

**SEXUAL DISCRIMINATION AND HARASSMENT – INVOLVING STAFF****I. Policy Statement**

The Nashua Board of Education is committed to providing an educational environment free from sexual discrimination and sexual harassment in which everyone can work and learn in an atmosphere of respect for the dignity and worth of all. Sexual harassment and sexual discrimination of any employee or student by any other employee or student, or by any other person with whom an employee or student must interact in order to fulfill job or school responsibilities is a violation of Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, New Hampshire's Law Against Discrimination and District policy. Sexual discrimination and sexual harassment will not be tolerated.

Refer to Policy JBAA for any student-to-student harassment issues.

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

Instances of sexual harassment and sexual violence may constitute a criminal offense. These instances will be promptly reported to law enforcement.

**II. Definition**

- A. Sexual harassment is offensive behavior that includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other physical or verbal behavior or communication of a sexual nature wherein:
1. Submission to such conduct or communication is made either explicitly or implicitly a condition of an individual's employment or academic standing; and/or
  2. Submission to or rejection of such conduct or communication by an individual is used as the basis for employment or academic decisions affecting that individual; and/or
  3. The conduct or communication has the purpose or effect of unreasonably interfering with an individual's job performance or creating an intimidating or offensive environment.
- B. Sexual harassment may include, but is not limited to the following:
1. verbal harassment and/or abuse of a sexual nature;
  2. verbal abuse consistently targeted at any gender, or gender identity discrimination, even if the content of the abuse is not sexual;
  3. sexual advances, gestures, or subtle pressure for sexual activity;
  4. sexist remarks about an individual's clothing, body, or sexual activities;
  5. unnecessary and/or unwelcomed touching, patting, or pinching;
  6. leering or ogling at an individual's body;
  7. intentional brushing up against an individual's body;
  8. demands for sexual favors accompanied by implied or overt threats or promises of preferential treatment concerning an individual's employment, grades, educational status, etc.
  9. physical assault or other violent acts that are sexually motivated; or
  10. displaying of sexually suggestive objects, pictures, writings, graffiti or posters.
  11. an attempted (but not completed) sex act

12. abusive sexual contact, or non-contact sexual abuse (voyeurism, unwanted exposure to pornography, taking nude or inappropriate photographs of a sexual nature of another person without his or her consent or knowledge, or of a person who is unable to consent or refuse).

Sexual harassment is prohibited in any form, whether said or done in person, over the telephone, via e-mail, over the internet or using any other form of communication.

**III. Reporting Procedures**

Any person who believes that he/she is a victim of sexual harassment or sexual violence or witnesses or has knowledge of conduct that may constitute sexual harassment, should immediately report the alleged conduct. Complaints can be made orally or in writing. Whenever possible, complaints should include a description of the alleged harassment, the date(s) of the alleged harassment and the name(s) of the alleged harasser(s).

Students may report their complaint involving a staff member (or other adult in the school building) to the building principal, assistant principal, their teacher, to any other adult in their building or directly to the District Human Rights Officer. Parents or guardians may also file complaints on behalf of students.

Employees are encouraged to report complaints to their supervisor or other administrator in their management chain, to any Assistant Superintendents, the Superintendent or directly to the District's Human Rights Officer.

All employees of the District are responsible for ensuring the safety of students. Employees who observe harassment of students are expected to report that harassment in accordance with the complaint procedure. Employees who fail to do so may be subject to disciplinary actions.

The Director of Human Resources has been designated as the District's Human Rights Officer (HR) and chief compliance officer for Title IX. As such, the Director of Human Resources has overall responsibility for compliance with Title IX.

In the event the District's Human Rights Officer is accused, the Superintendent will appoint an alternative Human Rights Officer.

The Director of Human Resources will provide training to other staff charged with investigating sexual harassment complaints and will investigate reports of sexual harassment involving District staff.

Individuals are encouraged to report complaints as previously described, but any individual may choose to complain directly to any agencies listed in Section VII.

**IV. Investigation**

By authority of the District, the HR Officer, upon receipt of a report or complaint alleging sexual harassment or sexual violence shall promptly initiate an investigation. The HR Officer may conduct the investigation or designate other individuals to assist. The complaining party may be asked to submit a written statement, if not done previously, and potential witnesses. The alleged harasser, the complainant and/or others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint may be interviewed. In addition, the District may take immediate steps, at its discretion, to protect the parties involved pending completion of an investigation of the alleged sexual harassment or

sexual violence.

V. Report and Recommendation

Once the investigation is complete, the HR Officer will prepare a written report to the Superintendent – or to the Board of Education for complaints about the Superintendent – summarizing the complaint and the investigation findings; and if the complaint is verified, recommending appropriate action. If it is determined that the alleged conduct did occur and constitutes sexual harassment and/or violence, the Superintendent will determine what disciplinary action, if any, is appropriate to eliminate the harassment and prevent its reoccurrence. In making this determination, the Superintendent shall take into account the nature and severity of the harassment and/or violence, and the entire records of the individuals involved.

Such remedial measures may include offering reinstatement, promotion, or other benefits that were denied; reassignment of the harasser or voluntary reassignment of the victim. Discipline of the harasser, up to and including warning, suspension or immediate termination or expulsion, shall be appropriate. Follow-up meetings with both the harasser and the victim may be necessary to assure that the harassment is not repeated, and that no retaliation occurs.

In appropriate cases, the Superintendent may also take immediate measures, such as suspension, pending completion of the investigation in order to protect the complaining party, students, or employees.

Individuals may appeal the decision of the Superintendent to the Board of Education. Appeals must be filed within ten (10) days of the Superintendent's decision. The Board of Education will act on these appeals within twenty (20) days of their receipt.

If the complaint is about the Human Rights Officer, the Superintendent will designate an Assistant Superintendent (or other designee) to serve as the Human Rights Officer who will investigate the complaint and report to the Superintendent.

If the complaint is about the Superintendent, the Board of Education will designate a third party investigator to conduct the investigation and make resulting recommendations to the Board of Education. The Superintendent may appeal the decision of the Board to the State Board of Education.

VI. No Retaliation

No person shall be subjected to retaliation of any sort as a result of filing a report of sexual harassment or violence and/or participating in an investigation. Engaging in any retaliatory conduct will be grounds for discipline up to and including dismissal or expulsion. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment against the person who made the complaint or against any individuals who participate in the investigation.

VII. Policy By-Pass

Any individual with a sexual harassment complaint may choose to bypass this policy and proceed directly to:

NH Commission on Human Rights  
2 Chenelle Drive  
Concord, NH  
(603) 271-2767

U.S. Department of Education  
Office for Civil Rights  
5 Post Office Square, Eighth Floor  
Boston, MA 02109  
(617) 289-0111

EEOC  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 03203  
1-800-669-4000

**Legal References:**

*Section 703 of Title VII of the Civil Rights Acts of 1964, as amended*  
*Title IX of the Education Amendments of 1972*  
*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*  
*RSA 354-A:7, Unlawful Discriminatory Practices*  
"Sexual Violence: Definitions" by the Centers for Disease Control and Prevention  
[http://www.cdc.gov/violenceprevention/sexual violence/definitions.html](http://www.cdc.gov/violenceprevention/sexual%20violence/definitions.html)

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