

Concord School District Policy #414

Sexual Harassment

I. Purpose

The purpose of this policy is to maintain a learning environment that is free from sexual harassment or other improper and 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 and will not be tolerated. 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 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; or
- (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 working environment
- (4) Sexual violence

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, pinching or other touching;

4. Intentional 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 and/or designee. 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. The Board encourages the reporting employee to use the Report Form available from the Principal or Superintendent.
3. In each building, the Principal and/or designee is the person responsible for receiving oral or written reports of sexual harassment. Upon receipt of a report, the Principal and/or designee will notify the Superintendent immediately without screening or investigating the report. If the report was given verbally, the Principal and/or designee shall reduce it to written form within 24 hours and then forward it 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 Superintendent as the District Human Rights Officer to receive any report or complaint of sexual harassment. The District shall post the name of the Human Rights Officer in conspicuous places throughout school buildings, including a telephone number and mailing address. If the complaint involves the Superintendent, the complaint shall be filed directly with the President of the Board.
5. Submission of a complaint or report of sexual harassment will not affect the employee's standing in school, future employment, or work assignments.
6. The use of formal Reporting Forms 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 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 Human Rights Officer 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 Board.

If District officials conduct the investigation, the investigation should consider the 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 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 Board 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 Board and the Superintendent will be provided with a written factual report and recommended action.

V. District Action

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

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 in violation of other related 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 Recommendation

Either the complainant or the accused may appeal the investigator's recommendation and subsequent District action, if any, to the Board.

After a hearing, the Board will vote to either accept or deny the investigator's recommendation and resulting discipline.

Either party may then appeal the Board's decision in accordance with applicable law.

VII. Reprisal

The District will discipline any employee who retaliates against any other employee who reports alleged sexual harassment or who retaliates against any person who testifies, assists or participates in an investigation, proceeding or hearing 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 applicable laws.

Nothing in this policy will prohibit the 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 choose to bypass this Policy and accompanying regulation and proceed directly to: N.H. Commission on Human Rights at 2 Chennell Dr., Concord, NH 03301, phone 603-271-2767 or the US Department of Health & Human Services, Office for Civil Rights, Region 1, JFK Building, Room 1875, Boston, MA 02203, phone 617-565-1340.

Legal References:

Ed 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy

Ed 306.04(a)(9), Sexual Harassment

RSA 354-A:7, Unlawful Discriminatory Practices

Appendix: GBAA-R, BBA-R

Adopted June 3, 1991. Revised August 1, 1994; June 3, 1996; August 6, 2001; March 5, 2018

Corresponds to NHSBA Policy GBAA

Attachment

Sexual Harassment and Sexual Violence Report Form

General Statement of Policy Prohibiting Sexual Harassment

Concord School District maintains a firm policy prohibiting all forms of discrimination based on sex. Sexual harassment and sexual violence against students or employees is sexual discrimination. All persons are to be treated with respect and dignity. Sexual violence, sexual advances or other forms of personal harassment by any person, male or female, which create an intimidating, hostile or offensive environment will not be tolerated under any circumstances.

Complainant: _____

Home address: _____

Work address: _____

Home phone: _____ Work phone: _____

Date of alleged incident(s): _____

Name of person(s) you believe sexually harassed or was sexually violent toward you:

List any witnesses that were present:

Where did the incident(s) occur?

Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used; any verbal statements (i.e., threats, requests, demands, etc.); what, if any, physical contact was involved; etc. (Attach additional pages if necessary.)

This complaint is filed based on my honest belief that _____ has sexually harassed or was sexually violent to me. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Complainant Signature: _____ Date: _____

Received by: _____ Date: _____