

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

I. GENERAL STATEMENT OF POLICY

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.) provides that no person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Sexual harassment of any employee or student by any other employee or student, or by anyone a student or employee may interact with, in order to fulfill job or school responsibilities, is not only illegal as a form of sex discrimination as defined by Title VII of the 1964 Civil Rights Act and Title IX of the Educational Amendments of 1972, but also is a violation of this policy and will not be tolerated.

It shall be a violation of this policy for any student, employee, or anyone interacting with the student or employee to harass a student or an employee through conduct or communication of a sexual nature as defined by this policy.

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 will not tolerate any form of sexual harassment or sexual violence.

It shall be a violation of this policy for any student, employee, or anyone interacting with a student or employee, to sexually harass or be sexually violent to a student or employee.

The School District will act promptly 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.

Students and/or employees who believe they are the subject of sexual harassment or sexual violence, or anyone having questions or concerns regarding sexual harassment or sexual violence are encouraged to contact one or more of the following individuals:

1. **Superintendent of Schools (Title IX Coordinator/Human Rights Officer);
Superintendent of Schools
SAU 90 - Hampton School District
6 Marston Way
Hampton, NH 03842**
2. **Any District administrator; or**
3. **Any school building principal or assistant principal**

DATE: July 25, 2007, July 13, 2011, April 10, 2012
Adopted:
Reviewed: May 10, 2011, Mar. 28, 2012
Revised:
Cancellation:

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

(continued)

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, non-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.

B. 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. 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. sexual violence which is a physical act of aggression that includes a sexual act or sexual purpose;
9. leering at an individual's body;
10. jokes of a sexual nature;
11. the display anywhere on school facilities of sexually suggestive, sexually demeaning or pornographic objects, pictures, writings, posters, or cartoons; or
12. graphic verbal comments about an individual's body, clothing or sexual activity.

DATE:

Adopted: July 25, 2007, July 13, 2011, April 10, 2012

Reviewed: May 10, 2011, Mar. 28, 2012

Revised:

Cancellation:

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

(continued)

Any sexual harassment or violence, as defined above, when perpetrated on any student or employee by any student, employee, or anyone interacting with a student or employee, will be treated as sexual harassment and/or violence and a violation of this policy.

C. Hostile environment harassment occurs when unwelcome comments or conduct based on sex, or other legally protected characteristics unreasonably interferes with a student's or 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.

III. REPORTING PROCEDURES

Any person who believes he or she has been the victim of sexual harassment or sexual violence by a student, employee, or anyone interacting with a student or employee, or any third person with knowledge or belief of conduct which may constitute sexual harassment or sexual violence which may violate this policy 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, but use of the form is not required.

- A. In Each School 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 of Schools 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 of Schools.
- B. District-Wide. The School Board hereby designates the Superintendent of Schools as the School District Title IX Coordinator/Human Rights Officer to receive reports or complaints of sexual harassment and sexual violence from any student, employee, any individuals that interact with students or employees (such as contractors, vendors, or volunteers), or the 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.

DATE:
Adopted: July 25, 2007, July 13, 2011, April 10, 2012
Reviewed: May 10, 2011, Mar. 28, 2012
Revised:
Cancellation:

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

(continued)

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

Name of Title IX Coordinator/Human Rights Officer:

Superintendent of Schools – SAU 90

School Mailing Address: 6 Marston Way, Hampton, NH 03842

Telephone Number: 603-926-4560

- C. Submission of a complaint or report of sexual harassment or sexual violence will not affect the individual's future employment, grades or work assignments.
- D. Use of formal reporting forms is voluntary. The School District encourages the reporting party or complainant to use the report form available from the Building Principal or available from the Superintendent's office. The School District recognizes, however, 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.
- 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 take disciplinary action.

IV. INVESTIGATION AND RECOMMENDATION

The School District will act to promptly investigate and equitably resolve all complaints of sexual harassment or sexual violence. The Superintendent as the Title IX coordinator/Human Rights Officer, upon receipt of a report or complaint alleging sexual harassment or sexual violence shall immediately authorize an investigation and appoint an investigator. This investigation may be conducted by School District officials or by a third party designated by the Superintendent.

The investigating party shall provide a written report of the status of the investigation within 10 working days to the Superintendent. If the Superintendent is the subject of the complaint, the report shall be submitted to the School Board.

Adopted: **DATE:** July 25, 2007, July 13, 2011, April 10, 2012
Reviewed: May 10, 2011, Mar. 28, 2012
Revised:
Cancellation:

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

(continued)

In determining whether alleged conduct constitutes sexual harassment or sexual violence, the School District should consider the surrounding circumstances, the nature of the sexual advances; whether the victim viewed the environment as hostile; whether it was reasonable to view the environment as hostile; relationships between the parties involved; 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; other incidents at school; and the context and locations 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.

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.

The person who is the subject of the complaint will be provided sufficient information about the allegations and a reasonable opportunity to respond to the allegations before the individual is found to have violated this policy and before any corrective action or discipline is imposed. Students who are interviewed may have a parent present during the interview.

In addition, the School District may take any immediate steps necessary, at its discretion, to protect the complainant, students, and employees pending completion of an investigation of alleged sexual harassment or sexual violence.

The investigator shall file a report with the Superintendent no later than 20 working days following receipt of the complaint. If additional time is necessary to complete the investigation, the Superintendent will provide all parties with a written status report within 20 working days following receipt of the complaint.

Any victim or accused who is still not satisfied with the outcome of the School District investigations may file a request for review by the School Board by submitting a written appeal to the Superintendent within 10 working days following receipt of the School District's findings.

DATE:
Adopted: July 25, 2007, July 13, 2011, April 10, 2012
Reviewed: May 10, 2011, Mar. 28, 2012
Revised:
Cancellation:

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

(continued)

Retaliation in any form against any person who has filed a complaint or participated in an investigation relating to sexual harassment or violence is forbidden. If it occurs it shall be considered:

- (a) for staff: possible grounds for suspension or dismissal; and
- (b) for a student: possible grounds for suspension or expulsion from school.

V. ACTION IF COMPLAINT IS SUBSTANTIATED

If the complaint is substantiated, the result of the investigation shall be reported in writing to the complainant and alleged harasser.

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 harassment. In the case of an employee, the School District may need to consider rehiring a terminated employee or offering a promotion or raise that might have been denied.

Upon determination that the complaint is valid, the School District shall take such disciplinary action as it deems necessary and appropriate to end the harassment, 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.

Since it is not unusual for harassment to begin again after several weeks have lapsed, the harasser should be supervised closely. The victim should be encouraged to report any new problems to the Superintendent or his/her designee. The School District or his/her designee should interview the victim regularly to make sure that there is no recurrence of the harassment. The Superintendent or his/her designee shall document all follow up with the victim.

VI. ACTION IF THE COMPLAINT IS UNSUBSTANTIATED

If the complaint proves to be unsubstantiated, the investigator must review the findings and report with the complainant.

This review should include a complete description of the investigation and the reasons why the complaint was found to be unsubstantiated.

This should be done without identifying the names of any other students or employees who were contacted and in compliance with FERPA and privacy laws.

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.

DATE:
Adopted: July 25, 2007, July 13, 2011, April 10, 2012
Reviewed: May 10, 2011, Mar. 28, 2012
Revised:
Cancellation:

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

(continued)

VII. 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.

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.

The individual may also choose to file the alleged violation or complaint with:

- A. The New Hampshire Commission of Human Rights
2 Chenell Drive #2
Concord, New Hampshire 03301
(603) 271-2767

- B. The Equal Educational Opportunity Office (Title IX)
New Hampshire Department of Education
Coordinator
101 Pleasant Street
Concord, New Hampshire 03301-3860
(603) 271-3743

- C. 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

IX. 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 School 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.

DATE:
Adopted: July 25, 2007, July 13, 2011, April 10, 2012
Reviewed: May 10, 2011, Mar. 28, 2012
Revised:
Cancellation:

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

(continued)

X. DISCIPLINE

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

XI. AGE-APPROPRIATE SEXUAL HARASSMENT POLICY

This policy is intended to apply to middle-school and high-school aged students.

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.

XII. POSTING/PUBLICATION

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

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.

Adopted: **DATE:** July 25, 2007, July 13, 2011, April 10, 2012
Reviewed: May 10, 2011, Mar. 28, 2012
Revised:
Cancellation: