SEXUAL DISCRIMINATION AND HARASSMENT – STAFF

Purpose
The purpose of this policy is to maintain a learning and working environment that is free from sexual harassment, including sexual violence, as defined below:

Sexual harassment is against the law and is against School District policy. Any form of sexual harassment is strictly prohibited.

It is a violation of this policy for any employee to harass other employees, students, parents or others participating in programs, services and/or activities provided by the School District, through conduct or communication of a sexual nature as defined by this policy.

For the purposes of this policy, the term “employee” shall include, but not be limited to all school department staff, teachers, non-certified personnel, administrators, volunteers, coaches and/or other such personnel whose employment position or work in a district school is directed by the School District.

The School District will investigate all complaints, formal or informal, verbal or written, of alleged sexual harassment. The School District will further take steps to address any substantiated allegations of sexual harassment, by taking prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. These steps could include but are not limited to, disciplining any employee who sexually harasses or is sexually violent toward, another employee, student, parent, or other persons participating in programs, services and/or activities provided by the School District.

Definition
A. Sexual harassment is offensive behavior that includes unwelcomed sexual advances, requests for sexual favors, sexually motivated physical conduct or other physical or verbal behavior or communication of a sexual nature wherein:
   1. Submission to such conduct or communication is made either explicitly or implicitly a condition of an individual’s employment or academic standing; and/or
   2. Submission to or rejection of such conduct or communication by an individual is used as the basis for employment or academic decisions affecting that individual; and/or
   3. The conduct or communication has the purpose or effect of unreasonably interfering with an individual’s job performance or creating an intimidating or offensive environment.

B. Sexual harassment may include, but is not limited to the following:
   1. Verbal harassment and/or abuse of a sexual nature;
   2. Verbal abuse consistently targeted at any gender, or constituting gender identity discrimination, even if the content of the abuse is not sexual;
   3. Sexual advances, gestures, or subtle pressure for sexual activity;
4. Sexist remarks about an individual’s clothing, body, or sexual activities;
5. Unnecessary and/or unwelcomed touching, patting, or pinching;
6. Leering or ogling at an individual’s body;
7. Intentional brushing up against an individual’s body;
8. Demands for sexual favors accompanied by implied or overt threats or promises of preferential treatment concerning an individual’s employment, grades, educational status, etc.
9. Physical assault or other violent acts that are sexually motivated; or
10. Displaying of sexually suggestive objects, pictures, writings, graffiti, or posters;
11. An attempted (but not completed) sex act;
12. Abusive sexual contact or non-contact sexual abuse (voyeurism, unwanted exposure to pornography, taking nude or inappropriate photography of a sexual nature of another person without his or her consent or knowledge, or of a person who is unable to consent or refuse).

Sexual harassment is prohibited in any form, whether said or done in person, over the telephone, via e-mail, over the internet or using any other form of communication.

**Reporting Procedures**

A. The Superintendent or his/her written designee is ultimately responsible for ensuring the implementation of the procedures of this policy.

B. Any employee who believes he or she has been the victim of sexual harassment, or who is aware that someone else, including a student, parent or third party, may be a victim of such harassment, should report the alleged act(s) to the building principal. If the alleged perpetrator is the Principal, complainants may file their concerns with any other school district administrator or the Title IX Coordinator, who shall then report the allegation to the Superintendent. The Board encourages reporting employees to use the Report Form that is available from the Principal, the Superintendent, or from the Title IX Coordinator.

C. In each building, the Principal or other administrator is the person responsible for receiving oral or written reports of sexual harassment. Upon receipt of a report, the Principal will forward the report to the Superintendent or the Title IX Coordinator immediately, without screening or investigating the report. If the report is given verbally, the Principal or other administrator shall reduce it to written form within 24 hours and forward it to the Superintendent or the Title IX Coordinator. Failure to forward any sexual harassment report or complaint as provided herein may result in disciplinary action.

D. The Board designates the Title IX Coordinator as the School District officer to receive any report or complaint of sexual harassment in the District. If the complaint involves the Superintendent, the Title IX Coordinator shall inform the School Board’s Chairperson. If the complaint involves the Title IX Coordinator, complainants should file a report with the Superintendent or any district administrator. The School District shall post the name of the Title IX Coordinator in conspicuous places throughout school buildings and on the school district web site, including a telephone number and mailing address. Submission of a complaint or report of sexual harassment will not affect the employee’s standing in school, future employment, or work assignments when filed in good faith and without knowledge of its falsity.
E. The School 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 School District’s legal obligations and the necessity to investigate allegations of sexual harassment and take disciplinary action when the conduct has occurred.

**Investigation Procedures**

The Superintendent or the Title IX Coordinator will authorize an investigation upon receipt of a report or complaint alleging sexual harassment. This investigation may be conducted by trained School District personnel or by a third party authorized by the Superintendent. The Title IX Coordinator and Superintendent will ensure that no complaint will be investigated by a person named in that complaint.

Upon the initiation of an investigation, the investigator will provide the complainant and the respondent (the person who is alleged to have engaged in harassment) with notice that:

A. They each have the right to present witnesses and other evidence during the investigation;

B. If the alleged victim(s) of harassment opts to participate in mediation or other informal resolution, they will not be required to work out the problem directly with the alleged perpetrators without appropriate involvement by the School District. Additionally, such alleged victims will be assured that any informal process can be ended by an alleged victim at any time in order to begin the formal investigation and subsequent stages of the complaint process.

C. Notice that both complainants and accused individuals will be timely notified of the outcome of any School District investigation; and

D. The School District has an obligation, following substantiated instances of sexual harassment, to take appropriate steps to address the effects of any harassment, including supporting victim’s access to school district programs, services, and activities.

The investigator will consider the nature of alleged conduct, the surrounding circumstances, the relationship between the parties and the context in which the alleged incidents occurred. Whether particular action(s) or incident(s) constitute sexual harassment requires a determination, based on a preponderance of the evidence, from 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 may have a parent or other representative present.

In addition, the School District may take immediate, intermediate steps, at its discretion, to protect the complainant, students and employees pending completion of an investigation of alleged sexual harassment.

If the Superintendent determines that a third party designee should conduct the investigation, the School District must provide the investigator with a copy of the sexual harassment policy and investigation procedure.
Recommendation
Upon completion of an investigation conducted by either School District personnel or a third party, the Superintendent will be provided with a written factual report and recommended action. If an investigation reveals that discriminatory harassment has occurred, the School Department will take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment, and its effects, and prevent the harassment from recurring.

School District Action
If the investigating party determines that the alleged conduct constituted sexual harassment, the Superintendent may discipline the offending employee, including but not limited to, steps such as a warning, training, temporary suspension or dismissal. Any discipline will be in accordance with all laws and collective bargaining agreements, if applicable.

The complainant and the respondent will be informed of the results of the investigation in a timely manner. If the investigating party determines that the alleged conduct did not constitute sexual harassment, no disciplinary action will be taken.

Conduct which does not rise to the level of sexual harassment as defined by this policy, but which 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.

The appeal of any disciplinary action taken will be governed by the applicable collective bargaining agreement or otherwise as allowed by law.

Reprisal
The School District will not tolerate retaliation by any employee against any individual, including other employees, students and/or third parties, who report alleged sexual harassment or 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. The School District may discipline any employee who engages in such retaliation.

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.

Sexual Harassment as Sexual Abuse
Under certain circumstances, sexual harassment may constitute sexual abuse under New Hampshire law. In such situations, the School District shall comply with all applicable laws.

Nothing in this policy will prohibit the School District from taking immediate action to protect victims of alleged sexual abuse.
Title IX Coordinator
Cindy Palermo
Director of Human Resources
Salem School District
38 Geremonty Drive
Salem, NH 03079

Notice of By-Pass of Policy
Any individual with a sexual harassment complaint may choose to report it directly to either of the following regulatory agencies:

N.H. Commission on Human Rights
2 Chenelle Dr., Concord, NH 03301
Telephone 603/271-2767

US Department of Education
Office for Civil Rights, Region 1
5 Post Office Square
8th Floor, Suite 900
Boston, MA 02109
Telephone 617/289-0111