SEXUAL DISCRIMINATION AND HARASSMENT – STUDENTS

The Salem School Board is committed to providing an educational environment for students that is free from sexual discrimination, harassment and sexual violence. Sexual harassment is a form of sexual discrimination which violates Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, and N.H. State Statute 354-A:7, Unlawful Discriminatory Practices.

The purpose of this policy is to maintain a learning environment that is free from sexual harassment as defined below, including sexual violence. Sexual harassment is against the law and is against Salem School District Policies. 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 School District will investigate all complaints, formal or informal, verbal or written, of alleged sexual harassment involving students. 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 student who sexually harasses or engages in sexual violence toward another student.

Sexual Harassment Defined
Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

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 creates a hostile environment because it is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by the school board, and/or
2. The conduct consists of/includes violence of a sexual nature; and/or
3. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits; and/or
4. Submission to or rejections of the conduct or communication is used as the basis for educational decisions affecting a student.

Relevant factors to be considered when determining whether a sexually hostile environment has been created will include, but not be limited to whether: the conduct was sexual in nature; whether the conduct was unwelcome; the type of the conduct, how often it occurred and how
long it continued; whether persons subjected to the conduct viewed the environment as hostile; whether an average reasonable person in the same circumstances as the alleged victim would view the environment as hostile; the age and sex of the alleged harasser and the subject or subjects of the harassment; whether the alleged harasser was in a position of power over the student subjected to the harassment; the number of individuals involved; where the harassment occurred; and whether there are 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; graffiti of a sexual nature; displaying or distributing sexually explicit drawings, pictures and/or written materials; sexual gestures or obscene jokes; touching oneself sexually or talking about one’s sexual activities in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

**Reporting Procedures**

1. Any student who believes he or she has been the victim of sexual harassment, or who is aware that someone else may be a victim, should report the alleged act(s) immediately to any school district employee; the school principal, or any school administrator. If a student initially reports the alleged act to a school district employee, that employee shall immediately notify the building principal, who shall then immediately notify the Title IX Coordinator, or the Superintendent of Schools. If the allegation involves the principal, the employee shall notify the Title IX Coordinator or the Superintendent of Schools.

2. The Board encourages all students and staff members to use the Report Form available from the Principal or Superintendent, however, all incidents of sexual harassment, regardless of how reported, will be investigated.

3. Upon receipt of a report, the Principal will notify the Superintendent immediately without screening or investigating the report. If the report was given verbally, the Principal shall reduce it to written form within 24 hours and then forward it to the Superintendent. Failure to forward any sexual harassment report or complaint or knowledge of sexual violence as provided herein will result in disciplinary action. If the complaint involves the building Principal, the complaint shall be filed directly with the Title IX Coordinator or the Superintendent of Schools.

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 when filed in good faith and without knowledge of its falsity.

5. 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 of sexual harassment and take disciplinary action when the conduct has been substantiated.

**Investigation and Recommendations**

The Title IX Coordinator or the Superintendent will authorize an investigation upon receipt of a report or complaint alleging sexual harassment. This investigation may be conducted by school district personnel or a designated third party. The Title IX Coordinator and Superintendent will ensure that no complaint will be investigated by a person named in that complaint.
If School District officials conduct the investigation, the investigation should consider the surrounding circumstances, the nature of the sexual advances, the relationship between the parties and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes sexual harassment 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 may have a parent or other representative present.

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

If the Title IX Coordinator or Superintendent determines that a third-party designee should conduct the investigation, the District shall insure that the third party’s methods of investigation are consistent with this policy.

Upon completion of an investigation conducted by either District officials or a third-party, the Superintendent will be provided with a written factual report and recommended action.

**School District Action**
Upon completion of the investigation, the Principal or Superintendent shall advise the complainant and the accused of the outcome of the investigation. If the investigating party determines that the alleged conduct constituted sexual harassment, the Principal or Superintendent may discipline the offending student. Such discipline may include, but is not limited to, detention, in-school suspension, out-of-school suspension, or expulsion. Discipline will be issued in accord with other applicable District policies. Due to FERPA and other privacy-related laws, the complainant will not be informed of what discipline was imposed.

The School District reserves the right to take any additional actions it deems necessary to prevent or deter future incidents of sexual harassment by the offender, including, but not limited to, requiring the offender to attend appropriate educational programs or counseling sessions or changing the offender’s classes or school assignment.

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 District policies, will be addressed on a case-by-case basis by the Principal or Superintendent, who may impose discipline or order the offending student to engage in some remedial action.

**Reprisal**
The School District will not tolerate any retaliation against individuals who report alleged sexual harassment or against any person 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 will address any such retaliation, through steps that could include but are not limited to, school based discipline, suspension and/or expulsion.

**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**
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