

AMHERST Policy

ACA – SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY

I. GENERAL STATEMENT OF POLICY

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.) provides that no person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Sexual harassment of any employee or student by any other employee or student, or by anyone a student or employee may interact with, in order to fulfill job or school responsibilities, is not only illegal as a form of sex discrimination as defined by Title VII of the 1964 Civil Rights Act and Title IX of the Educational Amendments of 1972 but also is a violation of this Policy and will not be tolerated.

It is the policy of the School District to maintain a learning and working environment that is free from sexual harassment and violence. The School District will not tolerate 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 violation of this policy for any student or employee to be sexually violent to a student or employee.

The School District will act to promptly investigate and equitably resolve all complaints, either formal or informal, oral or written, of sexual harassment, sexual violence, and to discipline any student or employee who is judged to have committed these offenses.

Employees and/or students who believe they are the subject of harassment, or anyone having questions or concerns regarding harassment, are encouraged to contact one or more of the following individuals: **(1) Superintendent of Schools (Title IX Coordinator/Human Rights Officer), Dr. Mary Jennings, Superintendent, SAU #39, 1 School Street, Amherst, NH 03031-0849; (2) any District Administrator; and (3) any building complaint manager.**

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

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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.

B. Sexual harassment is not limited to requests for sexual favors in return for job or educational benefits. Sexual harassment may include but is not limited to:

1. verbal harassment and/or abuse of a sexual nature;
2. leering at an individual's body;
3. jokes of a sexual nature;
4. the display anywhere on school facilities of sexually suggestive, sexually demeaning or pornographic objects, pictures, writings, posters or cartoons;
5. graphic verbal comments about an individual's body, clothing or sexual activity;
6. subtle pressure for sexual activity;
7. inappropriate patting or pinching;
8. intentional brushing against ~ student's or an employee's body;
9. demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status;
10. demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status;
11. any sexually motivated unwelcome touching; or
12. sexual violence which is a physical act of aggression that includes a sexual act or sexual purpose.

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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 School District, or any third person with knowledge or belief of conduct which may violate this policy should report the alleged acts immediately to an appropriate School District official as designated by this policy. The School 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, but use of the form is not required.

- A. In Each School Building. The two building level complaint managers are the persons responsible for receiving oral or written reports of sexual harassment or sexual violence at the building level. Upon receipt of a report, the complaint manager must notify the Superintendent of Schools immediately without screening or investigating the report. If the report was given verbally, the complaint manager shall reduce it to written form within 24 hours and forward it to the Superintendent. Failure to forward any report or complaint as provided herein will result in disciplinary action. If the complaint involves the building Principal or complaint manager, the complaint shall be filed directly with the Superintendent of Schools.
- B. District-Wide. The School Board hereby designates the Superintendent of Schools as the School District Title TX/Human Rights Officer to receive reports or complaints of sexual harassment or sexual violence from any student or employee, and also from the complaint managers as outlined above. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board. The School 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 complainant's future employment, grades or work assignments.
- D. Use of formal reporting forms is not mandatory. The School District encourages the reporting party or complainant to use the report form available from the building Principal or available from the Superintendent's office. It is recognized that certain students, especially younger children, may not be able to submit a written complaint. In such cases, alternate methods of filing complaints such as tape recorders or note takers shall be made available.
- E. The School 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 and take disciplinary action.

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IV. INVESTIGATION AND RECOMMENDATION

- A. Each school shall designate two or more complaint managers, e.g., a teacher, a guidance counselor, an administrator. Whenever possible, at least one complaint manager shall be female, the other male. Their names will be posted in a prominent place in the school as well as printed in the Student Handbook.

These managers shall be authorized to receive confidential complaints.

If both the complainant and alleged harasser agree, the complaint manager may work with the complainant and alleged harasser to informally resolve the complaint provided, however, that the complaint manager must first notify the complainant of his/her right to end the informal process at anytime and begin the formal complaint process as set forth in paragraph B below.

The complaint manager shall notify the Human Rights Officer of any and all complaints resolved informally by submitting a written summary of the resolution.

- B. In compliance with applicable federal and state law, it is the policy of the School District to investigate promptly and resolve equitably all complaints of sexual harassment and discrimination on the basis of sex.
1. The Superintendent as the Human Rights officer upon receipt of a report or complaint alleging sexual harassment or sexual violence shall immediately authorize an investigation and appoint an appropriate officer. This person may be the already designated complaint manager, another School District official or a third party.
 2. The number of people involved with any harassment investigation will be kept as small as possible. All those who are involved will protect the confidentiality of any and all information relating to the case.
 3. Each person involved in the investigation must be informed of appropriate methods of case documentation. Corroboration of evidence and a credibility statement of the complainant(s) and witness(es) should be gathered.
 4. Maintaining confidentiality without violating due process of the accused always should be the goal.
 5. When the grievance comes from a female student or faculty member, whenever possible, a female counselor or staff member shall be present at all discussions and meetings involving the case.
 6. When the grievance comes from a male student or faculty member, whenever

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possible, a male counselor or staff member shall be present at all discussions and meetings involving the case.

7. The Investigator shall provide a written report of the status of the investigation within ten working days to the Superintendent of Schools. If the Superintendent is the subject of the complaint, the report shall be submitted to the School Board.
8. 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.
9. Persons accused of harassment will be given sufficient information about the allegations and a reasonable opportunity to respond before they are found to have harassed another and before any corrective action or discipline is imposed.
10. The Investigator shall file a report with the Superintendent no later than twenty days following receipt of the complaint. The Superintendent will notify the victim and alleged harasser, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Superintendent will provide all parties with a written status report within twenty days following receipt of the complaint.
11. Any victim or accused who is still not satisfied with the outcome of the School District investigations may file a request for review by the School Board by submitting a written appeal to the Superintendent of Schools within ten working days following receipt of the School District's findings.
12. At all times victims have the right to pursue alternative procedures set forth below.
13. Retaliation in any form against any person who has filed a grievance relating to harassment is forbidden. If it occurs it will be considered:
 - a. for staff: possible grounds for dismissal; and
 - b. for a student: possible grounds for removal from the setting up to and including expulsion.

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V. ACTION IF COMPLAINT IS SUBSTANTIATED

- A. The administration should review the victim's records, grades, evaluations, etc., with a view to correcting any injustice(s) that might have occurred as a result of the harassment. In the case of an employee, the School District may need to consider rehiring a terminated employee or offering a promotion or raise that might have been denied.
- B. Upon determination that the complaint is valid, the School District shall take such disciplinary action as it deems necessary and appropriate to end the harassment, and prevent its recurrence.
- C. Disciplinary measures include, but are not limited to, expulsion, termination, verbal and written warnings/reprimands in employee or student files, detention or in-school suspensions, out-of-school suspension, behavior contract, requirement of a verbal and/or written apology to the victim and mandatory education and training on sexual harassment.
- D. Since it is not unusual for harassment to begin again after several weeks have lapsed, the harasser should be supervised closely. The victim should be encouraged to report any renewed problems. If possible, the harasser and the victim should be separated, with the harasser being the one to be transferred. Care should be taken not to punish the victim.

VI. ACTION IF THE COMPLAINT IS UNSUBSTANTIATED

If the complaint proves to be unsubstantiated, the Investigator must review the findings and report with the complainant.

This review should include a complete description of the investigation and the reasons why the complaint was found to be unsubstantiated.

This should be done without identifying the names of any other students or employees who were contacted and in compliance with FERPA and privacy laws.

VII. REPRISAL/RETALIATION

There should be no retaliation for a complaint made in good faith. The School District will discipline any individual who retaliates or encourages others to retaliate against any person 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.

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If the complaint was not made in good faith, a reprimand or some other disciplinary action may be in order.

VIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

The procedures in this policy 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.

The individual may choose to file the alleged violation or complaint with:

A. The New Hampshire Commission of Human Rights
2 Chenell Road
Concord, New Hampshire 03301
(603) 271-2767

B. The Equal Educational Opportunity Office (Title IX)
New Hampshire Department of Education
State Office Park South
101 Pleasant Street
Concord, New Hampshire 03301-3860
(603) 271-3494

C. Director, Office of Civil Rights
U.S. Department of Health & Human Services
Regional Office
2250 JFK Federal Building
Boston, Massachusetts 02203-2 100
(617) 565-2370

IX. SEXUAL HARASSMENT OR SEXUAL VIOLENCE AS SEXUAL ABUSE

- A. Consistent with School District policies on child abuse and the Safe Schools Act and state law, upon receipt of any complaint that contains evidence of violence or criminal activity, the Principal, the Superintendent of Schools, or School Board shall refer the complaint to law enforcement officials and appropriate child protection authorities for investigation.
- B. Nothing in this policy prohibits the School District from taking immediate action to protect victims of alleged child abuse, including immediate suspension of a student or placement of an employee on administrative leave pending the outcome of an investigation.

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X. POSTING/PUBLICATION

- A. Copies of this Policy shall be given to all Employees, Students, and parents annually by publishing in the applicable Handbook.
- B. Each new School District employee and student shall receive and sign for a copy of the District's Policy.
- C. Postings required by this Policy and/or Title D (shall be made on bulletin boards in every school and office where employees as well as students are likely to see them. It is the responsibility of the building Principal to assure that the required postings are up to date and displayed appropriately.

Legal Reference:

NH Code of Administrative Rules Section Ed. 303.01(J)
Civil Rights Act 1964 Title IX

ADOPTED: April 3, 2008