equal Employment Opportunity, A 4; Non-Discrimination on the Basis of Sex, ACAE; Non-Discrimination in Vocational Education Programs, A 5; Child Abuse and Neglect Reporting, H 2; and Education Records, F 3R.

SOURCES:

Equal Employment Opportunity, Title VII, 42 U.S.C. §2000e-2 et seq.; Education Amendments of 1972, Title IX, 20 U.S.C. § 1681 et seq.; 34 C.F.R. §106.1 - 106.71 U.S. Department of Education OCR Regulations; Family Education Rights and Privacy Act, 20 U.S.C. 1232(g); Fair Employment Practices, 21 V.S.A. Chapt. 5, subchpt. 6. Harassment Policy, 16 V.S.A. §565.

Policy reviews and updates:

August 19, 1997	Adoption
November 9, 1999	Policy review
May 8, 2001	First reading
October 9, 2001	First reading
September 11, 2001	Second reading & adoption
November 13, 2001	Second reading & adoption
November 18, 2008	Policy Review

101030-43 Proposed amendment – Sex har. policy 9-24-01