

# Policies

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## **PURPOSE**

Westerly Public Schools (WPS) does not condone or tolerate any form of sexual harassment of, or by, staff or students. The purpose of this policy is:

- A. To affirm the Westerly School Committee shall not tolerate sexual harassment of a student, present or prospective employee, or visitor in the Westerly Public Schools.
- B. To establish explicitly the responsibilities of all WPS employees and students by defining conduct which constitutes prohibited and inappropriate behaviors
- C. To establish the framework for effective procedures for addressing harassment complaints

Violation of this policy, if proven, will result in disciplinary action. Any person who believes that s/he has been the recipient of sexual harassment may seek redress through the Westerly Public Schools' Sexual Harassment Grievance Procedure.

## **ISSUE**

Inappropriate sexual conduct will not be tolerated and may constitute sexual harassment. Sexual harassment is an unlawful form of discrimination on the basis of sex under Title VII of the Civil Rights Act of 1964, as amended in 1972 and 1991, Title IX of the Education Amendment of 1972, and Rhode Island General Law 28-5.1, Fair Employment Practices Act, Rhode Island Public Law Title 16-38-1.1, and the Carl Perkins Act).

## **DEFINITIONS**

- A. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and/or other inappropriate verbal, written, or physical conduct of a sexual nature that takes place under any of the following circumstances:
  1. When, explicitly or implicitly, submission to such conduct is made, a term or condition of employment, instruction, grade assignment, or participation in other school activities.
  2. When submission to or rejection of such conduct by an individual is used by the offender as the basis for making personnel or academic decisions affecting the individual subjected to sexual harassment.
  3. When such conduct has the effect of unreasonably interfering with the individual's work and/or academic performance; or creating an intimidating, hostile, or offensive work or learning environment.

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4. **Sexual harassment is defined as:** Unwelcome advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
- i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or success as a student;
  - ii. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or

Such conduct has the purpose or effect of substantially interfering with an individual's work or educational performance, or creating an intimidating, hostile or offensive working or educational environment.

The Definition of a **Hostile Environment** is "...when there is discriminatory conduct or behavior in the place of work that is unwelcome and offensive to an employee or group of employees based on a protected class status..."<sup>1</sup>

## B. Prohibited Conduct

Prohibited conduct may include, but is not limited to, unwelcome behavior of a sexual nature. For example:

1. Grabbing, touching, or patting
2. Sexual propositions
3. Sexually offensive pictures, magazines, notes, calendars, cartoons, or jokes
4. Unwanted flirtations or advances
5. Verbal abuse
6. Repeated pressure or requests for sexual activities
7. Rewards for granting sexual favors or the withholding of rewards for refusing to grant sexual favors
8. Graphic comments about an individual's body or dress
9. Sexually degrading names

In determining whether prohibited conduct constitutes sexual harassment, consideration will be given to the totality of the circumstances, including the context

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<sup>1</sup> <http://www.hostileworkenvironmentguide.com/definitionofhostileworkenvironment.html>

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in which the conduct occurred. Dating or sexual relationships between WPS employees/adult volunteers and students is prohibited.

## **WESTERLY SCHOOL COMMITTEE EXPECTATIONS**

- A. The WSC expects employees and students to be committed to creating and maintaining an environment in which all persons participating in school programs and activities can do so in an atmosphere free from all forms of sexual harassment.
1. WPS policy on sexual harassment will be communicated to all employees and students.
  2. Employees and students will be informed of procedures to follow for filing complaints of sexual harassment.
  3. Confidentiality will be maintained in all phases of the complaint process, in accordance with policy and consistent with WPS obligation to investigate and address complaints.

Employees and students may receive guidance, advice, support and/or advocacy from school staff, including administrators, counselors, teachers, or other staff.

## **APPLICATION**

- A. To Employees
1. This policy applies to all sexual harassment incidents involving WPS employees.
  2. It addresses incidents committed by a person of either sex against a person of the opposite or same sex. It also establishes that it is against policy and recognizes that it is unlawful for WPS employees to commit acts of sexual harassment. The Superintendent (or in unusual cases the School Committee) will direct the school solicitor to investigate the allegation. A written report of the investigation will be submitted to the Office of the Superintendent
  3. Depending on the severity of the offense, any WPS employee who violates this policy shall be subject to appropriate disciplinary action. These may include but are not limited to oral or written reprimand, reassignment, demotion, suspension, or termination.
  4. Dating or sexual relationships between employees and students or adult volunteers and students is prohibited.

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B. To Students

1. Sexual harassment committed by students of either sex against students or staff of the opposite or same sex constitutes inappropriate behavior. All allegations will be investigated by the principal utilizing the guidelines of this policy. A written report of the investigation will be submitted to the Office of the Superintendent.
2. Depending on the severity of the offense, appropriate disciplinary action, from a conference to suspension or expulsion, can be taken using the discipline policies adopted by the WSC.
3. In all cases, students will be notified that school counselors are available for counseling.

C. To Others

1. Employees and students also have a right to be free from sexual harassment by others, including, but not limited to contractors, vendors, and volunteers. The supervisor or principal is responsible for investigating and taking or recommending appropriate action to address complaints of sexual harassment committed by others.

## ACTIONS

- A. Any WPS employee or student who believes that s/he has been subjected to sexual harassment should report such conduct promptly, orally or in writing, to the immediate teacher, supervisor/principal, or to the Assistant Superintendent (Title IX Coordinator) in the Office of the Superintendent. A WPS employee also can submit the report to a member of the School Committee.
- B. A supervisor/principal **must** report to the Assistant Superintendent (Title IX Coordinator), any complaint received regarding sexual harassment involving employees. If the complaint involves WPS employees, the investigation will be conducted by a school solicitor in coordination with the Assistant Superintendent (Title IX Coordinator).
- C. Teachers **must** report to the principal any complaint received from a student regarding an allegation of sexual harassment. If the complaint involves only students, the investigation will be carried by the principal in accordance guidelines provided in this policy. A principal can request the Superintendent provide assistance from the school solicitor.
- D. The full circumstances of the situation will be considered in the investigation of possible harassment incidents. In determining whether the alleged conduct constitutes sexual harassment, consideration shall be given to the record of the

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incident as a whole and to the totality of the circumstances, including the context in which the alleged incidents occurred. If it is a confirmed one time incident, and the individual who reports the allegation of sexual harassment concurs, mediation may be offered as a method to resolve the complaint.

1. Mediation is not an option if the incident occurs between a student and an employee of Westerly Public Schools.

Mediation is a meeting between the two parties facilitated by an impartial staff member (usually a Principal or Assistant Principal) where an incident can be fully addressed and possibly resolved to the satisfaction of the aggrieved party.

2. Mediation may ONLY be used if the incident occurs between two peers.
  3. In the case of students, mediated results will be maintained and parents will be informed of those results.
  4. In the case of an incident between peer employees, a report of the mediated results will be maintained in the personnel files.
- E. Employees and students should be aware that they are responsible for their conduct even if the conduct was not specifically intended to harass.

## **IMPLEMENTATION PRINCIPLES AND GUIDELINES AND STRATEGIES**

- A. Any WPS employee or student who believes that s/he has been subjected to sexual harassment has the right to file a complaint and to receive prompt and appropriate handling of her/his complaint. In all phases of the complaint resolution process, every reasonable effort shall be made to maintain the confidentiality and protect the privacy of all parties, consistent with WPS' responsibility to investigate and address such complaints.
- B. Retaliation against an individual who either orally reports or files a written complaint regarding sexual harassment or who participates in or cooperates with an investigation is prohibited. Personnel who conduct such retaliation will be subject to disciplinary action, up to and including termination.
- C. The right to confidentiality, both of the complainant and the accused, shall be preserved consistent with applicable laws and WPS' responsibility to investigate and address such complaints.
- D. Accusation of sexual harassment by WPS employees shall be recorded in the individual's personnel file as well as the result of the investigation and any other actions taken.

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## **REVIEW AND REPORTING**

- A. The Superintendent will report to the WSC semi-annually on reported sexual harassment incidents. Reports shall include quantitative as well as qualitative monthly incident aggregate data for both WPS staff and students; complaint and resolution process evaluations and improvements; ongoing evaluation of work environments in all WPS schools, offices, and work locations; and any other activities being planned or carried out by WPS that are relevant to the successful implementation of this policy.
- B. Westerly Public Schools will, upon request, provide the employee with a written statement on the disposition of the complaint including a description of any action taken in resolution of the complaint.
- C. This policy will be reviewed on an on-going basis in accordance with the WSC policy review process.

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## **ADDENDUM A: ACTIONS TO TAKE AS VICTIM OF SEXUAL HARASSMENT**

If you think you are being sexually harassed, you need to tell someone who can help you stop it. Here are some things you and/or your parents can do:

**Don't blame yourself.** The person who is harassing you is the one doing something wrong and you haven't done anything to cause the harassment, even if you flirted with this person or liked him/her.

**Say "No" Clearly.** Tell the person who is harassing you that his/her behavior offends you. They may not realize how hurtful their behavior is and may need a clear message from you to stop. If the harassment does not end, promptly write a letter asking the harasser to stop. Keep a copy of the letter.

**Write down what happened.** When someone harasses you or makes you feel uncomfortable, write it down in a notebook that is just for this purpose. Write down what happened, the date it happened, where it happened, and who else may have seen or heard the harassment. Also write down what you did in response, and how the harassment made you feel. Do not write other information in this notebook, such as appointments or homework assignments. Save any notes or pictures the harasser sent you. It is a good idea to keep the record somewhere besides school, such as your home or another safe place.

**Report the Harassment.** It is very important that you tell your parents or another adult, like a teacher or guidance counselor, about the harassment. If you want the school to do something about the harassment, you **MUST** tell a staff member that you are being sexually harassed. If you do not feel comfortable telling the school official yourself, get the help of your parents or another adult to go with you. If you and/or your parents tell a staff member verbally, also do it in writing and keep a copy for yourself. If the first staff member (like the principal) doesn't respond, go to the School Committee or Superintendent to complain. The law says the school has to stop sexual harassment of a student whether the harasser is a teacher or another student(s) but the school is only required to stop the harassment if someone in authority at the school knows what is happening to you. In order for the school to respond, **you MUST report the harassment to a staff member.**

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## ADDENDUM B

### PROCEDURES IN THE EVENT OF SEXUAL HARRASSMENT

#### Introduction:

By definition, sexual harassment is not limited to prohibited conduct by a male toward a female, by a supervisory employee toward a non-supervisory employee or by a teacher toward a student. The Westerly Public Schools' view of sexual harassment includes, but is not limited to, the following considerations:

- A. A male, as well as a female, may be the subject/recipient of sexual harassment and a female, as well as a male, may be the harasser.
- B. The harasser does not have to be in a position of authority. S/he may also be an agent of the employer, a supervisory employee who does not supervise the recipient, a non-supervisory employee (co-worker), a non-employee (student, parent, and visitor).
- C. The recipient of sexual harassment may be the same or opposite sex as the harasser.
- D. The recipient of the sexual harassment does not have to be the person at whom the unwelcome sexual conduct or remarks are directed. The recipient may also be someone who is affected by such conduct/remarks when it is directed toward another person. For example, inappropriate attempts at humor or the sexual harassment of one female (or male) employee/student may create an intimidating, hostile or offensive working or educational environment for another female (or male) or otherwise unreasonably interfere with an individual's work or educational performance.
- E. Sexual harassment does not depend on the recipient's having suffered concrete job related injury or educational limitations as a result of the harasser's conduct. For example, improper sexual advances, conduct or remarks which do not result in the loss of promotion by the recipient or the discharge of the recipient may, nonetheless, constitute sexual harassment where they unreasonably interfere with the recipient's work or education, or create a harmful or offensive work or educational environment.
- F. All personnel will be responsible for implementing, monitoring and enforcing the above policy.
- G. All personnel are to strictly adhere to this policy.



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## Sexual Harassment Grievance Procedure

A formal grievance may be filed at any time by a student, employee, applicant, parent, or visitor who believes that his/her rights as outlined in the sexual harassment policy have been violated. We encourage each student, faculty member, administrator, or staff member to make every effort to resolve problems fairly and informally as they arise. All members of the Westerly Public School District's community are urged to resolve problems fairly and informally as early as possible. If a suitable solution cannot be reached informally, a formal grievance may be initiated. Grievants are not limited to this formal grievance procedure, but may seek relief from other agencies including, but not limited to:

US Equal Employment Opportunity Commission  
1 Congress Street  
10<sup>th</sup> Floor, Room 1001  
Boston, MA 02114  
Phone: 617-565-3200  
TTY: 617-565-3204

Rhode Island Commission  
for Human Rights  
10 Abbott Park Place  
Providence, RI 02903  
Phone: 401-222-2616  
TDD: 401-222-2664

Rhode Island Department of Education  
Commissioner of Elementary & Secondary Education  
255 Westminster Street  
Providence, RI 02903  
Phone: 401-222-2031  
TTY: 800-745-6575

### 1. Definition

A "grievance" shall be a complaint which has been filed by an employee, applicant, student, parent or guardian, visitor, on his/her behalf dealing with a violation of the sexual harassment policy as specified by Title IX and other applicable laws.

### 2. Purpose

The primary purpose of this procedure is to secure, at the earliest level possible, equitable solutions to a claim of a complaint. The proceedings shall be kept confidential at each level of this procedure.

### 3. Time

A complaint shall be filed at Level One within 30 school days or 60 calendar days from the date of the incident, whichever is sooner. The number of days indicated at each level shall be regarded as a maximum, and every effort shall be made to expedite

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the process. The time limits may be extended by mutual agreement between complainant and Superintendent.

4. Level One

An individual with a complaint shall first (Level One) present it orally and informally to the appropriate supervisor (e.g. student to teacher; teacher to principal, etc.). If the complaint is not resolved within 5 business days, s/he may formally present the complaint to the Assistant Superintendent (Title IX Coordinator).

5. Level Two

If an equitable solution cannot be reached, the complainant may present a formal claim in writing (including all supporting statements and evidence) to the Assistant Superintendent (Title IX Coordinator). Within 5 business days after receiving the formal written complaint, the Title IX Coordinator shall state his/her decision in writing with all supporting reasons and evidence.

- A. Such investigation may consist of, but may not be limited to, the following actions:
  - i. Interview(s) with the grievant;
  - ii. Interview(s) with the individual alleged to be the harasser;
  - iii. Interviews with other employees and witnesses;
  - iv. Interviews with other individuals at the discretion of the Superintendent or Assistant Superintendent (Title IX Coordinator);
  - v. Review of pertinent records.
- B. Any retaliatory action of any kind taken by an employee or student of the Westerly Public Schools against any other employee or student of Westerly Public Schools as a result of that person's seeking redress under these procedures, cooperating in an investigation, or otherwise participating in any proceeding under these procedures is prohibited and shall be regarded as a separate and distinct grievable matter under this procedure.
- C. Any grievance proceedings will, to the greatest possible extent, be held in confidence by all persons directly or indirectly involved in them.
- D. If the Assistant Superintendent (Title IX Coordinator) cannot formally resolve the complaint within 5 school days, the complaint will proceed to Level Three.

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6. Level Three

If the complainant deems it desirable to carry the complaint beyond the decision reached in Level Two, he/she may, within 10 school days, file the complaint with the Superintendent who shall evaluate the evidence and render his/her decision within 10 school days after receiving the appeal. Such decision should contain all supporting reasons and evidence.

7. Level Four

If the complainant deems it desirable to carry the complaint beyond the decision in Level Three, s/he may, within 10 school days, file the complaint with the Chairperson of the School Committee.

Upon receiving the complaint, the matter shall be placed on the agenda of the School Committee for consideration at the next regular meeting (at which time the complaint can be legally acted upon) and a final determination shall be made within 30 business days from said meeting. The hearing before the School Committee will be in open session unless requested by grievant to be in executive session.

8. Withdrawal

A complaint may be withdrawn by the complainant at any level without prejudice.

9. Hearing and Decisions

At each of the above four levels the complainant shall be given the opportunity to be present and to be heard. All decisions at each level (with the exception of Level One) shall be in writing and shall include supporting reasons. Copies of all decisions and recommendations shall be furnished promptly to all parties of interest.

10. Reprisals

No reprisal of any kind shall be taken by or against any party of legitimate interest or any legitimate participant in the grievance procedure by reason of such participation.

11. Disclaimer

In the adoption and implementation of this grievance procedure, it shall be understood that, at all levels, strict rules of evidence shall not apply.

Nothing in this policy precludes a complainant from contacting an appropriate outside agency.

12. Penalties in Cases of Sexual Harassment

Remedial actions will depend on the severity of the incident(s). Because of the private nature of certain incidents, particularly those involving sexual harassment and the emotional and moral complexities surrounding such issues, every effort will be made to

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resolve problems on an informal basis, if possible. When a grievance is resolved informally, only a short summary of the incident will be maintained on file.

An admission of guilt, an acknowledgement of the verbal warning, a promise not to commit such abuse again, and action taken to provide appropriate relief for the grievant may be sufficient resolution. At this informal stage, it is hoped to sensitize the person at fault to the effects of such behavior, to be constructive and not unduly punitive in the disciplinary action. If informal resolutions are not adhered to or if the allegations involve conduct for which informal resolutions are not appropriate, the Superintendent may deem it necessary to take appropriate action that can include formal letters of reprimand, suspension, discharge or other disciplinary action.

Adopted: February 24, 2010