

SEXUAL HARASSMENT AND SEXUAL VIOLENCE - STAFF

WITHDRAW POLICY

Second Reading June 2, 2021

General Statement of Policy

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

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

Sexual harassment is a form of sex discrimination that violates Section 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et seq.*, and Title IX.

It is a violation of this policy for any employee to harass a student or another employee through conduct or communication of a sexual nature as defined by this policy.

For the 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.

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

Sexual Harassment/Sexual Violence Defined

1. 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:
 - a. 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
 - b. 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
 - c. 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 employee will be treated as sexual harassment under this policy.

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2. Sexual harassment may include but is not limited to:
 - a. Verbal harassment and/or abuse of a sexual nature;
 - b. Subtle pressure for sexual activity;
 - c. Inappropriate patting or pinching;
 - d. Intentional brushing against a student's or an employee's body;
 - e. Demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status;
 - f. Demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status;
 - g. Any sexually motivated unwelcome touching; or
 - h. Sexual violence, which is a physical act of aggression that includes a sexual act or sexual purpose.

Reporting Procedures

Any person who believes he or she has been the victim of sexual harassment or sexual violence by an employee of the District, or any third person with knowledge or belief of conduct that may constitute sexual harassment or sexual violence, should report the alleged acts immediately to an appropriate District official as designated by this policy. The 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.

1. In each building: The building Principal 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 immediately without screening or investigating the report. A written report will be forwarded simultaneously to the Superintendent. If the report was given verbally, the Principal shall reduce it to written form within 24 hours and forward it to the Superintendent. Failure to forward any sexual harassment or sexual violence 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.

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2. District-Wide: The School Board hereby designates the Superintendent as the District Human Rights Officer 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.

The District shall conspicuously post the name of the Human Rights Officer, including a mailing address and telephone number.

3. Submission of a complaint or report of sexual harassment or sexual violence will not affect the individual's future employment, grades, or work assignments.
4. Use of formal reporting forms is not mandatory.

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 sexual violence and take disciplinary action when such conduct has occurred.

Investigation and Recommendation

By authority of the District, the Human Rights Officer, upon receipt of a report or complaint alleging sexual harassment or sexual violence shall immediately authorize an investigation. This investigation may be conducted by District officials or by a third party designated by the District. 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 Board.

In determining whether alleged conduct constitutes sexual harassment or sexual violence, the District 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 the facts and surrounding circumstances.

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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.

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 or sexual violence.

School District Action

1. Upon receipt of a recommendation that the complaint is valid, the District will take such action as appropriate based on the results of the investigation.
2. The complainant may appeal the investigations recommendations to the Superintendent (presuming the Superintendent is not the subject of the investigation), or to the Board.
3. The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant by the School District. The report will document any disciplinary action taken as a result of the complaint.

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 testifies, assists, or participates in an investigation, proceeding, or hearing relating to a sexual harassment or sexual violence complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

Right to Alternative Complaint Procedures

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

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Sexual Harassment or Sexual Violence as Sexual Abuse

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

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

Discipline

The School District will take such disciplinary action it deems necessary and appropriate, including warning, suspension, or immediate discharge to end sexual harassment and sexual violence and prevent its recurrence.

Bypass of Policy

Any individual with a sexual harassment complaint may choose to bypass this Policy and accompanying regulation and proceed directly to the: N.H. Commission on Human Rights, at 2 Chenelle Dr., Concord, NH, phone 603-271-2767; or, Office of Civil Rights, Health and Human Services, Region #1 Room 2403, JFK Federal Building, Government Center, Boston Massachusetts 02203, phone 617-565-1340.

Administrative Rule:

ED 303.01 (j), 1-9

See Appendix: GBAA-R

Adopted: December 20, 1984

R/R: 8/20/92. 7/21/94

Revised: May 16, 2002

Revised: January 4, 2012