

### **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 Jaffrey-Rindge Cooperative School District (District) staff, teachers, non-certified personnel, administrators, volunteers, coaches and/or other such personnel whose employment or position is directed by the District. It is the policy of the District to maintain a learning and working environment that is free from sexual harassment, discrimination, and violence. The 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 a 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 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: Human Resources Manager, any Building Assistant Principal, and any Building Principal.

### **Sexual Harassment/Sexual Violence Defined**

Sexual harassment is conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the District conditions the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education program or activity. Education program or activities are locations, events, or circumstances over which the District exercises substantial control over both the alleged perpetrator of sexual harassment and the context in which the sexual harassment occurs.
3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

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

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.
12. sexual violence which is a physical act of aggression that includes a sexual act or sexual purpose.

Hostile environment harassment occurs when unwelcome comments or conduct based on sex unreasonably interferes with a student's or an 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.

### **Formal Complaints of Sexual Harassment**

Only formal complaints will be investigated. A formal complaint is a document filed by a person who is alleged to be the victim of conduct that could constitute sexual harassment or signed by the Title IX Coordinator/Deputy Coordinator and requesting that the District investigate the allegation of sexual harassment. The formal complaint may be filed with the Title IX Coordinator/Deputy Coordinator in person, by mail, or e-mail and must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the

person filing the formal complaint. Parents or legal guardians may file complaints on behalf of their children.

If the allegations in a formal complaint do not fall under the definition of sexual harassment or did not occur as part of the District's education program or activity, the District must dismiss the allegations for purposes of Title IX but may still address the alleged conduct under the District's own code of conduct.

### **Grievance 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 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 District official as designated by this Policy.

Investigations and evaluations shall be objective based on all relevant evidence without regard to a person's status as a complainant, respondent, or witness. Title IX Coordinators/Deputy Coordinators, investigators, decision-makers, and people who facilitate any informal resolution process shall be free from conflicts of interest or bias for or against complainants or respondents. They shall be trained on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation, and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially and avoid prejudgment of the facts, conflicts of interest, and bias.

It shall be presumed that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The District shall use the preponderance of the evidence standard for all formal complaints of sexual harassment; the burden of proof will be met when the party with the burden convinces the fact finder that there is a greater than 50% chance that the allegation is true.

#### **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 with the Building Assistant Principal or Human Resources Manager.
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 Title IX Coordinator/Deputy Coordinator is responsible for coordinating the District's efforts to comply with Title IX, including coordinating the effective implementation of supportive measures and remedies. The School Board hereby designates the Building Principals, Assistant Principals and Human Resources Manager as the 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.
2. The District shall post the Title IX Coordinator's/Deputy Coordinator's title or name, office address, e-mail address and telephone number in conspicuous places throughout school buildings, on the District's website, and in each handbook.

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

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

The 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 District's legal obligations and the necessity to investigate allegations and take disciplinary action.

The District's grievance process shall not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

#### **Supportive Measures for Sexual Harassment Claims**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed which are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, shadowing, mutual restrictions on contact between complainant and respondent, changes in work or school locations, leaves of absence, increased security and monitoring of certain areas of the school, and other similar measures. The District will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures.

### **Investigation and Recommendation**

The District will respond when it has actual knowledge, which means notice to any District employee, of a complaint of sexual harassment, discrimination or violence in a manner that is clearly reasonable in light of the known circumstances.

The School District will act to promptly investigate and resolve equitably all complaints of sexual harassment, discrimination, or violence. Upon receipt of a formal complaint, the District shall send written notice to both complainant and respondent of the allegations contained in the complaint and shall investigate the allegations. As part of the investigation process, the District shall:

1. Immediately authorize an investigation. The investigation may be conducted by District officials or a third party designated by the District. The School Board shall be notified that an investigation has been initiated.
2. Provide equal opportunity for the complainant and respondent to present fact, expert witnesses, and evidence.
3. Not restrict the ability of the complainant and respondent to discuss the allegations or gather evidence.
4. Ensure that the complainant and respondent have the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney.
5. Send written notice to the complainant and respondent of the date, time, location, participants, and purposes of any investigative interviews, meetings, or hearings when that party's participation is invited or expected, with sufficient time for the party to prepare to participate.
6. Before using any kind of informal resolution process, such as mediation or restorative justice, the District shall obtain the complainant's and respondent's voluntary written consent. An informal process may not be used where an employee allegedly sexually harassed a student.
7. Send the complainant and respondent, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the complainant and respondent to inspect, review, and respond to the evidence prior to completion of the investigation report.

8. Send the complainant and respondent, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the complainant and respondent to respond in writing.
9. After sending the investigative report to the complainant and respondent and before reaching a determination regarding responsibility, allow each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.
10. Provide the complainant and respondent written notice of a dismissal and the reasons for the dismissal.
11. Provide the complainant and respondent simultaneously a written determination of responsibility by a decision-maker (who is not the same individual as the investigator or the Title IX Coordinator/Deputy Coordinator) that includes:
  - a. an identification of the allegations potentially constituting sexual harassment.
  - b. a description of the procedural steps taken by the District from the receipt of the formal complaint through the determination, including any notifications to the complainant and respondent, interviews with complainant and respondent and witnesses, site visits, and methods used to gather other evidence.
  - c. findings of fact supporting the determination.
  - d. conclusions regarding the application of the District's code of conduct to the facts.
  - e. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District imposes on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant.
  - f. the District's procedures and permissible bases for the complainant and respondent to appeal.

In determining whether the alleged conduct constitutes sexual harassment, discrimination, or violence, the 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.
9. the number of individuals involved.
10. age and sex of the alleged harasser and the subject of the harassment.
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.

The 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.

The Investigator shall file a report with the Superintendent no later than twenty (20) working days following receipt of the complaint. There shall be allowance for short-term, good cause delays or extensions of time frames. 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**

Should the investigation find that the complaint is valid, the 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 District, in its discretion, may facilitate the resolution of sexual harassment complaints through informal processes with certain parameters such as mediation or restorative justice, so long as both parties provide voluntary, informed, written consent. The District may not require parties to participate in an informal resolution process and may not offer the process unless a formal complaint is filed. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process. The District

may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

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 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.

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.

The results of the investigation shall be reported in writing to the complainant and accused consistent with the requirements of Family Educational Rights and Privacy Act (FERPA) and any other privacy laws.

Within 10 days of receipt of the written decision of responsibility, the complainant and respondent may appeal on the following grounds:

1. There is a procedural irregularity that affected the outcome of the matter.
2. Newly discovered evidence could affect the outcome of the matter.
3. Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

If the Superintendent is the subject of the complaint, the School Board would appoint a third party outside investigator.

### **Dismissals**

**Mandatory Dismissal** - If the allegations in the formal complaint are not sexual harassment even if proved; or did not occur in the District's education program or activity; or did not occur against a person in the United States, the District shall dismiss the formal complaint.

**Permissive Dismissal** - The District may dismiss the formal complaint, or any allegations, if at any time during the investigation a complainant notifies the Title IX Coordinator/Deputy Coordinator in writing that the complainant would like to withdraw the formal complaint, or any allegations therein; or the respondent is no longer enrolled or employed by the District; or



specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

### **Retaliation**

Individuals may not be retaliated against because an individual has made a report or complaint, testified, assisted, or participated, or refused to participate in any manner in an investigation, proceeding, or hearing in matters concerning sexual harassment, discrimination or violence. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. The 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.

### **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:

1. New Hampshire Commission of Human Rights, 2 Industrial Park Drive, Concord, New Hampshire, 03301, (603) 271-2767
2. The Equal Educational Opportunity Office (Title IX), New Hampshire Department of Education Coordinator, 101 Pleasant Street, Concord, New Hampshire 03301-3860, (603) 271-3743
3. 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 of Sexual Violence as Sexual Abuse**

Consistent with 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, 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 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 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.