

JOHN STARK SCHOOL DISTRICT
SEXUAL HARASSMENT – STUDENTS

I. PURPOSE

The purpose of this policy is to maintain a learning environment for students that is free from sexual harassment or other improper or 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.

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.

The District will investigate all complaints, formal or informal, verbal or written, of sexual harassment and will discipline any student who sexually harasses another student.

II. SEXUAL HARASSMENT/SEXUAL VIOLENCE DEFINED

Sexual harassment of students shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:

1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits;
2. Submission to or rejection of the conduct or communication is used as the basis for educational decisions affecting a student;
3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with a student's educational performance or opportunities; or creates an intimidating, offensive or hostile educational environment.

Relevant factors to be considered will include, but not be limited to: did the student view the environment as hostile; was it reasonable to view the environment as hostile; the nature of the conduct; how often the conduct occurred and how long it continued; age and sex of the complainant; whether the alleged harasser was in a position of power over the student subjected to the harassment; number of individuals involved; age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the school involving the same or other students.

Examples of sexual harassment may include, but not be limited to: physical touching or graffiti of a sexual nature; displaying or distributing of sexually explicit drawings; pictures and written materials; sexual gestures or obscene jokes; touching oneself sexually or talking about one's sexuality in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

III. REPORTING

1. Any student who believes he or she has been the victim of sexual harassment should report the alleged act(s) immediately to any District employee or the building

Principal. If a student initially reports the alleged act to a District employee, that employee shall immediately notify the building Principal, who shall then immediately notify the Superintendent and Title IX Coordinator. If the report was given verbally, the Principal shall reduce it to written form within 24 hours and then forward it to the Superintendent. If the complaint involves the building Principal, the complaint shall be filed directly with the Superintendent. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board.

2. All complaints will be investigated and must be put in writing on the complaint form either by the complainant or the Building Administrator(s).

A written complaint will include the following:

1. The name of the complainant
2. The name of the alleged offender
3. The nature of the allegations
4. The location and frequency of the offense(s)
5. A detailed description of the incident(s) including verbal comments made by either party
6. A list of all known witnesses

A completed complaint form is a confidential document. Only those individuals conducting an investigation (the Building Administrator(s), Title IX Coordinator, and Superintendent) will have access to the completed complaint form.

Third party reports will also be investigated. For example, a teacher or parent can make a report in behalf of a student or child.

3. The Board designates the Superintendent or his/her designee as the SAU-wide Human Rights Officer to receive any report or complaint of sexual harassment.
4. Submission of a complaint or report of sexual harassment will not affect the student's standing in school, grades, work assignments, eligibility for extra-curricular activities or any other aspect of the student's educational program.
5. 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 take disciplinary action when the conduct has occurred.

IV. INVESTIGATION AND RECOMMENDATION

The Superintendent, or his/her designee as the designated Human Rights Officer, will authorize an investigation upon receipt of a report or complaint alleging sexual harassment.

An investigation may include, but not be limited to:

1. An interview(s) with the complainant
2. An interview(s) with the alleged offender

3. Interviews with any witnesses to the alleged incident(s) or with persons potentially having knowledge of the reported incidents
4. A review of records, when appropriate, to determine the existence of previous reports.

V. SCHOOL DISTRICT ACTION

If the investigating party determines that the alleged conduct constituted sexual harassment, the Principal may discipline the offending student. Such discipline may include, but is not limited to, detention, in-school suspension, out-of-school suspension, or recommendation to expel to the Superintendent. Discipline will be issued in accord with other applicable Board policies. The decision to address an incident as a disciplinary issue will be made by the Principal based on:

- The age and developmental level of the student(s) involved
- The nature of the behavior reported
- The frequency of the behavior
- The behavioral history of the student(s)
- The opportunity for the student(s) to develop awareness and sensitivity to the issue of harassment through education and/or training.

Due to FERPA and other privacy-related laws, the victim will not be informed of what discipline was imposed.

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 is in violation of other Board policies, will be addressed on a case-by-case basis by the Principal, who may still impose discipline or order the offending student to engage in some remedial action.

VI. REPRISAL

The School District will discipline any student who retaliates against any other student 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 or sexual violence complaint. Retaliation includes, but is not limited to, any form of intimidation, threats, reprisal or harassment.

VII. RIGHT OF APPEAL

These procedures do not deny the right of any student 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.

- A. Any individual may appeal disciplinary decisions made as a result of an investigation to the Superintendent. Those decisions may be appealed to the School Board.
- B. Any individual may appeal decisions, other than disciplinary, made as a result of an investigation directly to the School Board.

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 all pertinent laws.

Nothing in this policy will prohibit the School District from taking immediate action to protect victims of alleged sexual abuse.

IX. IMPLEMENTATION

The Superintendent or his/her 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.

Legal References:

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 Appendix: GBAA-R, BBA-R