

**COMMON POLICY FOR FRANKLIN CENTRAL SUPERVISORY UNION**  
**ST. ALBANS TOWN EDUCATIONAL CENTER,**  
**ST. ALBANS CITY SCHOOL, FAIRFIELD CENTER SCHOOL,**  
**BELLOWS FREE ACADEMY UNION HIGH SCHOOL DISTRICT #48,**  
**AND NORTHWEST TECHNICAL CENTER**

**CODE D12**  
**(Mandatory)<sup>1</sup>**

**EMPLOYEE/NON-EMPLOYEE HARASSMENT**

1. **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.

2. **Definitions**

- 2.1 **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.<sup>2</sup>
- 2.2 **Non-Employee:** For purposes of this policy, non-employee includes volunteers, student teachers, and others not compensated by the school district.
- 2.3 **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, sexual orientation, gender identity, age,<sup>3</sup> political affiliation,<sup>4</sup> ancestry, place of birth,<sup>5</sup> or disability<sup>6</sup> which has the purpose or effect of substantially creating an intimidating, hostile, or offensive environment or interfering with a person's work.

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<sup>1</sup> 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](http://www.eeoc.gov/policy/docs/harassment-facts.html).

<sup>2</sup> *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.

<sup>3</sup> 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.

<sup>4</sup> 21 V.S.A. §1726(a)(7).

<sup>5</sup> 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.

<sup>6</sup> *See* 9 V.S.A. §4502. Public Accommodations Act.

- 2.4 **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.
- 2.5 **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.

3. **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, 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.

- 3.1 **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.
- 3.2 **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.
- 3.3 **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.
- 3.4 **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.
- 3.5 **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.
- 3.6 **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.
- 3.7 **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.

- 3.8 **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.

4. **Procedure**

- 4.1 **Duty to Investigate:** In the event the District receives a complaint of unlawful harassment of a person, or otherwise has reason to believe that unlawful harassment is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and addressed. The District is committed to take action if it learns of potential unlawful harassment, even if the aggrieved person does not wish to file a formal complaint.

- 4.2 **Designated Persons:** Every person is expected to report any complaint of or suspected acts of unlawful harassment. Unlawful harassment should be reported to the Non-Discrimination Coordinators or to the Principal at the following address and telephone number:

BFA/NWTC

Non-Discrimination Coordinator: Becky Cross  
BFA Principal: Dennis Hill  
NWTC Director: Leeann Wright  
71 South Main Street, St. Albans, VT 05478  
802-527-6555

St. Albans City School

Non-Discrimination Coordinator: Deb McCarthy  
Principal: Joan Cavallo  
29 Bellows Street, St. Albans, VT 05478  
802-527-0565

St. Albans Town Educational Center

Non-Discrimination Coordinator: Jason Therrien  
Principal: Angela Stebbins  
169 South Main Street, St. Albans, VT 05478  
802-527-7191

Fairfield Center School

Non-Discrimination Coordinator: Kelly Sargent  
Principal: Jennifer Wood  
57 Park Street, Fairfield, VT 05455  
802-827-6639

Franklin Central Supervisory Union

Non-Discrimination Coordinator: Joanne Wells  
Superintendent: Julie Regimbal  
28 Catherine Street, St. Albans, VT 05478  
802-524-2600

- 4.3 **Investigation:** Allegations of unlawful harassment will be promptly investigated by a Non-Discrimination Coordinator or his/her designee. At the outset of the investigation, the complainant shall be provided with a copy of this policy. If the allegations are found to have been substantiated by the investigator, the District will take appropriate disciplinary and/or corrective action. The Non-Discrimination Coordinator or his/her designee will inform the complainant(s) and the accused(s) whether the allegations were substantiated. The accused(s) and the complainant(s) shall be warned against any retaliation. If, after investigation, the allegation is found not to have been substantiated, the complainant(s) shall be informed of the right to contact any of the state or federal agencies identified in this policy.
- 4.4 **Filing a Complaint:** Persons are encouraged to report the alleged unlawful harassment as soon as possible to the Non-Discrimination Coordinators or the Principal. The complainant will be asked to provide copies of any relevant documents or notes of events and the names of people who witnessed or were told of the unlawful harassment and will be asked to provide a written description of the unlawful harassment.
- 4.5 **Alternative Complaint Processes:** Persons may file complaints with both the District and with state and federal agencies. If persons are dissatisfied with the results of an investigation, they may file a complaint with state and federal agencies. The agencies are:
- Vermont Attorney General's Office, Civil Rights Unit, 109 State Street, Montpelier, VT 05602, tel: (802) 828-3171. Complaints should be filed within 300 days of any unlawful harassment.
  - Equal Employment Opportunity Commission, 1 Congress Street, Boston, MA 02114, tel: (617)565-3200 (voice), (617)565-3204 (TDD). Complaints should be filed within 300 days of any unlawful harassment.

	Fairfield	Town	City	BFA	FCSU
1 <sup>st</sup> Reading	12/10/12	12/12/12	12/13/12	12/4/12	02/20/13
2 <sup>nd</sup> Reading	01/14/13	01/09/13	01/10/13	01/08/13	
Date Warned:	12/27/12	12/27/12	12/27/12	12/27/12	01/30/13
Date Adopted:	01/14/13	01/09/13	01/10/13	01/08/13	02/20/13

*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 Reference:* Harassment of Students (F20)  
 Board Commitment to Non-Discrimination (C6)