

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

I. General Statement of Policy

Sexual harassment is a form of sex discrimination, which violates Section 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. s2000e, et seq. Sexual violence is a physical act of aggression that includes a sexual act or sexual purpose.

It is the policy of the school district to maintain a learning environment and working environment that is free from sexual harassment, or as defined below. Sexual harassment is against the law and is against school board policy. Any form of sexual harassment is strictly prohibited. It is a violation of this policy for any student, employee, or others participating in programs, services and/or activities provided by the school district to harass any student, employee or others participating in programs, services and/or activities provided by the school district, through conduct or communication of a sexual nature as defined by this policy.

"Employee" shall include, but not be limited to all school district staff, teachers, non-certified personnel, administrators, volunteers, coaches and/or other such personnel whose employment or position is directed by the school district.

The District will act to investigate all complaints, formal or informal, verbal or written, of sexual harassment or sexual violence and will discipline any employee or student who sexually harasses or is sexually violent toward another person.

II. SEXUAL HARASSMENT DEFINED

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, and /or conduct of a sexual nature when:

1. The unwelcome conduct has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment; or
2. Submitting to the unwelcome conduct is made a term or condition, either explicitly or implicitly, of an individual's obtaining or retaining employment or of obtaining an education; or
3. Submitting to or rejecting the unwelcome conduct is used as the basis for decisions affecting a person's employment or a student's educational



environment; or

4. Sexual violence.

- The conduct creates a hostile learning or working environment because it is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by the school board.
- The conduct creates a hostile learning or working environment because it is sufficiently severe, pervasive, or persistent so as to interfere with or limit an employee's ability to participate in or benefit from the services, activities, or opportunities offered by the school board.

Sexual harassment may include, but is not limited to:

1. verbal or non-verbal harassment and/or abuse of a sexual nature;
2. subtle pressure for sexual activity;
3. inappropriate patting, pinching or other touching;
4. intentional brushing against the body of another;
5. demanding sexual favors accompanied by implied or overt threats;
6. demanding sexual favors accompanied by implied or overt promises of preferential treatment;
7. any sexually motivated unwelcome touching; or
8. sexual violence that is a physical act of aggression that includes a sexual act or sexual purpose.

III. REPORTING PROCEDURES

1. The superintendent or his/her written designee is responsible for implementing all procedures of this policy. Additionally, the superintendent may develop and implement additional administrative regulations in furtherance of this policy.
2. Any person who believes he or she has been the victim of sexual harassment, or who is aware that someone else, including student, employee, or others participating in programs, services and/or activities provided by the school district) may be a victim of such harassment, should report the alleged act(s) to the building principal. If the alleged perpetrator is the principal, the alleged victim may report the allegation to either the assistant superintendent or the superintendent. The Board encourages the use of the Report Form (GBAA-R) available online under School Board Policies, at the school office or the superintendent's office. If the complainant refuses to use the form, the principal should fill out



the form on the complainant's behalf. If the form has been submitted to the assistant superintendent, it will be shared with the superintendent.

3. In each building, the principal is the person responsible for receiving oral or written reports of sexual harassment. Upon receipt of a report, the principal will notify the superintendent immediately without screening or investigating the report. If the report was given verbally, the principal shall request that a written form be filled out within 24 hours to be forwarded to the superintendent. If the complainant refuses to fill out the form and submit the request, the principal will fill out the form and submit the report on the complainant's behalf. Failure to forward any sexual harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the building principal, the complaint shall be filed directly with the assistant superintendent or superintendent.
4. The board designates the superintendent as the administrator to receive any report or complaint of sexual harassment. The district shall post the name of the administrator in conspicuous places throughout school buildings, including a telephone number and mailing address. If the complaint involves the superintendent, the complaint shall be filed directly with the school board chair.
5. Submission of a complaint or report of sexual harassment will not affect the student's, employees or other participant's standing in school, future employment, or work assignments.
6. The use of formal Reporting Forms provided by the district is mandatory. If the complainant refuses to fill out the form, the principal or other person receiving the report shall fill out the form on the complainant's behalf. The district will respect the confidentiality of the complainant and the person(s) against whom the complaint is filed as much as possible, consistent with the school district's legal obligations and the necessity to investigate allegations of sexual harassment and take disciplinary action when the conduct has occurred.

IV. INVESTIGATION AND RECOMMENDATION

The superintendent will authorize an investigation upon receipt of a report or complaint alleging sexual harassment. This investigation may be conducted by trained district personnel or by a third-party designated by the superintendent. Upon the initiation of an investigation, the investigator will provide the complainant and the respondent (the person who is alleged to have engaged in harassment) with notice that:

1. They each have the right to present witnesses and other evidence during the investigation;
2. If the alleged victim(s) of harassment opts to participate in mediation or



other informal resolution, the alleged victim(s) will not be required to work out the problem directly with the alleged perpetrator(s) without appropriate involvement by the school administration. Additionally, such alleged victim(s) will be assured that any informal process can be ended by an alleged victim at any time in order to begin the formal investigation and subsequent stages of the complaint process;

3. Notice that both complainants and accused individuals will be promptly notified of the outcome of any school district investigation; and
4. The school district has an obligation, following substantiated instances of sexual harassment, to take appropriate steps to address the effects of any harassment, including supporting the victim's access to school programs, services and activities.

If district personnel conduct the investigation, the investigation shall consider the surrounding circumstances, the nature of the sexual advances, the relationship between the parties and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes sexual harassment requires a determination based on all the facts and surrounding circumstances.

The investigation may consist of personal interviews with the complainant, 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. Students who are interviewed may have a parent or other representative present.

In addition, the district may take immediate steps, at its discretion, to protect the complainant, students and employees pending completion of an investigation of alleged sexual harassment.

Upon completion of an investigation conducted by either district personnel or a third-party, the superintendent will be provided with a written factual report and recommended action.

V. SCHOOL DISTRICT ACTION

If the investigating party determines that the alleged conduct constituted sexual harassment, the superintendent may discipline the offending student, or employee. Such discipline may include, but is not limited to, a warning, training, temporary suspension or dismissal. Any discipline will be in accordance with all laws and collective bargaining agreements, if applicable.

If the investigating party determines that the alleged conduct did not constitute sexual harassment, both the complaining party and the accused will be promptly informed.



Conduct which does not rise to the level of sexual harassment as defined by the policy, but is nonetheless inappropriate or in violation of other related Board policies, will be addressed on a case-by-case basis by the Superintendent, who may impose discipline and/or order the offending student or employee to engage in some remedial action.

VI. REPRISAL

The School District will discipline any student or employee who retaliates against any person who reports alleged sexual harassment or who retaliates against any person who testifies, assists or participates in an investigation, proceeding or hearing relating to a sexual harassment complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

VII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse, which may include filing charges with the Commissioner of Education, initiating civil action or seeking redress under state criminal statutes and/or federal law.

VII. SEXUAL HARASSMENT AS SEXUAL ABUSE

Under certain circumstances, sexual harassment may constitute sexual abuse under New Hampshire law. In such situations, the District shall comply with all applicable laws.

Nothing in this policy will prohibit the School District from taking immediate action to protect victims of alleged sexual abuse.

IX. BY-PASS OF POLICY

Any individual with a sexual harassment complaint may choose to bypass this Policy and accompanying regulation and proceed directly to: N.H. Commission on Human Rights, at 2 Chenell Dr., Concord, NH 03301, phone 603-271-2767 or US Department of Health & Human Services, Office for Civil Rights, Region 1, JFK Building, Room 1875, Boston, MA 02203, phone 617-565-1340.

Legal References:

Ed 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy

Ed 306.04(a)(9), Sexual Harassment

RSA 354-A:7, Unlawful Discriminatory Practices

Appendix: GBAA-R, BBA-R

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Adopted 2000

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