

SEXUAL HARASSMENT, DISCRIMINATION AND VIOLENCE - STUDENTS

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is free from sexual harassment or other improper or inappropriate behavior that may constitute harassment, discrimination, or violence as defined below.

Sexual harassment, discrimination and violence are against the law and school board policy. Any form of sexual harassment, discrimination and violence is strictly prohibited.

The District will promptly investigate and effectively and equitably resolve all complaints, either formal or informal, verbal or written, of sexual harassment, discrimination or violence, and will discipline any student or employee who violates this policy.

II. SEXUAL HARASSMENT/DISCRIMINATION/SEXUAL VIOLENCE DEFINED

Sex discrimination is discrimination in educational benefits, employment, activities, or opportunities based on a person's sex and includes sexual harassment and sexual violence.

Sexual harassment shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:

1. The unwelcome conduct or communication is made a term or condition of obtaining an education or benefits, or obtaining or retaining an individual's employment, either explicitly or implicitly;
2. Submission to or rejection of the unwelcome conduct or communication is used as the basis for educational decisions affecting a student or decisions affecting a person's employment;
3. The unwelcome conduct or communication is so severe, persistent, or pervasive that it has the purpose or effect of substantially interfering with a student's educational performance or opportunities or interferes with a person's work; or creates an intimidating, offensive or hostile educational or work environment.

A victim can be anyone affected by the conduct, not just the individual to whom the offensive conduct is directed.

Examples of sexual harassment may include, but not be limited to: physical touching; displaying or distributing of sexually explicit drawings or graffiti of a sexual nature; pictures and written materials; sexual gestures or obscene jokes; touching oneself sexually or talking about one's sexuality in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

Sexual violence is a physical act of aggression that includes a sexual act or sexual purpose perpetrated against a person's will or where a person is incapable of giving consent.

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, discrimination, or violence by a student should report the alleged act(s) immediately to any District employee or the building Principal. If a student initially reports the alleged act to a District employee, that employee shall immediately notify the building Principal, who shall then immediately notify the Superintendent.
3. The Board encourages all students and staff members to use the Report Form available from the Principal or Superintendent.
4. In each building, the Principal is the person responsible for receiving oral or written reports of sexual harassment, discrimination, or violence. 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 reduce it to written form within twenty-four (24) hours and then forward it to the Superintendent. An employee's failure to forward any 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 Superintendent.
5. The Board designates the Superintendent as the District Human Rights Officer to receive any report or complaint of sexual harassment, discrimination, or violence. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board.
6. Submission of a complaint or report of sexual harassment, discrimination, or violence will not affect the standing in school, grades, eligibility for extra-curricular activities or any other aspect of the student's educational program, or an employee's work assignments or employment.
7. The use of formal Reporting Forms provided by the District 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 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 of sexual harassment and take disciplinary action when the conduct has occurred.

IV. INVESTIGATION AND RECOMMENDATION

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

The Superintendent, as the designated Human Rights Officer, will authorize an investigation upon receipt of a report or complaint alleging sexual harassment, discrimination, or violence. This investigation may be conducted by District officials or by a third-party designated by the District.

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.

The investigating party 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.

Whether a particular action or incident constitutes sexual harassment, discrimination, or violence requires a determination based on all the facts and surrounding circumstances. The investigator should consider the surrounding circumstances; the nature of the sexual advances; the relationship between the parties; the context and locations in which the alleged incidents occurred; whether the victim viewed the environment as hostile; whether it was reasonable to view the environment as hostile; the degree to which the conduct affected one or more students' education or employees' working environment; the type, frequency, and duration of the conduct; the number of individuals involved; age and sex of the alleged harasser and the subject of the harassment; and other incidents.

The District may take immediate steps, at its discretion, to protect the complainant, students and employees pending completion of the investigation.

If the District determines that a third-party designee should conduct the investigation, the District agrees to assent to that party's methods of investigation.

Upon completion of an investigation, the investigator shall file a written factual 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, the Superintendent will provide all parties with a written status report within twenty (20) working days following receipt of the complaint. The results of the investigation shall be reported in writing to the complainant and accused consistent with the requirements of FERPA and other privacy laws.

V. SCHOOL DISTRICT ACTION

If the investigating party determines that the alleged conduct constituted sexual harassment, discrimination, or violence, 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. Such discipline may include, but is not limited to, detention, in-school suspension, out-of-school suspension, or expulsion. Discipline will be issued in accord with other applicable Board policies. Due to FERPA and other privacy-related laws, the victim will not be informed of what discipline was imposed.

The administration should review the victim's records, grades, etc., with a view to correcting any injustice(s) that might have occurred as a result of the sexual harassment, discrimination, or violence.

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. If possible, the harasser and the victim should be separated, with the harasser being the one to be transferred. Care should be taken not to punish the victim.

If the investigating party determines that the alleged conduct did not constitute sexual harassment, discrimination or violence both the complaining party and the accused will be informed of such. No disciplinary action will be taken.

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

VI. APPEAL OF INVESTIGATOR'S FINDINGS

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

VII. REPRISAL

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

If the complaint was not made in good faith, disciplinary action may be in order.

VIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES/BY-PASS OF POLICY

These procedures do not deny the right of any student to by-pass this Policy and/or 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:

The New Hampshire Commission of Human Rights
2 Chenell Road
Concord, NH 03301
Telephone: 603-271-2767; or

U.S. Equal Employment Opportunity Commission
JFK Federal Building
475 Government Center
Boston, MA 02203
Telephone: 800-669-4000; or

The Director, Office of Civil Rights,
U.S. Department of Health & Human Services, Region 1
JFK Federal Building, Room 1875
Boston, MA 02203
Telephone: 617-565-1340.

IX. SEXUAL HARASSMENT, SEXUAL DISCRIMINATION, OR VIOLENCE AS SEXUAL ABUSE

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

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

X. AGE-APPROPRIATE SEXUAL HARASSMENT POLICY

Per the requirements of Ed 303.01(j), the School Board is required to establish a policy on sexual harassment, written in age appropriate language and published and available in written form to all students. This policy is intended to apply to middle-school and high-school aged students.

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

XI. PUBLICATION

Copies of this policy shall be given to all employees, students, and parents annually by publishing in the applicable Handbook.

Legal References:

NH Code of Administrative Rules, Section Ed. 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy

NH Code of Administrative Rules, Section 306.04(a)(8), Student Harassment

NH Code of Administrative Rules, Section 306.04(a)(9), Sexual Harassment

Appendix: GBAA-R, BBA-R