



## CONSOLIDATED SCHOOL DISTRICT OF NEW BRITAIN

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### **Board Policy Statement**

#### **4118.11 - Sexual, Racial, and Other Unlawful Harassment of Employees**

Approved on May 19, 2014

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It is the policy of the Board of Education to maintain a working environment that is free from sexual, racial and other unlawful harassment. The Board will not tolerate the harassment of any applicant, employee, independent contractor, or volunteer based on race, color, national origin, sex, age, disability, religion, sexual orientation, marital status, ancestry, genetic information or any other basis prohibited by law.

This policy prohibits sexual, racial and other unlawful harassment by employees, teachers, administrators, Board members, students, volunteers, and others contractually or otherwise under the control of the school system. It also protects against harassment by any third person who is on school premises, at a school workplace or who otherwise comes in contact with school personnel in connection with their employment at the school system.



## CONSOLIDATED SCHOOL DISTRICT OF NEW BRITAIN

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### **Administrative Procedure**

#### **4118.11 - Sexual, Racial, and Other Unlawful Harassment of Employees**

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#### **I. Overview**

The Board of Education promotes a working environment free from unlawful harassment and does not tolerate the harassment of any applicant, employee, independent contractor, or volunteer based on race, color, national origin, sex, age, disability, religion, sexual orientation, marital status, ancestry, genetic information or any other basis prohibited by law.

Employees who believe they have been subjected to unlawful harassment as defined in Board Policy 7-11 are encouraged to promptly report such incidents to a Building Principal or the district's Title IX Coordinator. Timely reporting of incidents of unlawful harassment enables the school district to properly investigate and resolve such complaints.

Complaints will be investigated promptly and corrective action will be taken when allegations are verified. Confidentiality will be maintained to the extent practical. Any reprisals or retaliations found to have occurred as a result of reporting harassment may result in disciplinary action against the retaliator. All reports of conduct that violates this policy shall be reviewed regardless of whether the report has been made in writing.

The school district will provide staff development for new district administrators and will publish its policy and complaint procedure and orient students and employees in an effort to maintain an environment free of sexual, racial and other unlawful harassment.

#### **II. Definition of Unlawful Harassment**

Unlawful harassment means unwelcome and offensive conduct that has the purpose or effect of unreasonably interfering with an employee's performance and/or employment opportunities or that is sufficiently severe, pervasive or persistent so as to create an intimidating, hostile or offensive working environment. All forms of harassment are prohibited whether verbal, written, visual or physical and regardless of the medium through which it occurs.

#### **III. Definition of Sexual Harassment**

The term "sexual harassment" warrants additional explanation. Unwelcome sexual advances, requests for sexual favors and other inappropriate verbal, non-verbal or physical conduct of a sexual nature constitute sexual harassment when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

- B. Submission to or rejection of such conduct by an individual is used as the basis of employment decisions affecting such individual;
- C. Such conduct has the purpose or effect of substantially interfering with an individual's work performance, and/or is sufficiently severe, pervasive or persistent that it creates an intimidating, hostile or offensive work environment.

Such conduct constitutes sexual harassment whether or not a threat of adverse job consequences is carried out and whether or not the employee actually suffers any tangible adverse job consequences.

Sexual harassment includes a wide range of behaviors – from pressure or requests for sexual activities to unwelcome sexual comments and innuendo to verbal abuse of a sexual nature. Unwelcome sexual flirtations and advances, offensive touching of an individual, graphic or verbal commentaries about an individual's body, sexually degrading words used to describe an individual, and displays in the work place of sexually suggestive objects or pictures are some of the additional behaviors that constitute sexual harassment. Behavior appropriate in a social setting may not be appropriate in the workplace. Sexual harassment may be subtle and even unintentional. It may be directed towards members of the opposite or same sex.

#### **IV. Examples of Sexual Harassment**

While an exhaustive list is not possible, the following are examples of specific conduct that violate the law and policy and which, if severe and pervasive, constitute sexual harassment. In each case, such a determination will depend upon the totality of the circumstances, including the severity of the conduct and its pervasiveness. Sexual harassment includes, but is not limited to:

- A. Suggestive or obscene letters, notes, e-mail, voice mail or text messages, invitations, derogatory comments, slurs, jokes, epithets, touching, impeding or blocking movement, leering, gestures, noises, pulling at clothes, display or transmission of sexually suggestive objects, pictures or cartoons, sexual assault, attempted sexual assault.
- B. Continuing to express sexual interest after learning of or being informed that the interest is unwelcome;
- C. Coercive sexual behavior used to control, influence, or affect the career, salary and/or work environment of another employee, such as threats of reprisal, implying or withholding support for an appointment, promotion, transfer, or change of assignment;
- D. Suggesting a poor performance evaluation will be prepared or that a probationary period of employment will not be completed successfully;
- E. Discussion of one's own sexual activities or inquiries into others' sexual experiences;
- F. The creation of an atmosphere of sexual harassment or intimidation, or a hostile or offensive working environment; and
- G. Inappropriate attention of a sexual nature.

#### **V. Relationships at the Workplace**

Sexual or romantic relationships between employees and students are strictly prohibited whether or not they constitute sexual harassment as defined in this policy. In addition, those working for the school system, and

especially those in position of authority, should be sensitive to the questions about mutuality of consent that may be raised, and to the conflicts of interest that may exist, in personal relationships with other school personnel.

## **VI. Examples of Other Unlawful Harassment**

Unwelcome speech or conduct of an offensive or hostile nature based on an individual's race, color, national origin, sex, age, disability, religion, sexual orientation, marital status, ancestry, or genetic information is also prohibited by this policy. Examples of such unlawful harassment include, but are not limited to, the following:

- A. Intimidation and implied or overt threats of physical violence or physical acts of aggression or assault upon another or damage to another's property that is motivated by race, color, national origin, sex, age, disability, religion, sexual orientation, marital status, ancestry, or genetic information or any other basis prohibited by local, state and federal law;
- B. Depending upon the circumstances and context, demeaning jokes, taunting, slurs, derogatory nicknames, innuendos or other negative or offensive remarks relating to an individual's race, color, national origin, sex, age, disability, religion, sexual orientation, marital status, ancestry, or genetic information or any other basis prohibited by local, state and federal law;
- C. Depending upon the circumstances and context, graffiti, slogans, or visual displays such as cartoons, graphics or posters depicting slurs or derogatory sentiments relating to an individual's race, color, national origin, sex, age, disability, religion, sexual orientation, marital status, ancestry, or genetic information or any other basis prohibited by local, state and federal law.

## **VII. Complaint Procedure**

All members of the school community are responsible for helping to assure that sexual, racial and other unlawful harassment is avoided. The Superintendent of Schools is authorized to develop and maintain regulations establishing a complaint procedure for reporting violations of this policy. Any person who feels he or she has been harassed or victimized in violation of this policy should process a complaint in accordance with said regulations. Any person who has observed or otherwise become aware of conduct prohibited by this policy should bring the matter to the immediate attention of the Title IX Coordinator.

**The district's Title IX Coordinator is the Director of Pupil Services. The Office of Pupil Services is located at 272 Main Street, P.O. Box 1960, New Britain, CT 06050. The phone number is 860-827-2234.**

All complaints will be promptly investigated in as confidential a manner as practical and appropriate corrective action will be taken as warranted. Any employee, volunteer or other individual under the control of the school system who is determined after an investigation to have engaged in harassment in violation of this policy will be subject to discipline, including possible dismissal. He or she may also be personally liable in any legal action brought against him or her.

## **VIII. Retaliation**

Retaliation against an individual because she or he has reported harassment or has co-operated in an investigation of alleged harassment is a violation of Board policy and state and federal law. Such retaliation is a form of harassment and will be handled in the same manner as other forms of unlawful harassment.

## **IX. Responsibilities of the Title IX Coordinator**

The Title IX Coordinator is responsible for the following:

- A. Ensuring that all complaints of unlawful harassment are investigated in a prompt and objective manner;

- B. Ensuring the school district's compliance with various statutory record keeping, notice and training requirements in the area of harassment. This includes the requirement of posting in a prominent and accessible location information concerning the illegality of sexual harassment and remedies available to victims of sexual harassment;
- C. Reviewing the Board's policy on harassment and these accompanying administrative regulations periodically for appropriate updating, and monitors them on an on-going basis for effective implementation;
- D. Ensures that the Board's policy and administrative regulations are distributed to all students and employees annually;
- E. Ensuring that the definition of "harassment" as well as the process by which any person may make a complaint of sexual, racial or other unlawful harassment is part of the orientation for all students and employees at the start of the school year and new students and employees during the school year;
- F. Ensuring students and employees are aware of who is serving as Title IX Coordinator for the District and how he or she may be reached.

#### **X. Sexual Harassment Training for Administrators and Supervisory Employees**

Administrators and others with supervisory responsibilities must attend a school-sponsored sexual harassment training program within six months of assuming such position with the school district and thereafter when required by the school district. Such training shall include, at minimum, a description of the state and federal laws prohibiting sexual harassment, the definition of sexual harassment, a discussion of the types of conduct that may constitute sexual harassment, a description of the remedies available in such cases, a discussion of strategies to prevent sexual harassment and the warning that individuals who commit acts of sexual harassment may be subject to civil and criminal penalties.

#### **XI. Alternative Complaint Procedures**

The federal and state agencies that investigate complaints of unlawful harassment of employees are the U. S. Equal Employment Opportunity Commission (EEOC) and the Connecticut Commission of Human Rights and Opportunities (CHRO). If you believe you have been subject to unlawful harassment on the basis of race, color, national origin, sex, age, disability, religion, sexual orientation, marital status, ancestry, or genetic information, you may file a complaint with the CHRO, located at 21 Grand Street, Hartford, CT 06106 (860-541-5737). If you believe you have been subjected to unlawful harassment because of your race, color, sex, religion, national origin, age, or disability, you may file a complaint with the EEOC located at John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203, 1-800-669-4000. The EEOC and CHRO apply a statute of limitation of one hundred and eighty (180) days to such complaints. A copy of this policy or appropriate summary shall be periodically distributed to all employees.

#### **XII. Responsibilities of Personnel**

##### **A. All Employees**

Any staff member who feels that he or she is a victim of sexual, racial or other unlawful harassment is strongly urged to immediately report the incident to the Building Principal or Title IX Coordinator. If possible, the victim is also urged to firmly and immediately notify the offender that his or her behavior is unwelcome and request that it stop. It is extremely important for victims to report any form of harassment to the Building Principal or Title IX Coordinator even if the offender has been told that his or her behavior

is unwelcome and has been asked to stop the unwelcome conduct. If the Building Principal is the subject of the complaint, then the employee must make the complaint to the Title IX Coordinator. If the Title IX Coordinator is the subject of the complaint, then the employee must make the complaint to the Superintendent.

Any employee who has not been victimized but is aware of or has observed a possible violation of the Board's policy on sexual, racial and other unlawful harassment is required to report such information verbally or in writing to the Building Principal or Title IX Coordinator. Administrators and supervisors who fail to report possible violations of this policy may be subject to discipline.

#### **B. Administrators**

Any complaint or other communication from an applicant for employment, an employee, a volunteer, an independent contractor, a visitor, a government agency, or an attorney concerning potential harassment should be immediately shared with the Title IX Coordinator. If notification to the Title IX Coordinator is impractical or inappropriate under the circumstances, the Superintendent should be contacted. Any and all investigations should be conducted with the guidance of the Title IX Coordinator or Superintendent or his or her designee.

#### **C. Title IX Coordinator**

The Title IX Coordinator shall be responsible for the investigation of all verbal and written complaints of alleged discrimination including unlawful harassment. The Title IX Coordinator shall ensure a prompt and equitable resolution of all complaints.

### **XIII. Reporting a Complaint of Unlawful Harassment**

Any applicant or employee who feels that he/she has been harassed on the basis of race, color, national origin, sex, age, disability, religion, sexual orientation, marital status, ancestry, or genetic information should immediately bring his/her complaint to the attention of one of the following school officials: Building Principal or district's Title IX Coordinator.

**The district's Title IX Coordinator is the Director of Pupil Services. The Office of Pupil Services is located at 272 Main Street, P.O. Box 1960, New Britain, CT 06050. The phone number is 860-827-2234.**

Upon any notice from an employee or other individual that illegal harassment may be occurring, the school official taking the complaint should inform such person of the school district's policy and regulations, including the school district's legal obligation to investigate every report even where the complainant is hesitant to pursue the complaint.

Although there is no requirement that the complaint be in writing, the school official should encourage the complainant to commit the complaint to writing and may assist the complainant in writing the complaint. The written complaint should state the following (the form in Appendix A may be provided for the convenience of the complainant, but is not required):

- A. Name of the complainant
- B. Date that the complaint was made
- C. Name(s) of the alleged harasser(s)
- D. Date and place of the alleged harassment
- E. Names of any witnesses, if any
- F. List of documentary evidence, if any
- G. Statement of the facts supporting this complaint of harassment

The school official should document the complaint even if the complainant refuses to commit the complaint to writing. In such instance, the school official should ask the complainant to review the complaint for accuracy and ask the complainant sign. If the complainant chooses not to sign, the school official should note so on the official's report of the complaint.

The school official should advise the employee that confidentiality will be maintained to the extent possible. The school official cannot make a blanket promise of complete confidentiality since information gained from the investigation may have to be disclosed to other school personnel or may be needed in subsequent government or court proceedings.

The school official should carefully document his or her knowledge of all communications and efforts concerning employee complaints, including any employee failure to take advantage of the opportunities provided by the school district's policy and procedure. Such documentation should be maintained in a separate investigative file.

The Building Principal shall immediately forward the complaint to the district's Title IX Coordinator without screening or investigating the report.

If the Title IX Coordinator is the subject of the complaint, the complaint should be submitted to the Superintendent, who shall investigate or appoint a designee to do so. If the Superintendent is the subject of the complaint, it shall be submitted to the Board of Education and the Board shall appoint the investigator.

#### **XIV. Investigation of the Complaint**

##### **A. Investigator**

The Title IX Coordinator is responsible for investigating any complaints of unlawful harassment. The advice of legal counsel should be sought as necessary.

##### **B. Interim measures**

The investigator shall assess whether there is a necessity to take immediate interim measures to prevent further allegations of unlawful harassment or retaliation of any kind while the investigation is pending.

##### **C. Investigation**

The investigation shall be conducted with objectivity and completed in a timely manner. The investigator shall consult with all individuals believed to have relevant information including the complainant, the person(s) accused of the unlawful harassment, potential witnesses and other possible victims of the alleged harassment. The investigation shall be carried on discreetly, maintaining confidentiality insofar as possible while still conducting an effective and thorough investigation. Throughout the investigative process, the due process rights of the alleged harasser(s) shall be preserved. The investigator shall keep the complainant apprised of the status of the investigation on a periodic basis.

##### **D. Documentation**

The investigator should carefully document all aspects of the investigation. Documentation should be maintained in an investigative file. Documentation of disciplinary actions taken should be maintained in the employee's personnel file or the student's disciplinary file.

##### **E. Written Report**

After an impartial and prompt investigation of the complaint, the investigator should ascertain (1) whether the alleged conduct occurred, and (2) whether such conduct constitutes a violation of the Board's policy.

In determining whether there is a violation of the policy, the investigator should consider the surrounding circumstances, the nature of the behavior, past incidents or patterns of behavior, the relationships between the parties involved and context in which the incidents occurred. If there is a violation, the investigator should determine what remedial action is necessary to eradicate the harassment and prevent any recurrence of such conduct in the future. The investigator should commit the findings and recommendations to writing and forward the report to the Superintendent of Schools. Unless unusual circumstances exist, the written report shall be completed within 10 school days of receipt of the complaint. If the Superintendent is the subject of the investigation, the Board of Education shall receive the findings and recommendations.

#### **F. Notification of Results of Investigation**

The results of the investigation will be communicated to the parties involved in a manner consistent with state and federal laws regarding data and records privacy.

#### **G. Request for Review**

If the complainant is unsatisfied with the results of the investigation, he/she may request a review by the Superintendent of Schools within 10 school days of the notification of the results of the investigation. The Superintendent (or designee) shall review the investigator's written report and further investigation may be conducted if necessary. The complainant may present additional evidence or witnesses for the reviewer to consider. Absent unusual circumstances, the review process shall be completed within 20 days of the request for the review. The Superintendent shall promptly notify the complainant in writing of the results of his/her review.

#### **H. Corrective Action**

If unlawful harassment in violation of Board policy is determined to have occurred, the school district will take prompt corrective action that is reasonably calculated to stop the harassment and prevent any recurrence of such behavior. As part of such remedial action, the offender may be subject to appropriate disciplinary action which may include, but is not limited to one or a combination of the following: counseling, awareness training, warning, reprimand, reassignment, transfer, suspension, termination or expulsion. School district action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and other school district policies.

### **XV. Alternative Complaint Procedures**

The federal and state agencies that investigate complaints of unlawful harassment of employees are the U. S. Equal Employment Opportunity Commission (EEOC) and the Connecticut Commission of Human Rights and Opportunities (CHRO). If you believe you have been subject to unlawful harassment on the basis of race, color, national origin, sex, age, disability, religion, sexual orientation, marital status, ancestry, or genetic information, you may file a complaint with the CHRO, located at 21 Grand Street, Hartford, CT 06106 (860-541-5737). If you believe you have been subjected to unlawful harassment because of your race, color, sex, religion, national origin, age, or disability, you may file a complaint with the EEOC located at John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203, 1-800-669-4000. The EEOC and CHRO apply a statute of limitation of one hundred and eighty (180) days to such complaints.