

## **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. §2000e, 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 and working environment that is free from sexual harassment and sexual violence. The School District prohibits any form of sexual harassment and sexual violence.

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

Sexual harassment may include conduct towards members of the public, as well as towards students or employees. Sexual harassment may also include citizen behavior towards students, or employees, and off the job conduct or behavior if working relationships or job responsibilities were at all involved or affected.

The School District will act to investigate all complaints, either formal or informal, verbal or written, of sexual harassment or sexual violence and to discipline any student or employee who sexually harasses or is sexually violent to a student or employee of the School District, and to take appropriate action when deemed necessary if such complaint involves any other person.

While all forms of harassment are prohibited, this Policy specifically prohibits sexual harassment.

## **II. 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

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 education environment.

Any sexual harassment as defined, when perpetrated on any student or employee by any student or employee, will be treated as sexual harassment under this Policy.

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

1. Verbal harassment and/or abuse of a sexual nature;
2. Subtle pressure for sexual activity;
3. Inappropriate patting or pinching;
4. Intentional brushing against a student's or an employee's body;
5. Demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status;
6. Demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status;
7. Any sexually motivated unwelcome touching;
8. Unequal treatment of any kind based upon gender; or
9. Sexual violence which is a physical act of aggression that includes a sexual act or sexual purpose.

C. Sexual harassment can occur between members of the same sex, as well as between members of the opposite sex.

### **III. REPORTING PROCEDURES**

Any person who believes he or she has been the victim of sexual harassment or sexual violence by a student or an employee of the School District or any third person with knowledge or belief of conduct which may constitute sexual harassment or sexual violence, should report the alleged acts immediately to an appropriate School District official as designated by this Policy. The School District encourages the reporting party or complainant to use the report form available from the Principal of each building or available from the Superintendent's office.

All department heads, managers, supervisors and teachers, as part of their job requirements, will be responsible for preventing and eliminating sexual harassment in their respective departments or work areas, and shall be responsible to report any

incidents of sexual harassment observed, or experienced, whether or not such incidents occur within their department or office.

Any student, parent, or other person who observes or otherwise witnesses the occurrence of sexual harassment upon the premises of the School District should report such incidents to the building principal, teacher, information officer, or where appropriate to other administrative personnel or staff.

The School District shall conspicuously post the name of the Information Manager for each school, and the Title IX officers designated by the Superintendent, including their business mailing address and telephone number.

**A. In Each School Building.** The building Principal or administrative designee is the person responsible for receiving oral or written reports of sexual harassment or sexual violence, at the building level. Upon receipt of a report, the Principal must notify the Superintendent of Schools or a Title IX officer designated by the Superintendent, immediately without screening or investigating the report. If this notification is given verbally, the Principal or administrative designee shall submit such notification in writing that an investigation is taking place. Failure to forward notification of any sexual harassment or sexual violence investigation will result in disciplinary action. If the complaint involves the building Principal, the complaint shall be filed directly with the Superintendent of Schools.

Where deemed appropriate and after notification to the Superintendent or the Title IX officers designated by the Superintendent, the building Principal may take immediate steps to protect the complainant, students, or employees pending completion of an investigation of alleged sexual harassment or sexual violence.

**B. District-Wide.** The School Board hereby designates the Superintendent of Schools or Title IX officers designated by the Superintendent, as the District representative to receive reports or complaints of sexual harassment and sexual violence from any individual, employee, or victim of sexual harassment or sexual violence, 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.

**C.** Submission of a complaint or report of sexual harassment or sexual violence will not affect the individual's future employment, grades, or work assignment.

**D.** Use of formal reporting forms is not mandatory.

- 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 of sexual harassment and sexual violence and to take disciplinary action when the conduct has occurred.
- F. Upon receipt of a report or complaint alleging sexual harassment or sexual violence, the parent or parents of the complainant or alleged harasser shall be notified whenever the complainant, or alleged harasser, is under the age eighteen (18).
- G. Any student, teacher, or employee who believes that they are being harassed are encourage to let the person engaging in such conduct know how they feel and request that the person cease such action or behavior immediately, but they are not required to do so.

#### **IV. INVESTIGATION AND RECOMMENDATION**

The Superintendent or the Title IX officers designated by the Superintendent, upon receipt of a report or complaint alleging sexual harassment or sexual violence, shall immediately authorize an investigation. This investigation may be conducted by School District officials or by a third party designated by the School District. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Superintendent of Schools, or to the title IX officers designated by the Superintendent. If the Superintendent is the subject of the complaint, the report shall be submitted to the School Board.

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.

Upon completion of such investigation, the investigating party shall submit to the Superintendent or to the Title IX officers designated by the Superintendent, a written report which fully details and summarizes the findings and outcome of such investigation.

In determining whether alleged conduct constitutes sexual harassment or sexual violence, the Superintendent should consider the surrounding circumstances, the nature of the sexual advances, relationships between the parties involved, and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes sexual

harassment or sexual violence, requires a determination based on all facts and surrounding circumstances.

The Superintendent may take or authorize immediate steps at his or her discretion to protect the complainant, students, and employees pending completion of an investigation of alleged sexual harassment or sexual violence.

## V. SCHOOL DISTRICT ACTION

- A. In the event that the Superintendent, or Title IX officers designated by the Superintendent following the investigation determine that the complaint is valid, then the following procedures and actions shall be taken:
1. If the Complaint involves a student, the Superintendent shall take such action as deemed appropriate based upon the results of the investigation. Any such disciplinary action taken by the Superintendent shall be reported to the School Board at the next regularly scheduled meeting of such Board.
  2. If the complaint involves a teacher, employee, staff member, or a member of the public, the Superintendent shall make such report and recommendation to the School Board. The School Board will take such action as deemed appropriate based on the results of the investigation and recommendation made by the Superintendent.
- B. A substantiated complaint against a teacher, employee, or student will result in disciplinary action, which may include: reprimand, recommendation for counseling, transfer to another department, demotion, suspension, or termination of employment.
- C. In any instance in which there has been a substantiated complaint against someone other than a teacher, staff member, or student, the School District will take appropriate action deemed necessary, which may include referral of the incident to appropriate legal authorities:
1. If it involves any vendor, agent, or subcontractor, contact with such individuals' supervisor or employer;
  2. If it involves any other individual and such conduct may be deemed to constitute illegal activity.
- D. In making a determination of appropriate disciplinary action, the School Board or the Superintendent (or the Title IX officers designated by the Superintendent) in each case shall consider all relevant factors, including:

1. The weight of the evidence;
2. The nature and seriousness of the harassment;
3. The relative position of the harasser and victim;
4. Whether there are any prior violations; and
5. How the proposed remedy will protect the victim from future harassment.

Any disciplinary action so taken shall be for the purpose of ending instances of sexual harassment and sexual violence, and to prevent its recurrence.

- E. The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant and to the alleged harasser by the School District. The report will document any disciplinary action taken as a result of the complaint.
- F. A statement that a complaint of sexual harassment or sexual violence was substantiated after investigation will be released to a prospective employer seeking a reference.

## **VI. REPRISAL**

The School District will discipline any individual who retaliates against any person who reports alleged sexual harassment or sexual violence, or who retaliates against any person who testified, assists, or participates in the investigation, proceeding, or hearing relating to a sexual harassment, or sexual violence complaint. Such disciplinary action may include reprimand, recommendation for counseling, transfer to another department, demotion, suspension, or termination of employment as deemed appropriate in the particular circumstances. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

## **VII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURE**

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.

## **VIII. CONFIDENTIALITY**

Due to their sensitive nature, complaints of sexual harassment shall be investigated with particular care and should remain, to the extent possible, strictly confidential. Aside from their duty to report, all student, teachers, or staff shall keep all complaints or reports of sexual harassment confidential.

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

Such forms of sexual harassment may constitute violation of applicable criminal law, and such incidents shall be referred to appropriate authorities.

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

#### **IX. FALSE REPORTS**

The filing of any report or complaint pursuant to this policy which is knowingly and deliberately false is strictly prohibited and may result in appropriate disciplinary action up to and including dismissal of the offending teacher or staff member, or expulsion of the offending student.

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