

Sexual Harassment:

7.40
Board Adopted
(03-18-99)

Introduction:

7.40-1

It is the policy of Windham School District that all employees should enjoy a working environment free from all forms of discrimination, including sexual harassment. Sexual harassment is a form of illegal sex discrimination that is prohibited, and for which Windham School District (WSD) has zero tolerance. In order to prevent sexual harassment, WSD also prohibits any discourteous conduct of a sexual nature that a reasonable person would find offensive, or which is known to be unwelcome to the person against whom it is directed. Retaliation is also prohibited.

Any employee who violates the provisions of this policy shall be subject to disciplinary action up to and including dismissal in accordance with WSD Policy 7.44, Progressive Discipline.

Definitions:

7.40-2

Discourteous Conduct is any conduct (words or actions) of a sexual nature toward another employee of WSD or other individual that: (a) a reasonable person would find offensive; or (b) is unwelcome to the person to whom such conduct is directed and that person has communicated (by words or actions) to the other person that the conduct is unwelcome.

Sexual Harassment is unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when: (a) the conduct is sufficiently pervasive or severe that it has the effect of unreasonably interfering with an individual's work performance or creating a work environment that a reasonable person would find intimidating, hostile, or offensive; (b) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (c) submission to or rejection of the conduct by an individual is used as a basis for employment decisions affecting the individual.

Discussion:

7.40-3

It is against Windham School District Policy for any employee to:

- 1) Threaten or insinuate, either explicitly or implicitly, that the refusal of any employee or other individual to submit to sexual harassment or discourteous conduct will adversely affect the terms, conditions, or privileges of employment for any such employee or other individual.
- 2) State or insinuate that the submission of any employee or other individual to sexual harassment or discourteous conduct will affect the terms, conditions, or privileges of employment of any such employee in a positive manner.
- 3) Subject other employees, either publicly or privately, to embarrassing and offensive comments, innuendoes, jokes, touching, or horseplay of a sexual nature.

- 4) Retaliate against any individual who has filed a complaint alleging sexual harassment or discourteous conduct, or against any individual who cooperates in a fact-finding inquiry or hearing regarding any such allegation. Examples of actions that might be construed by WSD to be retaliation include: disciplining an employee, changing an employee's work assignment, refusing to cooperate or discuss work-related matters with an employee, or providing rating on an employee's performance evaluation which are below the employee's actual job performance.

It is Windham's position that the most effective means of eliminating sexual harassment and discourteous conduct from the workplace is through training and through the prompt reporting of such matters by any individual who has been subjected to or observed such conduct, so that remedial action can occur. Therefore, Windham encourages every employee and all other individuals to promptly report any incidents of such conduct in accordance with the procedures within this policy.

Windham also prohibits employees from providing false information in any report, fact-finding inquiry, or hearing regarding sexual harassment, discourteous conduct, or retaliation. This prohibition includes filing a complaint under this policy that the employee knows is unjustified.

It is every employee's responsibility to become familiar with the provisions of this policy so that each employee can do his or her part in ensuring that Windham's work environment is free of sexual harassment, discourteous conduct, and retaliation. Employees should be aware that conduct might be offensive or unwelcome even if an employee or other individual does not openly object to it. However, all employees and other individuals are encouraged to immediately inform an individual committing such conduct that his or her behavior is unwelcome and that such behavior should cease immediately. Once that warning has occurred, any continuation of the unwelcome conduct is "per se" discourteous.

Discourteous conduct that is prohibited by this policy, and which may rise to the level of sexual harassment includes the following:

- 1) Physical acts such as intentional physical conduct that is sexual in nature or that a reasonable person would find offensive. Examples of such acts include intentional touching, jabbing, pinching, grabbing, rubbing, pressing, or brushing against a person's body.
- 2) Sexual advances, propositions, or comments, such as:
 - a. Gestures, remarks, or jokes of a sexual nature which are unwelcome or which a reasonable person would find offensive;
 - b. Preferential treatment or promises of preferential treatment for submitting to conduct of a sexual nature, including soliciting an employee or other individual to engage in sexual activity for compensation or other favorable action; or

Sexual Harassment:

7.40
Board Adopted
(03-18-99)

- c. Subjecting or threatening to subject an employee or other individual to unwelcome attention or conduct that a reasonable person would believe to be sexual in nature, or subjecting an employee to an adverse employment action such as demotion, disciplinary action, or unfavorable reassignment because of that employee's rejection of such conduct.
- 3) Displaying, reading, publicizing, or bringing any materials of a sexual nature into the workplace, such as pictures, posters, calendars, graffiti, objects that depict sexual poses, videos, movies or sound recordings, screen savers, or other materials that a reasonable person would regard as inappropriate to a professional workplace.
- 4) Discourteous conduct occurring at locations other than within the physical boundaries of the workplace. For example, in some circumstances the conduct of an employee who makes an unwelcome sexual advance toward another employee or other individual at a District sponsored or work-related event held away from the everyday work-site might constitute a violation of this policy.

Procedures:

7.40-4

Employee/Other Individual Responsibilities:

Employees are strongly encouraged to report an allegation to the employee's supervisor or to Windham's Personnel Division so that Windham can promptly respond to the allegation. Any employee who believes that he or she has been subjected to or has witnessed conduct prohibited in this policy may immediately report the allegation directly to one or more of the following:

- 1) Immediate supervisor/Principal
- 2) Superintendent
- 3) Assistant Superintendent/Division Director
- 4) Department Head
- 5) WSD Personnel Office
- 6) United States Equal Employment Opportunity Commission (EEOC)
- 7) Texas Commission on Human Rights (TCHR)

Any other individual who has been subject to or has witnessed such actions is encouraged to immediately report the allegation to the WSD Personnel Office, the EEOC, or the TCHR. The employee or other individual need not specify whether the alleged conduct is "sexual harassment" or "discourteous conduct."

Any question concerning the reporting of an allegation may be directed to Windham's Personnel Office.

Sexual Harassment:

7.40
Board Adopted
(03-18-99)

Principal/Immediate Supervisor/Assistant Superintendent/Division Director/Department Head Responsibility:

If a Principal, Immediate Supervisor, Assistant Superintendent, Division Director or Department Head is notified of an allegation relating to conduct prohibited in this policy he or she shall take the following actions:

- 1) Immediately notify the WSD Personnel Office via telephone, or fax with the following information:
 - a. Specific nature of the complaint;
 - b. Names and titles of parties involved;
 - c. Date and time on which the Supervisor, Principal, Assistant Superintendent, Division Director or Department Head was notified of the alleged conduct and the date(s) the alleged incident(s) occurred.
- 2) Based on the assistance received from the WSD Personnel Office, the Supervisor, Principal, Assistant Superintendent, Division Director, or Department Head shall meet separately with the complainant and respondent and shall provide each party with a notification of Interim Remedial Action form. See Sample A.

Windham School District Personnel Office Responsibilities:

If the Windham Personnel Office receives an allegation of conduct prohibited by this directive, the following actions shall take place:

- 1) Review the circumstances involved and determine whether the information presented justifies a fact finding inquiry. Unless the Assistant Superintendent or Division Director was the notifier, the Personnel Office shall immediately notify the appropriate Assistant Superintendent or Division Director that a complaint has been received and advise whether the Personnel office will conduct a fact-finding inquiry. The Personnel office shall also immediately notify the complaining party whether a fact-finding inquiry will be conducted.

If it is determined that a fact-finding inquiry will be required, the WSD Personnel Office shall be responsible for conducting the fact-finding inquiry in a timely and thorough manner. All fact-finding inquiries shall be conducted discreetly and in a good faith effort to be fair to all parties involved.

- 2) If it is determined that a fact-finding inquiry will be conducted, the Personnel Office shall make a determination as to whether any interim remedial action shall be taken. Determinations regarding interim remedial actions shall be made on a case-by-case basis.

Sexual Harassment:

7.40
Board Adopted
(03-18-99)

Determinations shall include, but not be limited to, whether the complaining party and the respondent should be separated within their work location until after the fact-finding inquiry has been completed.

- 3) After concluding the fact-finding inquiry, the results shall be made to the following:
 - a. Superintendent;
 - b. Deputy Superintendent;
 - c. Assistant Superintendent/Division Director;
 - d. The Complaining Party, and
 - e. The Respondent.
- 4) If the allegations are not sustained, the complainant and the respondent will be notified, in writing, by the Director of Personnel.

If the allegations are sustained, the Assistant Superintendent/Division Director will take appropriate disciplinary action, with a copy of the action taken being submitted to the Personnel Office.

- 5) No later than sixty work days after a fact-finding inquiry which sustained the allegations has been completed, the Assistant Superintendent or Division Director shall contact the complaining party and obtain a written statement as to whether the complaining party has been subjected to any further sexual harassment, discourteous conduct, or retaliation by any person. The complaining party should be asked to describe, in detail, any incidents which the complaining party alleges to have occurred after the original allegations were filed. The written statement should be faxed to WSD Personnel.