

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 as defined below.

Sexual harassment is against the law and is against School Board policy. Any form of sexual harassment is strictly prohibited. It is a violation of this policy for any employee or third party to harass any person through conduct or communication of a sexual nature as defined by this policy.

“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.

“Third parties” include, but are not limited to parents, school visitors, service contractors or others engaged in district business, such as employees of businesses or organizations participating in cooperative work programs with the District and others not directly subject to District control.

The District will investigate all complaints, either formal or informal, verbal or written, of sexual harassment and will discipline any employee who sexually harasses or is sexually violent toward another person.

II. SEXUAL HARASSMENT DEFINED

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, sexual physical conduct and/or conduct of a sexual nature when:

1. Submitting to the unwelcome conduct is made a term or condition of an individual’s employment, either explicitly or implicitly;
2. Submitting to or rejecting the unwelcome conduct is used as the basis for decisions affecting a person’s employment;
3. The unwelcome conduct has the purpose or effect of unreasonably interfering with a person’s work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may include, but not be limited to:

1. Verbal harassment and/or abuse of a sexual nature;
2. Subtle pressure for sexual activity;
3. Inappropriate patting pinching or other touching;
4. Intentionally brushing against an employee’s body;
5. Demanding sexual favors accompanied by implied or overt threats;

6. Demanding sexual favors accompanied by implied or overt promises of preferential treatment;
7. Any sexually motivated unwelcome touching; or
8. Sexual violence that is a physical act of aggression that includes a sexual act or sexual purpose.

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 employee who believes he or she has been the victim of sexual harassment should report the alleged act(s) to the building Principal. If the alleged perpetrator is the Principal, the alleged victim may report the allegation to any other District employee. That employee shall then report the allegation to the Superintendent or designee. The Board encourages the reporting employee to use the Report Form available from the Principal, Superintendent or SAU16 Title IX Coordinator.
3. In each building, the Principal is the person responsible for receiving oral or written reports of sexual harassment. 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 will reduce it to a written form within 24 hours and then forward to the Superintendent. Failure to forward any sexual harassment 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.
4. The Board designates the SAU 16 Title IX Coordinator as the District Human Rights Officer to investigate any report or complaint of sexual harassment. If the complaint involves the Title IX coordinator, the complaint shall be filed directly with the Superintendent. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board. The District will post the name of the SAU16 Title IX Coordinator in conspicuous places throughout school buildings, including a telephone number and mailing address.
5. Submission of a complaint or report of sexual harassment or violence will not affect an employee's standing in school, future employment or work assignments.
6. The use of the formal Report Form provided by the District is voluntary. The District will respect the confidentiality of the complainant and the person(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 SAU 16 Title IX Coordinator will authorize an investigation upon receipt of a report or complaint alleging sexual harassment. This investigation may be conducted by District officials or by a third-party designated by the District.

If District officials conduct the investigation, the investigation should consider the surrounding circumstances, the nature of the sexual advances, the relationship between the parties and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes sexual harassment requires a determination based on all the facts and surrounding circumstances.

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.

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.

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 conducted by either District officials or a third-party, the Superintendent will be provided with a written factual report and recommended action.

V. SCHOOL DISTRICT ACTION

If the investigating party determines that the alleged conduct constituted sexual harassment or violence, the Superintendent may discipline the offending employee. Such discipline may include, but is not limited to, a warning, training, temporary suspension or dismissal. Any discipline will be in accordance with all laws and applicable Board policies or agreements.

If the investigating party determines that the alleged conduct did not constitute sexual harassment, 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 as defined by the policy, but is nonetheless inappropriate or is in violation of other Board policies will be addressed on a case-by-case basis by the Superintendent, who may order the offending employee to engage in some remedial action.

VI. APPEAL OF INVESTIGATOR'S FINDINGS

Either the complainant or the accused may appeal the investigator's recommendation and subsequent District action to the Superintendent in writing within ten (10) working days following receipt of the District's findings. If the Superintendent is the subject of the complaint, the appeal shall be to the School Board.

VII. REPRISAL

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

VIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

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.

IX. SEXUAL HARASSMENT AS SEXUAL ABUSE

Under certain circumstances, sexual harassment 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. BY PASS OF POLICY

Any individual with a sexual harassment complaint may bypass this Policy and accompanying regulation and proceed directly to: New Hampshire Commission of Human Rights, 2 Chenell Road, Concord, NH 03301, telephone: 603-271-2767; or US Department of Health and Human Services, Office for Civil Rights, Region 1, JFK Building, Room 1875, Boston, MA 02203, telephone: 617-565-1340.

Law Reference: 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) (9), Sexual Harassment

Appendix Reference: GBAA-R

Date Adopted: September 2, 1992

Last Review/Revision Date: November 6, 2017