

SALEM SCHOOL DISTRICT
Salem, Connecticut

PERSONNEL – CERTIFIED / NON-CERTIFIED

SEXUAL HARASSMENT

Definitions

“Employee” shall mean all teaching, administrative and support personnel.

“Immediate supervisor” shall mean the person to whom the employee is directly responsible (e.g., department head, principal).

Procedures

Employees who believe they have been subjected to sexual harassment are to report the incident to their immediate supervisor. Should the immediate supervisor be the alleged harasser, the report shall be made to the next level of management. Incidents of sexual harassment may be reported informally or through the filing of a formal complaint.

All reports of sexual harassment will be held in confidence subject to all applicable laws and any relevant provisions in the district's collective bargaining agreements.

Consistent with federal and state law, and all applicable provisions in the district's collective bargaining agreements, the following procedures shall be employed in handling any report, investigation and remedial action concerning allegations of sexual harassment:

Informal Complaints

Employees who believe they have been subjected to sexual harassment may request that an informal meeting be held between themselves and the appropriate supervisor. The purpose of such a meeting will be to discuss the allegations and remedial steps available. The supervisor will then promptly discuss the complaint with the alleged harasser. Should the harasser admit the allegations, the supervisor is to obtain a written assurance that the unwelcome behavior will stop. Depending on the severity of the charges, the supervisor, may recommend that further disciplinary action be taken. Thereafter, the supervisor is to prepare a written report of the incident and inform the complainant of the resolution. The complainant is to indicate on the supervisor's report whether or not he/she is satisfied with the resolution.

If the complainant is satisfied with the resolution, the incident will be deemed closed. However, the complaint may be reopened for investigation if a recurrence of sexual harassment is reported. The supervisor is to inform the complainant to report any recurrence of the harassment or any retaliatory action that might occur.

Should the complainant be dissatisfied with the resolution, he/she is to file a formal written complaint.

If during the supervisor's informal attempt to resolve the complaint, the alleged harasser admits the allegations but refuses to give assurance that he/she will refrain from the unwelcome behavior, the supervisor is to file a report with the next appropriate level of management. The report is to indicate the nature of the complaint, a description of what occurred when the supervisor informed the alleged harasser of the allegations against him/her, the harasser's response to the allegations, and a recommendation that stronger corrective measures be taken. This report should be accompanied by a formal complaint.

Should the alleged harasser deny the allegations, the supervisor is to inform the complainant of the denial and state that a formal written complaint will be required for further formal investigation. The supervisor will file a report with the next level of management on what has transpired to date. If the complainant submits a formal complaint, a copy of it should accompany the supervisor's report with a recommendation for further action.

Formal Complaints

Formal complaints may be submitted either to initially report any incidence of sexual harassment, or as a follow-up to an unsatisfactory resolution of an informal attempt to resolve a complaint. In the latter case, the formal written complaint is to be submitted to the supervisor originally consulted, who will then forward it to the next appropriate level of management, i.e., the human resources director, the district's business official, or the Superintendent, for appropriate action.

The formal written complaint will consist of any appropriate forms and a copy of any applicable supervisor reports. The appropriate forms solicit the specifics of the complaint, e.g. date and place of incident, description of sexual misconduct, names of any witnesses, and any previous action taken to resolve the matter.

Complaint Investigations

Upon receipt of a formal or informal complaint, a prompt, thorough and impartial investigation of the allegations must follow. This investigation is to be conducted diligently. Complainants are to be notified of the outcome of the investigation

Remedial Actions

If the investigation reveals that sexual harassment has occurred, appropriate sanctions will be imposed in a manner consistent with any applicable law and collective bargaining agreements. Depending on the gravity of the misconduct, these may range from a reprimand up to and including dismissal from employment. When applicable, any lost employment benefits or opportunities will be restored to the victims.

Anyone subjecting complainants or witnesses to any form of retaliation will also be subject to disciplinary action in the manner prescribed by law and consistent with any applicable provisions in the district's collective bargaining agreements.

If the investigation reveals that no sexual harassment has occurred, or if the complainant is not satisfied with the remedial action taken after a finding of sexual harassment, the complainant may appeal to the next appropriate level of management. The appeal must include a copy of the original complaint, all relevant reports, the specific action being appealed, and an explanation of why the complainant is appealing.

Post Remedial Action

Following a finding of sexual harassment, victims will be periodically interviewed by the appropriate supervisory personnel to ensure that the harassment has not resumed and that no retaliatory action has occurred. These follow-up interviews will continue for an appropriate period of time. A report will be made of any victim's response.

Complaint Records

Complainants should receive a copy of any resolution reports filed by the supervisor concerning his/her complaint. Copies should also be filed with the employment records of both the complainant and the alleged harasser.

Investigation in the Absence of a Complainant

The Board will, in the absence of a victim's complaint, ensure that an investigation is commenced by the appropriate individuals, upon learning of, or having reason to suspect, the occurrence of any sexual misconduct.

Training

Each year, or more frequently if the Board deems it appropriate, employees will receive training regarding sexual harassment and related matters. Such training may include a review of this policy and regulation, discussion, films or other activities.

Legal References: Civil Rights Act of 1964, Title VII, 42 U.S.C. §2000-e2(a). Equal Employment Opportunity Commission Policy Guidance (N-915.035) on Current Issues of Sexual Harassment, Effective 10/15/88. *Meritor Savings Bank, FSB v Vinson* 477 US.57 (1986). 29 CFR Para. 1604.1 (EEOC). *Faragher v City of Boca Raton*, No. 97-282 (US Supreme Court, June 26, 2998). *Burlington Industries, Inc. v Ellerth*, No. 97-569 (US Supreme Court, June 26, 1998). *Gebbs v Lago Vista Indiana School District*, No. 99-1866 (US Supreme Court, June 26, 1998). Connecticut General Statutes: §46a-54 (15) Definitions. Posting requirement for employers having three or more employees. Where to post. When to post. Posting and training requirements for employers having fifty or more employees. Effect of prior training. Trainers Recordkeeping. §46a-60 Discriminatory employment practices prohibited. Constitution of the State of Connecticut, Article I, Section 20.

Procedures Adopted: August 16, 2004

Revised Procedures 1st Reading: January 7, 2013

Revised Procedures Adopted: January 22, 2013

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Date Received by Building Administrator: _____

Date Received by District Title IX Coordinator: _____

SALEM SCHOOL DISTRICT

SEXUAL HARASSMENT FORMAL COMPLAINT FORM

Name and position of complainant: _____

Date of the complaint: _____

Name(s) of Alleged Sexual Harasser(s): _____

Date(s) of Alleged Harassment: _____

Location where such harassment occurred _____

Name(s) of any witness(es) to the harassment _____

Detailed statement of the circumstances constituting the alleged harassment: _____

Has the incident been reported before? If yes, when? _____

To whom? _____

What was the resolution? _____

Reasons for dissatisfaction: _____

Complainant's Signature: _____

Date Signed: _____

Date Received by Building Administrator: _____

Date Received by District Title IX Coordinator: _____

SALEM SCHOOL DISTRICT

SEXUAL HARASSMENT COMPLAINT – APPEAL FORM

Name and position of complainant: _____

Date of appeal: _____

Date or original complaint: _____

Have there been any prior appeals? _____

If yes, when? _____

To whom? _____

Description of decision being appealed: _____

Why is the decision being appealed? _____

Complainant's Signature: _____

Date Signed: _____

GUIDELINES
FOR INVESTIGATING
SEXUAL AND OTHER HARASSMENT

The following guidelines should be reviewed with respect to any investigation of sexual or other unlawful harassment involving school personnel.

Qualities of a Fair Investigation

The investigator (who shall be the Title IX coordinator or his/her designee, as the case may be) is a fact-finder. His or her objectives are to discover the truth and to provide information so that the school system can prevent further harassment. In preparing for and conducting the investigation, the investigator should keep in mind that an effective and legally defensible investigation is:

- Promptly initiated,
- Thoroughly performed,
- Free from bias,
- Consistent with the school system's policies and procedures,
- Confidential to the extent practical, and
- Well documented.

General Procedure

A typical investigative procedure is set forth below.

Step One: Interview the Complainant.

The investigator's job is to obtain an extensive and detailed account of the charges levied against the Offender. Therefore, to the extent practical, press the complainant to give precise descriptions and do not settle for bald accusations or unsupported conclusions. At the conclusion of the interview, inform the employee that he or she will be contacted again to sign a written statement confirming the allegations.

Step Two: Document the Complaint.

Confidentially prepare a statement memorializing the facts of the Complainant's statement. Ask the Complainant to carefully review the statement and to correct any misinterpretations. After the Complainant is in agreement with the statement, ask him or her to sign it.

Step Three: Prepare for further investigation.

Before further investigation, determine the parameters of future work and set an appropriate deadline for completing it. Consider the documents that should be reviewed. The following documents may be potentially relevant:

- The complaint and notes regarding it;
- Specific school system rules, policies, and procedures;
- Memoranda, notes or statements about the incident;
- Prior investigative files;
- Records of prior complaints by the Complainant;
- Personnel files of the individuals involved;
- School records, such as time cards, calendars, diaries, tape recordings, photographs, logs, etc.
- Physical evidence.

Identify potential interviewees and their relationship to the matter under investigation. At a minimum, consider:

- People who raised the issue,
- People identified by the person who raised the issue,
- People identified by the person being investigated,
- Supervisors of the people involved,
- Observers of the incident,
- Authors of relevant documents,
- Co-workers of people involved, and if appropriate,
- Other people who reportedly have been subjected to similar activity.

Decide the order of the interviews and the format for recording information from witnesses. Establish a system for organizing and maintaining files. Determine the matters to be addressed in the finding report and the appropriate format to use. Review the investigation plan as the investigation continues to ensure that it is comprehensive.

Step Four: Interview the Offender.

The investigator has a responsibility to protect the rights of the Offender as well as the rights of the Complainant. Communicate to the Offender that a harassment complaint has been filed and that the school system is investigating it under its policy prohibiting such conduct. Clearly communicate each allegation and provide the Offender full opportunity to admit, deny or explain each allegation and to identify any witnesses who can corroborate his or her version of the events.

Take copious notes. Inform the Offender that charges will be kept confidential to the extent an adequate investigation is permitted. Instruct the Offender not to discuss the matters with anyone for the purpose of protecting those involved and the integrity of the investigation itself. Tell the Offender that retaliation will not be tolerated and that he or she should not contact the complainant or his or her witnesses concerning the complaint.

Step Five: Review Relevant Documents and Re-interview the Complainant.

Review physical evidence that is relevant to the complaint and collect further evidence if appropriate. Identify the issues that are in dispute. Re-interview the Complainant if clarification is needed.

Step Six: Interview Witnesses.

Witness interviews generally are not necessary if the Offender admitted to the conduct in question. In circumstances where witness interviews are, inform the witness that a harassment complaint has been filed and that he or she has been named as a witness. Instruct the witness as to confidentiality. Begin the interview with open-ended questions about the areas of which the Claimant or Offender contends the witness is knowledgeable and probe to elicit the extent of the witness' knowledge.

Take copious notes. Reveal details of the charges only to the extent the witness has a need to know in order to provide information. Do not provide the witness with a copy of the Complainant's statement. Ask the witness if the Complainant or the Offender would have reason to provide inaccurate or misleading information. Solicit relevant documentation or other physical evidence the witness may have. Later document the interview, have the witness review his or her statement for accuracy, and then ask the witness to sign it.

Step Seven: Re-interview witnesses and the Offender as necessary.

After interviewing witnesses and reviewing documents, inconsistencies may appear. Re-interview those from whom clarification is needed.

Step Eight: Assess the findings and recommend action.

With the assistance of the Title IX Coordinator or Personnel Officer and/or legal counsel, answer the following questions:

- Did the alleged conduct occur?
- If the alleged conduct occurred, did it constitute a violation of the school system's harassment policy?
- What steps must be taken to eradicate the harassment?
- What type of discipline should be imposed?
- What other personnel steps must be taken in light of the discipline imposed?

Poor or abusive behavior may not necessarily be unlawful harassment, but may otherwise violate school policy or regulation. If a violation of the school system's Sexual and Other Harassment policy is found, the action taken to end the harassment may not only include job reassignment, a verbal or written reprimand, suspension or termination for the Offender, but other remedies as well. Additional remedies may include:

- Reinstatement of the Complainant's job or restoration of other benefits;
- Cleansing of the Complainant's personnel file;
- Sensitivity training;
- Counseling for the Offender;
- Removal of offensive papers, pinups, etc.
- Clarification of the school district's Sexual and Other Harassment policy;
- Apology and/or printing of retraction.

Document your methodology, findings, conclusions and recommendations. Prepare a summary report.

Step Nine: Provide for internal review.

Forward the report and supporting documentation to the Superintendent of Schools and/or outside legal counsel for a review of the investigation and results.

Step Ten: Communicate the findings.

Upon completion of the investigation, in conjunction with the administration, communicate the findings to the Complainant and the Offender and implement the determined corrective actions.

Step Eleven: File and retain all documents.

Review the documentation of the investigation for completeness and clarity. Typical components of an investigative file include:

- Log of investigator's actions and calls by day,
- Interview notes for each witness, Complainant, and Offender and all draft and final statements,
- Communications to and from the Complainant, Offender and witnesses,
- Complaints,
- Supporting documents,
- Relevant physical evidence,
- Investigator's report,
- Documents reflecting notification of investigation results and any remedy made.

Retain such documentation in an investigative file. Documentation of employee discipline should be placed in a personnel file.