

SEXUAL HARASSMENT DEFINITIONS AND PROCEDURE

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature where:

1. Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment or education; or
2. Submission to or rejection of such conduct is used as a basis for employment or education decisions affecting such an individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's educational or work performance, or creating an intimidating, hostile or offensive employment or educational environment.

Sexual harassment is not, by definition, limited to prohibited conduct by a male toward a female. A male, as well as a female, may be the victim of sexual harassment, and a female, as well as a male, may be the harasser. Further, the victim does not have to be of the opposite sex from the harasser. The victim does not have to be the person whom the unwelcome sexual conduct is directed. Finally, any adult may be a victim of sexual harassment by a student. Sexual conduct between staff and a student is prohibited, and must be reported immediately so that appropriate action may be taken.

Sexual harassment may include, but is not limited to:

1. Assault, inappropriate touching, intentionally impeding movement, comments, gestures, or written communications of a suggestive or derogatory nature.
2. Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction between peers is not considered sexual harassment.)
3. Implying or withholding support of an appointment, promotion or change of assignment; suggesting that a poor performance report will be prepared; or suggesting that probation will be filed. Within the educational environment, implying or actually withholding grades earned or deserved, suggesting that a poor performance evaluation will be prepared, or suggesting that a scholarship recommendation or college application will be denied.

4. Coercive sexual behavior used to control, influence or affect the career, salary and/or work environment; engaging in coercive sexual behavior to control, influence or affect educational opportunities, grades and/or the learning environment of a student.
5. Offering or granting favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassification, etc. in exchange for sexual favors.

Other sexual harassing behavior directed towards management, staff, or students, whether committed by management, staff, or students, is also prohibited. Such conduct includes, but is not limited to:

1. Unwelcome sexual flirtations, advances or propositions;
2. Unwelcome sexually explicit language or gestures;
3. Unwelcome touching that an individual interprets as sexual in nature;
4. Any unwelcome physical contact;
5. The presence of unwelcome sexually provocative photographs, pictures or other material, and the telling of sexual stories or jokes;
6. Unwelcome verbal or non-verbal behavior about an individual's body that is interpreted as sexual in nature.

GUIDELINES FOR RECOGNIZING AND DEALING WITH SEXUAL HARASSMENT OVERVIEW

Definition: Title VII of the 1964 Civil Rights Act defines Sexual Harassment as: "Unwelcome sexual advances, requests for sexual favors and other verbal and physical conduct of a sexual nature constitute sex harassment when:

- (1) submission to such conduct is made a term or condition of employment,
- (2) submission or rejection of such conduct is used as a basis for employment decisions,
or
- (3) such conduct unreasonably interferes with work performance, or creates an intimidating, hostile or offensive working environment."

Legal Aspects: Title VII of the 1964 Civil Rights Act protects workers in a school. Students are protected from sexual harassment under the provisions of Title IX, since courts have found sexual harassment to be a form of sex discrimination. If sexual harassment involves a minor student in a school setting, it can also be considered a criminal offense under laws relating to child abuse.

Effects on the Victim:

The victim may frequently stay home from the work place or from school in order to avoid the harassment (more sick days taken). The victim's enjoyment of and pride in work is often undermined or destroyed because the victim is forced to spend time and energy fending off humiliating sexual advances or to deal with a hostile and intimidating atmosphere created by verbal harassment. There can also be physical and psychological effects similar to those experienced by rape victims. Professional counseling may be necessary. In schools, students may transfer out of classes or vocational-technical majors in order to avoid harassment.

Guidelines for Dealing with Sexual Harassment:

NOTE: If a situation involving a charge of teacher-to-student or other employee to student sexual harassment is brought to the attention of any staff member, that staff member must notify the Superintendent immediately, so that the situation can be resolved as confidentially and as quickly as possible in order to protect the rights of both parties. Sexual activity, or sexual conversations, between a teacher or staff member with a student is strictly prohibited.

1. By law, the victim defines sexual harassment. What one person may consider acceptable behavior may be viewed as sexual harassment by another person.

Therefore, in order to protect the rights of both parties, it is important that the victim make it clear to the harasser that the behavior is bothering him or her. This can be done in ways described in items 2 and 3 below.

2. Always take every report of sexual harassment seriously and take some kind of action immediately. Remember, “you can’t argue with a feeling.” Many times, situations involving non-physical harassment can be quickly and quietly resolved if the harasser and the victim can be persuaded to sit down and talk things over in the presence of a third person. (The Superintendent can facilitate such meetings.)
3. If the victim does not agree to meet with the harasser, the victim should write the harasser a letter giving:
 - (a) an exact description of the behavior, including when and where it occurred;
 - (b) a description of how the behavior made the victim feel -- “embarrassed,” “upset,” “angry,” etc.,
 - (c) a request that the behavior stop because it is sexual harassment and is against the law, and
 - (d) a promise that if the behavior stops, nothing further will be said and no further action will be taken.

The letter should be dated and signed by the victim, indicating that a copy of the letter has also been given to the harasser. (This protects the victim from retaliation and provides proof that the victim has made it clear to the harasser that the behavior is unacceptable and should be stopped.) The letter should then be hand delivered to the harasser by either the victim or the school staff member. In most instances this will stop the harassment, if it doesn’t there is now a legal basis for taking further action. NOTE: In the case of student-to-student harassment, the staff member to whom the student reports the harassment should immediately refer the student to the Sexual Harassment Compliance Officer who will help him/her draft a letter and make sure the letter is delivered.

4. In cases of sexual harassment requiring a formal investigation to determine whether or not the accusation is justified, it is important to:
 - (a) have a supportive faculty member of the same sex as the accuser present at all discussions with the accuser involving the case.

- (b) keep the investigation group as small as possible to protect the rights of both parties and to prevent the investigation from becoming an inquisition (consult Sexual Harassment Policy – Complaint Procedure).
- (c) The Title IX Coordinator must be made aware of all cases involving sexual harassment.

Retaliation: Retaliation in any form against any person who has filed a complaint relating to sexual harassment is forbidden. If it occurs, it could be considered grounds for dismissal of staff personnel and/or removal from the educational setting for a student.

Confidentiality: Reports of sexual harassment should be kept completely confidential, involving as few people as possible, with the goal of protecting both parties and stopping the behavior, rather than punishing anyone (unless the behavior was found to be so blatant and severe that the victim has suffered severe emotional and/or physical harm).

For further information about these guidelines or help with sexual harassment problems, consult the District's Sexual Harassment Compliance Officer by contacting the Superintendent's Office.

COMPLAINT PROCEDURE INFORMAL PROCESS FOR EMPLOYEES

In determining whether an alleged incident constitutes sexual harassment, the Superintendent of Schools will be vested with the authority and responsibility for processing all sexual harassment complaints in accordance with the procedure outlined below, unless the Superintendent is the subject of the complaint.

1. Any employee of the Hadley Public Schools who believes that he/she has been subjected to sexual harassment is to report the incident(s) to any administrator, Title IX Compliance Officer, or directly to the Superintendent. The administrator and/or Title IX Compliance Officer is to contact the Superintendent. A written record of the complaint will be made by the party receiving the complaint. A separate file system will be maintained, apart from personnel and grievance files of the employee, regarding these complaints and as to all matters relating to the complaints.
2. If the alleged harassment involves the Superintendent of Schools or a School Committee member, the Vice-Chairperson of the School Committee will act as the Compliance Officer.
3. If the alleged harassment involves the Vice-Chairperson of the School Committee, the Chairperson of the School Committee will act as the Compliance Officer.
4. The Superintendent and the Compliance Officer will look at the totality of the circumstances and the context in which the alleged incidents occurred. They will attempt to resolve the problem by conferring with both parties in order to obtain a clear understanding of the facts. All matters involving sexual harassment complaints will remain confidential to the extent possible.
5. At any phase of this process or the subsequent hearing before the School Committee, employees may be represented by counsel or union advocates, since the process may result in the imposition of discipline by the Principal or Superintendent of Schools.

COMPLAINT PROCEDURE FORMAL PROCESS FOR EMPLOYEES

1. A complainant may file a formal complaint immediately or may do so after the Superintendent and the Compliance Officer's efforts to reach a settlement have proven unsuccessful.
2. The complaint will state clearly and concisely the complainant's description of the incident, and it will also indicate any remedy sought. The complaint must be signed by the complainant. The Superintendent's office will send the respondent a copy of the complaint within five working days after it is received. A separate file system shall be maintained as to all matters relating to the complaint. Confidentiality shall be maintained to the extent possible.
3. The respondent will have ten working days to respond in writing. This statement will contain full and specific references to each claim in the complaint, admitting, denying or explaining the complainant's allegations. The respondent must sign his or her statement, which will then be appended to the original complaint. Within three working days, the Superintendent's Office will forward both statements to the complainant and to the respondent.
4. There will be two modes of resolution for formal complaints. A complaint may be settled through mediation or through a hearing. If the complainant and respondent agree to pursue mediation, a date mutually acceptable to both parties will be set within ten working days. If the mediation results in a mutually acceptable agreement, copies of the agreement will be forwarded to both parties. If the mediation does not result in an agreement, the case will be forwarded to the Superintendent for a hearing unless the Superintendent is the alleged harasser; in which case, the hearing will go before the School Committee, as the case may be, and the case will be heard at the next regularly scheduled meeting of the School Committee pursuant to the provisions of the Commonwealth's Open Meeting Law and/or before the Superintendent pursuant to M.G.L., ch. 71, s. 42, and/or 42D.

FORMAL HEARING

1. The purpose of the hearing is to determine whether the Hadley Public Schools' policy on sexual harassment has been violated; and, if so, to determine the appropriate consequences for the violation.

2. Both parties will be given a full and fair hearing. The proceeding, although formal, is not a court proceeding, and the Hadley Public Schools is not bound by the procedures and rules of evidence of a court of law. In most instances, complainants and respondents will be expected to speak for themselves; although, if desired, each party may be accompanied by counsel or an advocate.
3. The presiding officer of the hearing may have The School Counsel present for purposes of assisting in the orderly conduct of the hearing and the questioning of witnesses. The complainant and the respondent will be asked to clarify the issues and to define the areas of disagreement. To encourage a fair and focused hearing, at the start of the proceedings the points of agreement and disagreement will be reviewed. The Superintendent or the School Committee, as the case may be, will hear testimony and consider whether the School Committee policy on sexual harassment has been violated, and, if so, will recommend appropriate consequences.
4. The presiding officer will:
 - a. ensure an orderly presentation of all evidence,
 - b. ensure that the proceedings are accurately recorded by means of a tape or stenographic recording, and
 - c. see that a decision is issued no later than ten working days after the conclusion of the hearing or, when written arguments are submitted, ten working days after their submission.
5. The Superintendent or the School Committee, as the case may be, will:
 - a. conduct a fair and impartial hearing which ensures the rights of all parties involved,
 - b. define issues of contention,
 - c. receive and consider all relevant evidence which reasonable people customarily rely upon in the conduct of serious business,
 - d. ask relevant questions of the complainant, respondent, and any witnesses if needed to elicit information which may be of assistance in making a decision, and

- e. ensure that the complainant and respondent have full opportunity to present their claims orally or in writing, and to present witnesses and evidence which may establish their claims.

DECISION OF THE SUPERINTENDENT OR THE SCHOOL COMMITTEE

1. After all the evidence, testimony, and written arguments have been presented, the School Committee will convene for deliberations to determine whether the Hadley Public Schools' policy on sexual harassment has been violated. If the School Committee finds after a roll-call vote that the policy has not been violated, that fact will be registered in the records of the hearing, and the written decision will be forwarded to the complainant and to the respondent no later than fifteen working days after completion of the hearing. In hearings before the Superintendent, if the Superintendent finds that the policy has not been violated, the Superintendent will issue a written decision to the complainant and to the respondent no later than fifteen working days after the completion of the hearing.
2. If the School Committee finds after a roll-call vote that the charge of violating the Hadley Public Schools' policy on sexual harassment has been substantiated, the School Committee will prepare findings and will determine a penalty for the respondent and relief for the complainant. In hearings before the Superintendent, if the Superintendent finds that the charge of violating the Hadley Public Schools' policy on sexual harassment has been substantiated, the Superintendent will prepare findings and will determine a penalty for the respondent and relief for the complainant. The findings of fact as well as the penalty and relief will be based solely on the testimony and evidence presented at the hearing.
3. The penalty should reflect the severity of the harassment. The penalties may include, but will not be limited to, any one or combination of the following: verbal admonition, written warning placed in the respondent's personnel file, probation, suspension without pay, dismissal, demotion, or removal from administrative duties within a department. The School Committee or Superintendent may also make appropriate recommendations, such as professional counseling, and may recommend relief for the complainant which reinstates and restores, as much as possible, the aggrieved party.

COMPLAINT PROCEDURE INFORMAL PROCESS FOR STUDENTS

In determining whether an alleged incident constitutes sexual harassment, the Superintendent will be vested with the authority and responsibility for processing all sexual harassment complaints in accordance with the Student Handbook, and with the procedure outlined below, unless the Superintendent is the subject of the complaint.

1. Any student of the district who believes that he/she has been subjected to sexual harassment is to report the incident(s) to any administrator, Title IX Compliance Officer, or directly to the Superintendent. The administrator and/or Title IX Compliance Officer is to contact the Superintendent. A written record of the complaint will be made by the party receiving the complaint. A separate file system will be maintained, apart from the student's personal records, regarding these complaints and as to all matters relating to the complaints. Confidentiality shall be maintained to the extent possible.
2. If the alleged harassment involves the Superintendent or a School Committee member, the Vice-Chairperson of the School Committee will act as the Compliance Officer.
3. If the alleged harassment involves the Vice-Chairperson of the School Committee, the Chairperson of the School Committee will act as the Compliance Officer.
4. The Superintendent and the Compliance Officer will look at the totality of the circumstances and the context in which the alleged incidents occurred. They will attempt to resolve the problem by conferring with both parties in order to obtain a clear understanding of the facts. All matters involving sexual harassment complaints will remain confidential to the extent possible.
5. Students may be accompanied, at any stage of these proceedings, by a parent, guardian or representative of their choosing. Parents will be notified by the Administration of the existence of any student's report of sexual harassment.
6. The Compliance Officer will explain each phase of the Informal and Formal Complaint Process to a student who wishes to file a complaint and will assist the student in the processing of the complaint.

COMPLAINT PROCEDURE FORMAL PROCESS FOR STUDENTS

1. A complainant may file a formal complaint immediately or may do so after the Superintendent and the Compliance Officer's efforts to reach a settlement have proven unsuccessful.
2. The complaint will state clearly and concisely the complainant's description of the incident, and it will also indicate any remedy sought. The complaint must be signed by the complainant. The Superintendent's office will send the respondent a copy of the complaint within five working days after it is received. A separate file system shall be maintained as to all matters relating to the complaint. Confidentiality shall be maintained to the extent possible.
3. The respondent will have ten working days to respond in writing. This statement will contain full and specific references to each claim in the complaint, admitting, denying or explaining the complainant's allegations. The respondent must sign his or her statement, which will then be appended to the original complaint. Within three working days, the Superintendent's office will forward both statements to the complainant and to the respondent.
4. There will be two modes of resolution for formal complaints. A complaint may be settled through mediation or through a hearing. If the complainant and respondent agree to pursue mediation, a date mutually acceptable to both parties will be set within ten working days. If the mediation results in a mutually acceptable agreement, copies of the agreement will be forwarded to both parties. If the mediation does not result in an agreement, the case will be forwarded to the School Committee for a hearing.
5. When a hearing is requested, the Compliance Officer will inform the School Committee and the case will be heard at the next regularly scheduled meeting of the School Committee pursuant to the provisions of the Commonwealth's Open Meeting Law and/or M.G.L., ch. 71, s. 42, and/or 42D.

SCHOOL COMMITTEE HEARING

1. The purpose of the School Committee hearing will be to determine whether the Hadley Public Schools' policy on sexual harassment has been violated; and, if so, will recommend appropriate consequences for the violation.
2. Both parties will be given a full and fair hearing. The proceeding, although formal, is not a court proceeding, and the School Committee will not be bound by the procedures and rules of evidence of a court of law. In most instances, complainants and

respondents will be expected to speak for themselves; although, if desired, each party may be accompanied by counsel or an advocate.

3. The Chairperson of the School Committee will act as the presiding officer of the hearing and may have counsel present for purposes of assisting in the orderly conduct of the hearing and the questioning of witnesses. The complainant and the respondent will be asked to clarify the issues and to define the areas of disagreement. To encourage a fair and focused hearing, the Chairperson will notify the School Committee at the start of the proceeding about the points of agreement and disagreement. The School Committee will hear testimony and consider whether the Hadley Public Schools' policy on sexual harassment has been violated, and, if so, will recommend appropriate consequences.
4. The Chairperson of the School Committee will:
 - a.) ensure an orderly presentation of all evidence,
 - b.) ensure that the proceedings are accurately recorded by means of a tape or stenographic recording, and
 - c.) see that a decision is issued by the School Committee no later than ten working days after the conclusion of the hearing or, when written arguments are submitted, ten working days after their submission.

The School Committee will:

- a.) conduct a fair and impartial hearing which ensures the rights of all parties involved,
- b.) define issues of contention,
- c.) receive and consider all relevant evidence which reasonable people customarily rely upon in the conduct of serious business,
- d.) ask relevant questions of the complainant, respondent, and any witnesses if needed to elicit information which may assist the School Committee in making a decision,
- e.) ensure that the complainant and respondent have full opportunity to present their claims orally or in writing, and to present witnesses and evidence which may establish their claims.

DECISION OF THE HEARING

1. After all the evidence, testimony, and written arguments have been presented, the School Committee will convene for deliberations to determine whether the charge that the Hadley Public Schools' policy on sexual harassment has been violated. If the School Committee finds after a roll call vote that the policy has not been violated, that fact will be registered in the records of the hearing, and the written decision will be forwarded to the complainant and to the respondent no later than fifteen working days after completion of the hearing.
2. If the School Committee finds after a roll call vote that the charge of violating the Hadley Public Schools' policy on sexual harassment has been substantiated, the School Committee will prepare findings and will determine a penalty for the respondent and relief for the complainant. The findings of fact as well as the penalty and relief will be based solely on the testimony and evidence presented at the hearing.
3. The penalty should reflect the severity of the harassment. The penalties may include, but will not be limited to, any one or combination of the following: verbal admonition, written warning placed in the respondent's personnel file or student record, probation, suspension without pay, dismissal, demotion, or removal from administrative duties within a department; students may be subject to suspension or expulsion proceedings following a finding that the policy has been violated. The School Committee may also make appropriate recommendations, such as professional counseling, and may recommend relief for the complainant which reinstates and restores, as much as possible, the aggrieved party.

Adopted By The
Hadley School Committee: Oct. 28, 2013