

SEXUAL HARASSMENT, DISCRIMINATION, AND SEXUAL VIOLENCE - EMPLOYEES

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.

I. Purpose

The purpose of this policy is to maintain a work environment that is free from sexual harassment and violence, or other improper or inappropriate behavior that may constitute harassment as defined below.

Sexual harassment, discrimination and violence are against the law and school policy. Any form of sexual harassment, discrimination and/or violence is strictly prohibited.

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” include, but are not limited to all Breakthrough Academy staff, administrators, volunteers and/or other such personnel whose employment or position is directed by the school.

“Third parties” include, but are not limited to parents, school visitors, service contractors or others engaged in school business, such as employees of businesses or organizations participating in cooperative work programs with the school and others not directly subject to school control.

Breakthrough Academy will promptly investigate and effectively and equitably resolve all complaints, either formal or informal, verbal or written, of sexual harassment, discrimination or violence, and will take any and all steps it deems appropriate against any employee or third party who sexually harasses or is sexually violent toward another person. This may include warning, suspension or immediate discharge and/or removal from the premises to end sexual harassment and sexual violence and prevent its recurrence.

II. Sexual Harassment / Sexual Violence Defined

A. Sex discrimination is defined as discrimination in employment benefits or opportunities based on a person’s sex and includes sexual harassment and sexual violence.

B. Sexual harassment is defined as 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 an individual's employment; 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
3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, or creating an intimidating, hostile or offensive employment environment.

A victim can be anyone affected by the conduct, not just the individual to whom the offensive conduct is directed.

C. 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 another;
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 physical contact; or
8. Sexual violence that is a physical act of aggression that includes a sexual act or sexual purpose.

D. Sexual violence is a physical act of aggression that includes a sexual act or sexual purpose perpetrated against a person's will or where a person is incapable of giving consent.

III. Reporting Procedures

Any employee who believes he or she has been the victim of sexual harassment or sexual violence should report the alleged act(s) immediately to the school principal. If the alleged

perpetrator is the employee's immediate supervisor, the alleged victim may report the allegation to any other school employee. That employee shall then report the allegation immediately to an appropriate school official, as designated by this policy.

A. Upon receipt of a report, the principal must notify the Human Rights Officer immediately without screening or investigating the report. If the report was given verbally, the principal shall reduce it to written form within 24 hours. If the complaint involves the school principal, the complaint shall be filed directly with the Human Rights Officer.

B. Human Rights Officer: The Human Rights Officer is the person responsible for receiving oral or written reports of sexual harassment or sexual violence. The Board designates the Executive Director or designee as the school Human Rights Officer to receive any report or complaint of sexual harassment and sexual violence.

The school shall post the name of the Human Rights Officer in conspicuous places throughout school buildings, including a telephone number and mailing address.

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 Executive Director, the complaint shall be filed directly with the Board of Trustees.

C. Submission of a complaint or report of sexual harassment or sexual violence will not affect an employee's standing, future employment, or work assignments.

D. The use of formal reporting forms provided by the school is voluntary. The school 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'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

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 school officials or by a third party designated by the Board, if the complaint involves the Executive Director or designee. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Executive Director or designee. If the Executive Director 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 school 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. Students who are interviewed must have a parent or legal guardian present during the interview.

In addition, the school may take immediate steps, at its discretion, to protect the complainant pending completion of an investigation of alleged sexual harassment or sexual violence.

V. School Action

A. Upon receipt of a recommendation that the complaint is valid, the school will take such disciplinary action as appropriate based on the results of the investigation. Such discipline may include but is not limited to a warning, training, temporary suspension, or dismissal. Any disciplinary actions will be in accordance with all laws. A complainant will not be informed of any disciplinary action taken against the accused, but they will be informed, in writing, that the claim was found valid and that appropriate action will be taken based on findings.

B. If the school determines that the alleged conduct did not constitute sexual harassment, both the complaining party and the accused will be informed of such. No disciplinary actions will be taken.

C. Conduct which does not rise to the level of sexual harassment, as defined by the policy, but is nonetheless inappropriate or in violation with other related Board policies, will be addressed on a case-by-case basis by the Executive Director, who may order the offending employee to engage in some remedial action.

D. The complainant may appeal the investigation recommendations to the Executive Director or designee (if the Executive Director is under investigation, appeal is made to the Board).

VI. Reprisal

The school will discipline any individual who retaliates against another 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. 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 03301, phone 603-271-2767 or US Department of Health & Human Services, Office for Civil Rights, Region 1, JFK Building, Room 1875, Boston, MA 02203, phone 617-565-1340.

Legal Reference:

- 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)(9), Sexual Harassment
- RSA 354-A:7, Unlawful Discriminatory Practices

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