

Personnel -- Certified/Non-Certified

Sexual and Other Unlawful Harassment

It is the policy of the New Milford Board of Education to maintain a working and learning environment that is free from sexual and other unlawful harassment. The Board will not tolerate the harassment of any applicant, employee, independent contractor, volunteer, student or visitor based on sex, sexual orientation, gender identity or expression, race, color, religion, national origin, ancestry, marital status, age, disability, genetic information or status as a veteran. All forms of harassment are prohibited whether verbal, physical or visual, and regardless of the medium through which it occurs. Such harassment violates Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 and/or the Connecticut Fair Employment Practices Act.

This policy prohibits sexual and other unlawful harassment by employees, teachers, administrators, Board members, 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.

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.

Definition of Sexual Harassment

Unwelcome sexual advances, requests for sexual favors and other inappropriate verbal, non-verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of the conduct by an individual is used as the basis of employment decisions affecting the individual;
- The 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; or
- 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.

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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 school and work environment. Sexual harassment may be subtle and even unintentional. It may be directed towards members of the opposite or same sex.

Definition of Corrective Action

Corrective action means actions taken by an employer in response to an employee's claim of sexual harassment. Corrective action may include but is not limited to, employee relocation, assigning an employee to a different work schedule or other substantive changes to an employee's terms or conditions of employment.

The District shall not take immediate corrective action that modifies the conditions of a complaining employee's employment unless such employee agrees, in writing, to any modification of the terms of employment, or the District determines that such corrective action is reasonable and not of detriment to the employee who has brought a complaint of sexual harassment.

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:

- Suggestive or obscene letters, notes, all electronic messages, voice mail messages, invitations, derogatory comments, slurs, jokes, epithets, touching, impeding or blocking movement, leering, gestures, noises, pulling at clothes, display of sexually suggestive objects, pictures or cartoons, sexual assault, attempted sexual assault;
- Continuing to express sexual interest after learning of or being informed that the interest is unwelcome.
- 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;
- Discussion of one's own sexual activities or inquiries into others' sexual experiences;

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- Suggesting a poor performance evaluation will be prepared or that a probationary period of employment will not be completed successfully;
- The creation of an atmosphere of sexual harassment or intimidation, or a hostile or offensive working environment; and
- Inappropriate attention of a sexual nature.

Remedies Available to Address Sexual Harassment

Victims of sexual harassment may have a number of remedies available to them including, but not limited to: cease and desist orders, back pay, compensatory damages, hiring, promotion or reinstatement.

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.

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, gender identity or expression, marital status, ancestry, genetic information or status as a veteran is also prohibited by this policy. Examples of such unlawful harassment include, but are not limited to, the following:

- 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, gender identity or expression, marital status, ancestry, genetic information, status as a veteran or any other basis prohibited by local, state and federal law;
- 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, gender identity or expression, marital status, ancestry, genetic information, status as a veteran or any other basis prohibited by local, state and federal law;

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- 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, gender identity or expression, marital status, ancestry, genetic information, status as a veteran or any other basis prohibited by local, state and federal law.

Complaint Procedure

All members of the school community are responsible for helping to assure that sexual and other unlawful harassment is avoided. Any person who has observed or otherwise becomes aware of the 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:

Catherine Gabianelli
Director of Human Resources
50 East Street
New Milford, CT 06776
860-210-2200

Supervisors and administrators who become aware of possible violations of this policy and fail to report them may be subject to discipline.

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 the Complaint Procedure described in the accompanying regulations.

All complaints will be promptly investigated in as confidential a manner as practical and appropriate corrective action will be taken when 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.

District employees and job applicants who feel that they have been the victim of sexual or other unlawful harassment may also file a complaint with the Connecticut Commission on Human Rights and Opportunities ("CHRO"). More information concerning the illegality of sexual harassment, remedies available to the victims of sexual information and CHRO complaint filing procedures is available online at:

https://www.ct.gov/chro/libichro/Sexual_Harassment_Flyer.pdf

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Retaliation

Retaliation against an individual because she or he has reported harassment or has cooperated 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.

Responsibilities of the Title IX Coordinator

The Title IX Coordinator is responsible for the following:

1. Ensuring that all complaints of unlawful harassment are investigated in a prompt and objective manner;
2. 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;
3. Reviewing the Board's policy on harassment and these accompanying administrative regulations periodically for appropriate updating, and monitoring them on an on-going basis for effective implementation;
4. Ensuring that the Board's policy and administrative regulations are distributed to all employees annually;
5. 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 employees at the start of the school year and new employees during the school year;
6. Ensuring employees are aware of who is serving as Title IX Coordinator for personnel for the District and how he or she may be reached.

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Sexual Harassment Training

All district employees must attend a two-hour, school-sponsored sexual harassment training program. 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.

Such training shall be provided to all existing employees by April 19, 2021, except that employees who received such training after October 1, 2018 shall not be required to attend such training a second time. Any new employee hired on or after October 1, 2019 shall receive such training not later than six months after his or her date of hire. All employees shall receive periodic supplemental training at least once every ten years after attending their initial sexual harassment training program.

Dissemination of Policy

A copy of this policy and its accompanying administrative regulation shall be emailed to all employees who have been assigned a New Milford Public Schools' email account and all employees who have not been assigned a New Milford Public Schools' email account but who have provided the District with a personal email account. Such email correspondence shall be sent by the District within three months of the employee's start date. A copy of this policy and its accompanying administrative regulation shall also be accessible via the District's website.

Legal References:

Connecticut General Statutes

- 10-153 Discrimination Based on Marital Status
- 46a-54(15) Commission powers
- 46a-60(a) Connecticut Fair Employment Practices Act
- 46a-81c Sexual Orientation Discrimination- Employment
- R.S.C.A. 46a-54-200 through 46a-54-207

Connecticut Executive Orders:

- Exec. Order No. 7DDD (June 29, 2020)
- Exec. Order No. 9L (Nov. 9, 2020)
- Exec. Order No. 10A (Feb. 8, 2021)

4118.112(g)
4218.112(g)

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United States Code

- 20 U.S.C. 1681 Title DC of the Education Amendments of 1972
- 29 U.S.C. 623 Age Discrimination in Employment Act
- 29 U.S.C. 794 Section 504 of the Rehabilitation Act of 1973
- 42 U.S.C. 2000d and 2000e Titles VI and VII of the Civil Rights Act of 1964
- 42 U.S.C. 2000ff Genetic Information Nondiscrimination Act of 2008
- 42 U.S.C. 6101 Age Discrimination Act of 1975
- 42 U.S.C. 12101 Americans with Disabilities Act
- 29 C.F.R. 1604.11 EEOC Guidelines on Sexual Harassment

Policy adopted: December 9, 2003
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Policy revised: October 11, 2011
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