

NEW HAMPSHIRE SCHOOL ADMINISTRATIVE UNIT 29

CHESTERFIELD SCHOOL DISTRICT

JBAA

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

Also GBAA

I. GENERAL STATEMENT OF POLICY

Sexual harassment is a form of sex discrimination which 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. Sexual violence is a physical act of aggression that includes a sexual act or sexual purpose.

It is the policy of the District to maintain a learning and working environment that is free from sexual harassment and sexual violence. The District prohibits any form of sexual harassment and sexual violence.

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

It shall be a violation of this policy for any student or employee to be sexually violent to a student or employee.

The District will act 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 District.

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 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.

Any sexual harassment as defined when perpetrated on any student or employee by any student or employee will be treated as sexual harassment under this policy.

B. Sexual harassment may include but is not limited to:

1. verbal 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; or
8. sexual violence which is a physical act of aggression that includes a sexual act or sexual purpose.

III. REPORTING PROCEDURES

Any person who believes he or she has been the victim of sexual harassment or sexual violence by a student or an employee of the District, or any third person with knowledge or belief of conduct which 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.

A. 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.

B. District-Wide. The 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.

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 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 the conduct has occurred.

IV. 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 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.

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.

V. SCHOOL DISTRICT ACTION

A. 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.

B. The complainant may appeal the investigations recommendations to the Superintendent (presuming the superintendent is not the investigation, or to the Board.

C. 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.

VI. 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.

VII. 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.

VIII. 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.

X. 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.

X. BY-PASS OF POLICY

Any individual with a sexual harassment complaint may choose to bypass this Policy and accompanying regulation and proceed directly to: N.H. Commission on Human Rights, at 2 Chenelle Dr., Concord, NH, phone 603-271-2767 or US Department of Health & Human Services, Office for Civil Rights, Region 1, JFK Building, Room 1875, Boston Massachusetts 02203. 617-565-1340.

Legal Reference:

NH Code of Administrative Rules – Section Ed. 303.01 (j), 1-9, Substantive Duties of School Boards

Adopted by CSB: 10/8/07