

**SEXUAL DISCRIMINATION, SEXUAL HARASSMENT, AND SEXUAL VIOLENCE -  
STUDENTS****I. Policy Statement**

The Nashua Board of Education is committed to providing an educational environment for students that is free from sexual discrimination, sexual harassment and sexual violence. Sexual harassment is a form of sexual discrimination which violates Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, and N.H. State Statute 354-A:7, Unlawful Discriminatory Practices. Sexual violence is a physical act of aggression, attempted or completed, that includes a sexual act or sexual purpose. Sexual violence includes non-physical contact of a sexual nature such as threats of sexual violence or intentional or unwanted exposure of an individual to exhibitionism, pornography and acts of voyeurism.

The Nashua School District does not discriminate on the basis of sex in our educational programs and activities as required by Title IX to not discriminate.

It is a violation of this policy for any student or employee to harass another student, employee or guest of the District through conduct or communication of a sexual nature as defined by this policy. Refer to Policy GBAA for any sexual discrimination, sexual harassment, or sexual violence complaints involving staff and student(s). Students are encouraged to be supportive of one another and sensitive to remarks and actions that can be personally harmful to others or undermine an atmosphere of respect essential to a healthy, safe educational environment. Employees and students are responsible for taking appropriate measures to ensure that such conduct does not occur.

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

The Nashua Board of Education assures that the District will take steps to prevent recurrence of any sexual violence and remedy discriminatory effects on the complainant and others, if appropriate. Questions regarding Title IX may be referred to the school's Title IX Coordinator or the Human Rights Officer designated in Policy GBAA.

**II. Sexual Harassment/Sexual Violence Defined**

Sexual harassment of students shall include, but is not limited to, unwelcomed sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:

1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits or academic standing;
2. Submission to or rejection of the conduct or communication is used as the basis for educational decisions affecting a student;
3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with a student's educational performance or opportunities; or creates an intimidating, offensive or hostile educational environment.

Relevant factors to be considered will include, but not be limited to: did the student view the environment as hostile; was it reasonable to view the environment as hostile; the nature of the conduct;

how often the conduct occurred and how long it continued; age and sex of the complainant; whether the alleged harasser was in a position of power over the student subjected to the harassment; number of individuals involved; age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the school involving the same or other students.

Examples of sexual discrimination, sexual harassment, and sexual violence may include, but not be limited to:

Verbal harassment or abuse; sexual innuendos, humor or jokes about sex, targeted at any gender, gender identity discrimination, or about sexual orientation, even if the content of the abuse is not sexual; talking about one's sexuality in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

Physical Assault; unwelcomed sexual contact, intentional exposure of an individual to exhibitionism, or taking nude 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.

A completed or attempted sex act, abusive sexual contact intentional touching directly or through clothing of any person, without his or her consent or of a person who is unable to consent.

Pressure for sexual activity; demanding/requesting sexual favors accompanied by implied or overt threats or preferential treatment concerning a student's educational standing or an individual's employment.

Unnecessary/unwelcomed physical touching, inappropriate patting or pinching, touching oneself sexually. Intentionally brushing up against an individual's body.

Graffiti of a sexual nature, displaying or distributing of sexually explicit drawings; pictures and written materials; sexual gestures or obscene jokes;

Sexual harassment may include "mooning", "panting", "skirting", "streaking", "sharking", "snapping", leaving or sending obscene messages on school computers or other electronic devices.

### III. Reporting Procedures

The Superintendent designates the Principal in each school building as the Title IX Coordinator (reference JBAA – R) who is the responsible person to receive and investigate oral and written complaints of sexual discrimination, sexual harassment, or sexual violence for student to student harassment or violence. The Principal is responsible for implementing all procedures of this policy. Additionally, the Superintendent may develop and implement additional administrative regulations in furtherance of this policy.

Any student who believes he or she has been the victim of sexual discrimination, sexual harassment, or sexual violence by a student or employee of the District, or any third party with knowledge of conduct which may constitute sexual discrimination, sexual harassment or sexual violence should report the alleged act(s) immediately to any District employee or the building Principal. All employees are responsible to report if they knew or in the exercise of reasonable care should have known about any incident of sexual violence. The District will always view as unwelcome and nonconsensual, sexual activity between an adult school employee and a student. If a student initially reports the alleged act to a District employee, that employee shall immediately notify the building Principal, who shall then immediately notify the Superintendent.

The Board encourages all students and staff members to use the Report Form available from the Principal or Superintendent, however, all incidents of sexual discrimination, sexual harassment, or sexual violence regardless of how reported, will be investigated. Staff members have a duty to report, even if a witness, as the District has to take immediate and appropriate steps.

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 shall reduce it to written form within 24 hours and then forward it to the Superintendent. Failure to forward any sexual discrimination, sexual harassment, or sexual violence report, complaint, or knowledge of said acts as described herein will result in disciplinary action. If the complaint involves the building Principal, the complaint shall be filed directly with the Superintendent and follow the process under Policy GBAA.

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.

Submission of a complaint or report of sexual discrimination, sexual harassment, or sexual violence will not affect the student's standing in school, grades, work assignments, eligibility for extra-curricular activities or any other aspect of the student's educational program. Employees of the District making such reports shall not suffer any adverse work actions.

The use of formal Reporting Forms provided by the District is voluntary. 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 District's legal obligations and the necessity to investigate allegations of sexual discrimination, sexual harassment, and sexual violence and take disciplinary action when the conduct has occurred.

#### IV. Investigation and Recommendation

The Title IX Coordinator will 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 discrimination, 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. Students who are interviewed may have a parent or other representative present. The school must give the complainant any rights that it gives the alleged perpetrator, for example the parties must have an equal opportunity to present relevant witnesses and other evidence and use a preponderance –of- the evidence standard to provide a balanced and fair process.

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

Upon completion of an investigation conducted by the Title IX Coordinator, the Superintendent will be provided with a written factual report and recommended action. The investigation should not take longer than 60 days to meet the Office of Civil Rights standard.

Individuals may appeal the decision of the Principal/Title IX Coordinator to the Superintendent, or in the case of discipline originating from the Superintendent, to the Board of Education within 10 days of the decision.

V. Nashua School District Action

Upon completion of the investigation, the Principal or Superintendent shall provide the complainant and the accused of the outcome of the investigation and any appeal in writing. If the investigating party determines that the alleged conduct constituted sexual discrimination, sexual harassment or sexual violence, the Superintendent or Principal may discipline the offending student. Such discipline may include, but is not limited to, detention, in-school suspension, out-of-school suspension, or expulsion. Discipline will be issued in accord with other applicable Board policies. Due to FERPA and other privacy-related laws, the complainant will not be informed of what discipline was imposed.

The District reserves the right to take any additional actions it deems necessary to prevent or deter future incidents of sexual discrimination, sexual harassment or sexual violence by the offender, including, but not limited to, requiring the offender to attend appropriate educational programs or counseling sessions or changing the offender's classes or school assignment.

Conduct which does not rise to the level of sexual discrimination, sexual harassment or sexual violence 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 or Principal, who may impose discipline or order the offending student to engage in some remedial action.

VI. Reprisal

The District will discipline any student who retaliates against any person who reports alleged sexual discrimination, 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 discrimination, sexual harassment or sexual violence complaint. Retaliation includes, but is not limited to, any form of intimidation, threats, reprisal or harassment.

VII. Right to Alternative Complaint Procedures

These procedures do not deny the right of any student 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. Sexual Harassment or Sexual Violence as Sexual Abuse

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

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

IX. Age-Appropriate Sexual Harassment Policy

Per the requirements of Ed. 303.01(j), the Board of Education is required to establish a policy on sexual harassment, written in age appropriate language and published and available in written form to all students. This policy is intended to apply to middle-school and high-school aged students.

The Superintendent and building Principal(s) are charged with establishing policies, rules, protocols and other necessary age-appropriate information or materials for the District's elementary schools.

X. By-Pass of Policy

Any individual with a sexual discrimination, sexual harassment, or sexual violence complaint may choose to bypass this Policy and accompanying regulation and proceed directly to:

N.H. Commission on Human Rights 2 Chenelle Drive Concord, NH 03301 (603) 271-2767	or	U.S. Department of Health and Human Services Office for Civil Rights, Region 1 JFK Building, Room 1875 Boston, MA 02203 (617) 565-1340
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***Legal References:***

*Section 703 of Title VII of the Civil Rights Act 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/sexualviolence/definitions.html>)

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