

POLICY AGAINST HARASSMENT FOR STAFF

**INCLUDING
HARASSMENT BASED UPON**

**SEX
RACE
COLOR
NATIONAL ORIGIN
SEXUAL ORIENTATION
RELIGION
AGE
HANDICAP
AND/OR DISABILITY**

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1:0 POLICY STATEMENT

- 1:1 The Fairhaven Public Schools are committed to providing an educational environment that is free of harassment. Harassment is completely unacceptable and will not be tolerated in any form at any level of the school system. This policy applies to all employees involved in all school sponsored activities.
- 1:2 It is also a violation of this policy to condone harassment by another person. For purposes of this policy, to “condone” harassment means to participate in such harassment by inciting, encouraging, fostering or otherwise giving support to that harassment, whether by words or actions.
- 1:3 Also prohibited is any retaliation against any other person because he/she complains of harassment or assists in an investigation of harassment and any intimidation, coercion or other attempted interference with an investigation of a harassment complaint.
- 1:4 The Fairhaven Public Schools will take seriously all complaints of harassment, the condoning of harassment or retaliation and will have each complaint thoroughly and promptly investigated.

2.0 PROHIBITED CONDUCT DEFINED

- 2:1 In order to give rise to a complaint, harassment must be sufficiently severe, persistent, or pervasive that it adversely affects an employee’s environment or creates a hostile or abusive working environment. For a one-time incident to rise to the level of harassment, it must be severe.
- 2:2 Prohibited conduct includes, but is not limited to, the following conduct when related to a person’s sex (gender), race, color, national origin, religion, age, handicap and/or disability and sexual orientation and when such conduct is unwelcome by the recipient:
 - 2:2.1 name calling, teasing, jokes, rumors, or other derogatory or dehumanizing remarks;
 - 2:2.2 pulling at clothing and other possessions;
 - 2:2.3 graffiti;
 - 2:2.4 notes or cartoons;
 - 2:2.5 unwelcome touching of a person or person’s clothing;
 - 2:2.6 offensive or graphic posters, pictures, book covers, or designs on clothing;
 - 2:2.7 any words or actions which provoke feeling of discomfort, embarrassment, or hurt.
- 2:3 The foregoing list was provided to give some concrete examples of conduct which constitute harassment based upon an impermissible basis. However, all members of the Fairhaven community must assess their conduct in light of the following definitions of the various forms of harassment. Thus, if certain conduct is not listed in the foregoing list, but does fall into one of the following definitions of harassment, then the conduct is harassment and is prohibited conduct.

3:0 HARASSMENT DEFINED

3:1 Sexual Harassment/Gender Harassment

3:1.1 Sexual harassment/gender harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

3:1.1.1 Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, or obtaining or retaining employment; or

3:1.1.2 Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting the individual's employment; or

3:1.1.3 That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, or creating an intimidating, hostile or offensive educational or work environment;

3:1.1.4 Adversely affects an individual's employment opportunities.

3:2 Sexual Harassment

3:2.1 Sexual harassment includes but is not limited to:

3:2.1.1 Unwelcome verbal harassment or abuse;

3:2.1.2 Unwelcome pressure for sexual activity;

3:2.1.3 Unwelcome, sexually motivated or inappropriate touching, patting, pinching, or other sexual contact other than reasonable and necessary restraints of students by teachers, administrators, or other school personnel to avoid physical harm to persons or property;

3:2.1.4 Unwelcome sexual behaviors or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment status;

3:2.1.5 Unwelcome sexual behavior or words, including overt promises of preferential treatment with regard to an individual's employment status;

3:2.1.6 Unwelcome behavior or words directed to an individual because of gender.

3:2.2 Sexual harassment can include prohibited conduct as defined above which occurs between members of the same sex.

3:3 Racial Harassment

- 3:3.1 Racial harassment consists of physical or verbal conduct which is related to an individual's race when the conduct:
 - 3:3.1.1 Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
 - 3:3.1.2 Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance; or
 - 3:3.1.3 Otherwise adversely affects an individual's employment opportunities.

3:4 Harassment Based Upon Color

- 3:4.1 Harassment based upon color consists of conduct which is related to an individual's color when the conduct:
 - 3:4.1.1 Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
 - 3:4.1.2 Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance;
 - 3:4.1.3 Otherwise adversely affects an individual's employment opportunities.

3:5 National Origin Harassment

- 3:5.1 National origin harassment consists of conduct which is related to an individual's national origin when the conduct:
 - 3:5.1.1 Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
 - 3:5.1.2 Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance;
 - 3:5.1.3 Otherwise adversely affects an individual's employment opportunities.

3:6 Religious Harassment

- 3:6.1 Religious harassment consists of physical or verbal conduct which is related to an individual's religion when the conduct:

- 3:6.1.1 Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- 3:6.1.2 Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance;
- 3:6.1.3 Otherwise adversely affects an individual's employment opportunities.

3:7 Age Harassment

- 3:7.1 Age harassment consists of conduct which is related to an individual's age when the conduct:
 - 3:7.1.1 Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
 - 3:7.1.2 Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance;
 - 3:7.1.3 Otherwise adversely affects an individual's employment opportunities.

3:8 Handicap and/or Disability Harassment

- 3:8.1 Handicap and/or disability harassment consists of conduct which is related to an individual's handicap and/or disability when the conduct:
 - 3:8.1.1 Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
 - 3:8.1.2 Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance;
 - 3:8.1.3 Otherwise adversely affects an individual's employment opportunities.

3:9 Sexual Orientation Harassment

- 3:9.1 Sexual orientation harassment consists of conduct which is related to an individual's sexual orientation when the conduct:
 - 3:9.1.1 Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
 - 3:9.1.2 Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance;
 - 3:9.1.3 Otherwise adversely affects an individual's employment opportunities.

4:0 CONDONATION OF HARASSMENT

4:1 All, teachers, administrators, and/or employees are prohibited from condoning any harassment of any other individual(s) by another teacher, administrator, and/or employee.

5:0 RETALIATION

5:1 All teachers, administrators, and/or employees are prohibited from engaging in any retaliation, discrimination, or other adverse action, including but not limited to, intimidation, threats or coercion against any individual(s) who complain of harassment or assist in any investigation of an allegation of harassment.

6:0 RESPONSIBILITIES

6:1 All teachers, administrators and other school personnel of Fairhaven Public School District are responsible for creating an environment that is free of harassment and other offensive behaviors, and for conducting themselves in a manner consistent with the spirit and intent of this policy.

6:2 Principals and other administrators/supervisors are responsible to ensure that this policy statement is conspicuously posted in each classroom, school office, and other appropriate employee work areas. The posting shall include the name, mailing address, and telephone number of the school principal or designee, as well as the name, address, and telephone number of the District Human Rights Officer.

6:3 The Fairhaven Public School District is responsible for the dissemination of this policy and training. The school district responsibilities will ensure:

6:3.1 This policy shall be conspicuously posted throughout each school building in areas accessible to staff members.

6:3.2 The school district will develop a method of orientation in order to clarify this policy with employees on an annual basis.

6:3.3 The school district will provide appropriate training to administrators and others who are assigned the responsibility to implement the procedures of this policy.

6:3.4 This policy shall be reviewed at least annually for compliance with state and federal law.

7:0 INITIATION OF A COMPLAINT

7:1 Any person who believes that a student, teacher, administrator or other school personnel has engaged in conduct prohibited by this policy, whether such conduct has been directed at him/her or some other person, should report the alleged prohibited conduct as soon as possible to the appropriate school

district official as designated by this policy. The school district encourages the reporting party or complainant to use written notification, but oral reports will be considered complaints as well. Nothing in this policy shall prevent any person from reporting alleged prohibited conduct directly to the district's Human Rights Officer or to the Superintendent. Further, nothing in this policy shall prevent any person from reporting alleged prohibited conduct to a different administrator than the administrator designated.

7:1.1 The school district designated the Director of Pupil Personnel Services as the Human Rights Officer with responsibility to oversee administration of these procedures and to monitor compliance. If a complaint involves the Director of Pupil Personnel Services, the complaint shall be made or filed directly with the Superintendent.

7:1.2 In each school the school principal or his/her designee is the person responsible for receiving and investigating oral or written reports of alleged prohibited conduct. Any school district personnel who receive a report of alleged prohibited conduct shall inform the principal or his/her designee as soon as possible. If the complaint involves the school principal, the complaint shall be filed with the Superintendent.

7:1.3 In district-wide departments the administrator or his/her designee is the person responsible for receiving and investigating oral or written reports of alleged prohibited conduct. Any school district personnel who receive a report of alleged prohibited conduct shall inform the administrator or his/her designee as soon as possible. If the complaint involves the district-wide department administrator, the complaint shall be filed with the Superintendent.

8:0 PROCEDURE FOR COMPLAINT AND INVESTIGATION

8:1 It is the policy of the Fairhaven Public Schools to have all complaints of harassment, condonation of harassment, or retaliation promptly and fully investigated and to take any steps necessary to remedy the situation.

8:2 The investigation will be conducted pursuant to the Collective Bargaining Agreement in such a way as to maintain confidentiality and due process to the extent practicable under the circumstances.

8:3 If warranted by the circumstances of the complaint, the District Human Rights Officer may assist the school or district-wide department with the investigation, may assume responsibility for the investigation, or may authorize an investigation by a third party who shall report to the District Human Rights Officer.

8:4 The investigation may consist of personal interviews with the complainant(s), the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

- 8:5 In determining whether “alleged conduct” constitutes a violation of this policy, the school district shall consider the surrounding circumstances: the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationship 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 facts and surrounding circumstances.
- 8:6 The investigation will be completed as soon as practicable, and a report will be filed by the District Human Rights Officer. If a complaint involves the Superintendent, the report will be filed directly with the School Committee. The reports will include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.
- 8:7 Failure to investigate a complaint as provided herein, or to forward a report to the Human Rights Officer, will result in disciplinary action.

9:0 CORRECTIVE PROCEDURES

- 9:1 Upon completion of an investigation and substantiation of the alleged harassment, the school district will take appropriate corrective action. Such action may include, but is not limited to, an apology, direction to stop the offensive behavior, counseling or training, warning, suspension, exclusion, transfer, remediation, termination of employment. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Massachusetts and federal laws and school district policies.
- 9:2 The result of the school district’s investigation of each complaint filed under these procedures will be reported in writing to the complainant by the school district in accordance with state and federal law regarding data or records privacy.

10:0 REPRISAL

- 10:1 The school district will discipline or take appropriate action against any student, teacher, administrator, or school personnel who retaliates against any person who reports an alleged violation of this policy or any person who testifies, assists, or participates in an investigation, or who testifies, assists, or participates in a proceeding or hearing relating to such harassment or violence.
- 10:2 Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

11:0 RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

- 11:1 These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Massachusetts Department of Education, Massachusetts Commission Against Discrimination, Equal Employment Opportunity Commission, and the Office

of Civil Rights of the U.S. Department of Education, initiating civil action or seeking redress under criminal statutes and/or federal law.

12:0 HARASSMENT AS CHILD ABUSE

12:1 Under certain circumstances, alleged harassment may also constitute abuse or neglect under G.L. c.119 51A. If so, the requirements for mandatory reporters under that statute are not abrogated by this policy.

13:0 LEGAL REFERENCES

13:1 Title VI and VII of the Civil Rights Act of 1964, Title IX of the 1972 Education Amendments to the Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, the Americans with Disabilities Act, Chapter 622 of the Acts of 1971, G.L. c.151B and G.L. c.151C.

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