

Sexual Harassment, Discrimination, and Violence (Also JBAA)
School Board Approved: September 12, 2016**PURPOSE OF POLICY**

The purpose of this policy is to maintain a learning and work environment that is free from sexual harassment or other improper or inappropriate behavior that may constitute harassment.

For purposes of this Policy, the term “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. It is the policy of the School District to maintain a learning and working environment that is free from sexual harassment, discrimination, and violence. The School District will not tolerate any form of sexual harassment, discrimination, or violence.

It shall be a violation of this Policy for any student, employee, or anyone interacting with a student or employee to harass a student or an employee through conduct or communication of a sexual nature as defined by this Policy.

It shall be violation of this Policy for any student, employee, or anyone interacting with a student or employee to be sexually violent to a student or employee.

The School District will act to promptly investigate and equitably resolve all complaints, either formal or informal, oral or written, of sexual harassment, discrimination, or violence, and to discipline any student or employee who sexually harasses, sexually discriminates, or is sexually violent.

Employees and/or students who believe they are the subject of harassment, or anyone having questions or concerns regarding sexual harassment, discrimination, or violence are encouraged to contact one or more of the following individuals: (1) Superintendent; (2) Human Resource Manager; and (3) any Building Principal.

SEXUAL HARASSMENT/SEXUAL VIOLENCE DEFINED

A. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual’s employment or education; or,

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3. That conduct or communication 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.

B. Sexual harassment is not limited to requests for sexual favors in return for job or educational benefits.

C. Sexual harassment may include but is not limited to:

1. verbal or written harassment and/or abuse of a sexual nature;
2. leering at an individual's body;
3. jokes of a sexual nature;
4. the display anywhere on school property of sexually suggestive, sexually demeaning or pornographic objects, pictures, writings, posters or cartoons;
5. graphic verbal comments about an individual's body, clothing or sexual activity;
6. subtle pressure for sexual activity;
7. inappropriate patting or pinching;
8. intentional brushing against a person's body;
9. demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status;
10. demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status;
11. any sexually motivated unwelcome touching; or
12. sexual violence which is a physical act of aggression that includes a sexual act or sexual purpose.

D. Hostile environment harassment occurs when unwelcome comments or conduct based on sex unreasonably interferes with a student's or employee's performance or creates an intimidating, hostile, or offensive environment. A victim can be anyone affected by the conduct, not just the individual at whom the offensive conduct is directed.

Any sexual harassment or violence as defined above, when perpetrated on any student or employee, will be treated as sexual harassment, discrimination, and/or violence and is a violation of this Policy.

REPORTING PROCEDURES

Any person who believes he or she has been the victim of sexual harassment, discrimination, or violence, by a student or an employee of the School District, or any third person with knowledge or belief of conduct which may violate this Policy should report the alleged acts immediately to an appropriate School District official as designated by this Policy.

A. In Each School Building.

1. The building principal is the person responsible for receiving oral or written reports of sexual harassment, discrimination, or violence at the building level. If the complaint involves the building principal, the complaint shall be filed directly with the Superintendent.
2. Students may report sexual harassment, discrimination, or violence to any employee.
3. Upon receipt of a report, the Principal must notify the Superintendent immediately without screening or investigating the report. If the report was given verbally, the Principal shall reduce it to written form within 24 hours and forward it to the Superintendent.
4. Any employee receiving a report from a student of alleged sexual harassment, discrimination, or violence, or conduct that could be construed as sexual harassment, discrimination, or violence, must immediately report the information to the Principal without screening or investigating the report.
5. Failure to forward any sexual harassment, discrimination, or violence report or complaint as required by this Policy will result in disciplinary action up to and including termination.

B. District-Wide.

1. The School Board hereby designates the Superintendent or his/her designee as the School District Title IX/Human Rights Officer to receive reports or complaints of sexual harassment, discrimination, or violence from any student or employee, any individual who interacts with students or employees, and also from the building principals as outlined above. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board.
2. The School District shall conspicuously post the name of the Human Rights Officer, including a mailing address and telephone number.

C. Submission of a complaint or report of sexual harassment, discrimination, or violence will not affect the complainant's future employment, grades, or work assignments.

D. Use of formal reporting forms is voluntary. It is recognized that certain students, especially younger children, may not be able to submit a written complaint. In such cases, alternate methods of filing complaints such as tape recorders or note takers shall be made available. The

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School District encourages the reporting party or complainant to use the report form available from the Principal or Superintendent.

E. The School District will respect the confidentiality of the complainant and the individual(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 and take disciplinary action.

INVESTIGATION AND RECOMMENDATION

A. The School District will act to promptly investigate and resolve equitably all complaints of sexual harassment, discrimination, or violence.

1. The Superintendent upon receipt of a report or complaint alleging sexual harassment, discrimination, or violence shall immediately authorize an investigation. The investigation may be conducted by School District officials or a third party designated by the School District. The school board shall be notified that an investigation has been initiated.
2. The Investigator shall provide a written report of the status of the investigation within ten (10) working days to the Superintendent. If the Superintendent is the subject of the complaint, the report shall be submitted to the School Board.
3. 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.

B. In determining whether the alleged conduct constitutes sexual harassment, discrimination, or violence, the School District shall consider at a minimum:

1. the surrounding circumstances;
2. the nature of the sexual advances;
3. the relationship between the parties;
4. the context and locations in which the alleged conduct occurred;
5. whether the victim viewed the environment as hostile;
6. whether it was reasonable to view the environment as hostile;
7. the degree to which the conduct affected one or more students' education or employees' working environment;
8. the type, frequency, and duration of the conduct;

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9. the number of individuals involved;
10. age and sex of the alleged harasser and the subject of the harassment; and
11. other incidents.

Whether a particular action or incident constitutes sexual harassment, discrimination, or violence requires a determination based on all the facts and surrounding circumstances.

C. The School District may take any immediate steps necessary, at its discretion, to protect the complainant, students, and employees pending completion of an investigation of sexual harassment, discrimination, or violence.

D. The Investigator shall file a report with the Superintendent no later than twenty (20) working days following receipt of the complaint. If additional time is needed to complete the investigation or take appropriate action, the Superintendent will provide all parties with a written status report within twenty (20) days following receipt of the complaint.

SCHOOL DISTRICT ACTION

A. Should the investigation find that the complaint is valid, the School District shall take such disciplinary action as it deems necessary and appropriate to end the sexual harassment, discrimination, or violence and prevent its recurrence.

Disciplinary measures include, but are not limited to, expulsion, termination, verbal and written warnings/reprimands in employee or student files, detention or in-school suspensions, out-of-school suspension, behavior contract, requirement of a verbal and/or written apology to the victim, and mandatory education and training on sexual harassment.

The administration should review the victim's records, grades, evaluations, etc., with a view to correcting any injustice(s) that might have occurred as a result of the sexual harassment, discrimination or violence. In the case of an employee, the School District may need to consider rehiring a terminated employee or offering a promotion or raise that might have been denied.

Since it is not unusual for sexual harassment, discrimination, or violence to begin again after several weeks have lapsed, the harasser should be supervised closely. The victim should be encouraged to report any renewed problems to the Superintendent or his/her designee. The Superintendent or his/her designee should contact the victim regularly to make sure that there is no recurrence of the harassment or discriminatory behavior. The Superintendent or his/her designee shall document all follow-up with the victim.

B. Conduct which does not violate this Policy, but violates other policies or school rules will be addressed on a case-by-case basis by the Superintendent or Principal, who may still impose discipline or other remedial actions.

C. The results of the investigation shall be reported in writing to the complainant and accused consistent with the requirements of FERPA and any other privacy laws.

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D. Any victim or accused who is not satisfied with the outcome of the School District's investigation may appeal to the Superintendent in writing within ten (10) working days following receipt of the School District's findings. If the Superintendent is the subject of the complaint, the School Board would appoint a third party outside investigator.

REPRISAL/RETALIATION

The School District will not tolerate any retaliation and will discipline any individual who retaliates against any person who testifies, assists, or participates in an investigation, proceeding, or hearing related to a sexual, discrimination, or violence complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisals, or harassment.

If the complaint was not made in good faith, a reprimand or some other disciplinary action may be in order.

RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

The procedures in this Policy do not deny the right of any individual at any time during the complaint process 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.

The individual may choose to file the alleged violation or complaint with:

A. The New Hampshire Commission of Human Rights
2 Chenell Road
Concord, New Hampshire 03301
(603) 271-2767

B. The Equal Educational Opportunity Office (Title IX)
New Hampshire Department of Education Coordinator
101 Pleasant Street
Concord, New Hampshire 03301-3860
(603) 271-3743

C. Director, Office of Civil Rights
U.S. Department of Health & Human Services
Regional Office
JFK Federal Building, Room 1875
Boston, Massachusetts 02203
(617) 565-1340

SEXUAL HARASSMENT OR SEXUAL VIOLENCE AS SEXUAL ABUSE

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Consistent with School District policies on child abuse and the Safe Schools Act and state law, upon receipt of any complaint that contains evidence of violence or criminal activity, the Principal, the Superintendent, or School Board shall refer the complaint to law enforcement officials and appropriate child protection authorities for investigation.

Nothing in this Policy prohibits the School District from taking immediate action to protect victims of alleged child abuse, including immediate suspension of a student or placement of an employee on administrative leave pending the outcome of an investigation.

AGE-APPROPRIATE SEXUAL HARASSMENT POLICY

The Superintendent and building principals are charged with establishing policies, rules, protocols and other necessary age-appropriate information or materials for the School District's elementary schools.

POSTING/PUBLICATION

Copies of this Policy shall be given to all employees upon hire and annually thereafter. Postings required by this Policy and/or Title IX shall be made on bulletin boards in every school and office where employees as well as students are likely to see them. It is the responsibility of the building Principal to assure that the required postings are up to date and displayed appropriately.

