

## **SEXUAL HARASSMENT AND VIOLENCE - STUDENTS**

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 learning environment free from sexual harassment, violence, and other improper or inappropriate behavior that may constitute harassment, as defined below.

Any form of sexual harassment or violence is strictly prohibited.

It is a violation of this policy for any student to harass another student through conduct or communication of a sexual nature as defined by this policy. It is a violation of this policy for any student to be sexually violent toward another student.

The school will investigate all complaints, either formal or informal, verbal or written, of sexual harassment or sexual violence, and will discipline any student who sexually harasses or is sexually violent toward another student.

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

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:

- Submission to that conduct or communication is made a term or condition, either explicitly or implicitly of obtaining an education; or
- Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education; or
- That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's education, or creating an intimidating, hostile or offensive educational environment.

Sexual harassment may include, but is not limited to:

- Verbal harassment and/or abuse of a sexual nature;
- Subtle pressure for sexual activity; Inappropriate patting, pinching or other touching;

- Intentional brushing against another;
- Demanding sexual favors accompanied by implied or overt threats;
- Demanding sexual favors accompanied by implied or overt promises of preferential treatment;
- Any sexually motivated unwelcome touching; or
- Sexual violence is a physical act of aggression that includes a sexual act or sexual purpose.

### **III. Reporting Procedures**

Any student who believes he or she has been the victim of sexual harassment or sexual violence should report the alleged act(s) immediately to a school employee. That employee shall immediately report the allegation to an appropriate school official designated by this policy.

**A. Human Rights Officer:** The Human Rights Officer is the person responsible for receiving oral or written reports of sexual harassment or sexual violence. If the report was given verbally, the Human Rights Officer shall reduce it to written form within 24 hours. The Board designates the Executive Director or designee as the school's 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 the school buildings, along with a telephone number and mailing address.

**B.** 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.

**C.** Submission of a complaint or report of sexual harassment or sexual violence committed by a student will not affect the student's standing in school, grades, assignments, or right to attend school and receive an education.

**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 to the greatest extent possible, consistent with the school's legal obligations and the necessity of investigating allegations of sexual harassment and sexual violence and taking 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 Director or designee. The investigating party shall provide a written report on the status of the investigation to the Director or designee within ten (10) working days. If the 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 include 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 the 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 guardian present.

In addition, the school 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 Action**

A. Upon receipt of a recommendation that the complaint is valid, the school will take such action as appropriate based on the results of the investigation.

B. The complainant may appeal the investigation recommendations to the Director or designee (if the Director is under investigation, the appeal is made 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. The report will document any disciplinary action taken as a result of the complaint.

## **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, intimidation, reprisal, or harassment.

## **VII. Right to Alternative Complaint Procedures**

These procedures do not deny any individual the right 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 charter school shall comply with said law. Nothing in this policy will prohibit the school from taking immediate action to protect victims of alleged sexual abuse.

### **IX. Discipline**

The school will take such disciplinary action as it deems necessary and appropriate, including warning, counseling, 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 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)(8), Student Harassment
- NH Code of Administrative Rules, Section 306.04(a)(9), Sexual Harassment
- Section 703 of Title VII of the Civil Rights Acts of 1964, as amended
- Title IX of the Education Amendments of 1972

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