

## **HARASSMENT OF STUDENTS**

### **Policy**

The Townshend School District is committed to providing all students with a safe and supportive school environment in which all members of the school community are treated with respect. Harassment is a form of unlawful discrimination, which will not be tolerated.

### **General Information**

It is the intent of the District to apply and enforce this policy in a manner that is consistent with and protects students' rights to free expression under the First Amendment of the U.S. Constitution. The District respects and promotes the rights of students and others to speak freely and to express their ideas, including ideas that may offend the sensibilities of others. The purpose of this harassment policy is to prevent conduct or communication that is directed at a person's particular characteristics as defined and that is likely to substantially disrupt the educational environment or interfere with the rights of others.

Nothing in this policy shall be construed to prohibit punishment of a student for conduct which, although it does not rise to the level of harassment as defined here, otherwise violates one or more of the Board's disciplinary policies or school rules.

### **Definitions**

1. **Adverse Action:** Includes any form of intimidation, reprisal or harassment such as diminishment of grades, suspension, expulsion, change in educational conditions, loss of privileges or benefits or other unwarranted disciplinary action in the case of students and includes any form of intimidation, reprisal or harassment such as 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, an employee includes any person employed directly or through a contract with another company by the school district, agents of the school, school board members and any student teacher, intern or school volunteer.
3. **Harassment:** Under Vermont law, harassment is an incident or incidents of verbal, written, visual, or physical conduct based on or motivated by a student's or a student's family member's actual or perceived race, religion (creed), color, national origin, marital status, sex, sexual orientation, or disability that has the

- purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile or offensive environment.
4. **School Community:** Includes but is not limited to all students, school employees, contractors, unpaid volunteers, work study students, interns, student teachers, and visitors.
  5. **Sexual Harassment:** A form of unlawful harassment which means conduct that includes unwelcome sexual advances, requests for sexual favors, or other verbal, written, visual, or physical conduct of a sexual nature made by a school employee to a student or by a student to another student when one or both of the following occur:
    - Submission to such conduct is made either explicitly or implicitly a term or condition of a student's education, academic status or progress; or
    - Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student; or
  6. **Racial Harassment:** A form of unlawful harassment which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived race or color, and includes epithets, stereotypes, racial slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display or circulation of written or visual material, and taunts on manner of speech and negative references to racial customs.
  7. **Harassment of Members of Other Protected Categories:** A form of unlawful harassment which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived creed, national origin, marital status, sex, sexual orientation, or disability and includes the use of epithets, stereotypes, slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display or circulation of written or visual material, and taunts on manner of speech and negative references to customs related to any of these protected categories.

### **Notice/Reporting**

When the school receives actual notice of alleged conduct that may constitute harassment, officials shall promptly investigate to determine whether harassment has occurred. Notice means a written complaint or oral information that harassment may have occurred which has been provided to a designated employee from another employee, the student allegedly subjected to the harassment, another student, a parent or guardian, or any other individual who has reasonable cause to believe the alleged conduct may have occurred. If the complaint is oral, the designated employee shall promptly reduce the complaint to writing, including the time, place, and nature of conduct, and the identity of the participants and complainant. In determining whether conduct constitutes a violation of this

policy, the investigating official shall consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior,

the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

After receiving notice of the alleged conduct, the school shall provide a copy of its harassment policy, including its harassment investigation procedure, to the alleged victim and the alleged perpetrator. If either the alleged victim or the alleged perpetrator is a minor, the copy of the policy shall be provided to the person's parent or guardian.

If after notice, the school finds that the alleged conduct occurred and that it constitutes harassment, the school shall take prompt and appropriate remedial action reasonably calculated to stop the harassment.

1. Voluntary: It is the express policy of the Townshend School District to encourage student targets of harassment and students who have first-hand knowledge of such harassment to report such claims. Students should report incident(s) to any teacher, guidance counselor or school administrator. Students may choose to report to a person of the student's same sex.
2. Mandatory: Any adult school employees who witness, overhear, or receive a report, formal or informal, written or oral, of harassment shall take action to stop the conduct and to prevent its recurrence and report it in accordance with procedures developed under this policy.

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

3. Privacy: Complaints will be kept confidential to the extent possible given the need to investigate and act on investigative results.
4. Retaliation: There will be no adverse action taken against a person for reporting 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 any employee or student who reports, testifies, assists or participates in an investigation or hearing relating to a harassment complaint will be subject to appropriate action and/or discipline by the School District.

## **Administrative Responsibility and Action**

1. Administrative Reporting: A staff member 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 School District is responsible for acting on any information regarding harassment of which it is aware. Unless special circumstances are present and documented by school officials, an investigation shall be initiated no later than one school day from the filing of a complaint. The investigation and determination by school officials shall be concluded no later than five school days from the filing of the complaint. All internal reviews of the school's initial determination, including the issuance of a final decision, shall, unless special circumstance are present and documented, be complete within 30 days after a review is requested.
3. Independent Review: A student who desires independent review because the student is either dissatisfied with the final determination of the school officials as to whether harassment occurred, or believes that although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem, shall make such a request in writing to the Superintendent. Upon such a request, the Superintendent shall initiate an independent review by a neutral person selected from a list developed jointly by the Commissioner of Education and the Human Rights Commission and maintained by the Commissioner. The independent review shall proceed expeditiously and shall consist of an interview of the student and the relevant school officials and review of written materials involving the complaint maintained by the school or others. Upon conclusion of the review, the reviewer shall advise the student and school officials as to the sufficiency of the school's investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and any future steps the school should take. The reviewer shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution. The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records. The costs of the independent review shall be borne by the school board.

The school district may also request an independent review at any stage of the process.

Evidence of conduct or statements made in connection with an independent review shall not be admissible in any court proceeding. This does not require exclusion of any evidence otherwise obtainable from independent sources merely because it is presented in the course of an independent review.

4. 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 and counseling,

- transfer, suspension and/or expulsion of a student, and education, training and counseling, transfer, suspension and/or termination of an employee.
5. False Complaint: Any person who knowingly makes a false accusation regarding harassment will be subject to disciplinary action up to and including suspension and expulsion with regard to students or discharge with regard to employees.
  6. 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.
  7. Dissemination: The Superintendent shall use all reasonable means to inform students, staff members, and the community that the District will not tolerate harassment. A copy of this policy and its implementation procedures 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.
  8. Training: The school will develop age-appropriate methods of discussing the meaning and substance of this policy with students and staff in order to help prevent harassment. Training may be implemented within the context of professional development and the school curriculum to develop broad awareness and understanding among all members of the school community. Staff training will enable staff to recognize, prevent and respond to harassment.
  9. The Superintendent is responsible for developing procedures that will guide the implementation of this policy.

### **Alternative Complaint Process**

At all stages of the investigation and determination process, alternative dispute resolution methods, such as mediation, are available.

No legal action shall be brought until the administrative remedies available to the claimant under this policy have been exhausted. Such a showing shall not be necessary where the claimant demonstrates that:

- The school does not maintain such a policy
- A determination has not been rendered within established time limits
- The health or safety of the complainant would be jeopardized otherwise
- Exhaustion would be futile
- Requiring exhaustion would subject the student to substantial and imminent retaliation

### **Examples**

Harassment can include any unwelcome verbal, written or physical conduct which offends, denigrates, or belittles an individual because of, including but not limited to, an student's race, creed (religion), color, national origin, marital status, sex, sexual orientation, age, ancestry 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.

### **Sexual Harassment**

Examples of sexual harassment include, but are 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. Demeaning comments about a student's ability to excel in a class historically considered a "boy's" or a "girl's" subject may constitute sexual harassment.

### **Racial and Color Harassment**

Racial or color harassment can include, but is not limited to, unwelcome verbal, written or physical conduct directed at the characteristics of a person's actual or perceived race or color such as nicknames emphasizing stereotypes, racial slurs, comments, insults or taunts on manner of speaking, and negative references to racial customs.

### **Religious or Creed Harassment**

Harassment on the basis of religion or creed includes, but is not limited to, unwelcome verbal, written or physical conduct directed at the characteristics of a person's religion or creed such as derogatory comments, insults or taunts regarding surnames, religious tradition, or religious clothing, or religious slurs or graffiti.

### **National Origin Harassment**

Harassment on the basis of national origin includes, but is not limited to, unwelcome verbal, written or physical conduct directed at the characteristics of a person's national origin such as negative comments, insults or taunts regarding surnames, manner of speaking, customs, language or ethnic slurs.

### **Marital Status Harassment**

Harassment on the basis of marital status includes, but is not limited to, unwelcome verbal, written or physical conduct directed at the characteristics of a person's marital status, such as comments, insults or taunts regarding pregnancy or being an unwed mother or father.

### **Sexual Orientation Harassment**

Harassment on the basis of sexual orientation includes, but is not limited to, unwelcome verbal, written or physical conduct directed at the characteristics of a person's sexual orientation such as ridicule, taunts, slurs, negative name calling and imitating mannerisms.

### **Disability Harassment**

Harassment on the basis of a person's disabling mental or physical condition includes, but is not limited to, 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, ridicule or insults based on manner of speech or movement or interference with necessary equipment

*Date Warned: 11/8/04*

*Date Adopted:  
11/22/04*

*Legal Reference(s): 16 V.S.A. §§11(a) (26), 565 (harassment)  
21 V.S.A. § 495 (retaliation)  
33 V.S.A. §§ 4911 et seq. (child abuse)  
9 V.S.A. §§ 4500 et seq. (public accommodations)  
20 U.S.C. §§1681 et seq. (Title IX of the Educational Amendments)  
34 C.F.R. Part 106  
42 U.S.C. §2000d (Title VI of the Civil Rights Act of 1964)  
Davis v. Monroe County Board of Education 526 U.S. 629 (1999)  
Franklin v. Gwinnett 503 U.S. 60 (1992)  
Saxe v. State College Area School District, 240 F. 3d 200 (3rd Cir. 2001)*

*Cross Reference: Reporting Suspected Child Abuse or Neglect)*

*Harassment of Employees*