

## 2403 Harassment and Sexual Harassment of Employees 2403

Harassment of school employees because of age, sex, race, religion, creed, color, marital status, familial status, physical or mental disability, national origin, ancestry, genetic information, gender identity or sexual orientation is prohibited. Such conduct is a violation of Board policy and may constitute illegal discrimination under state and federal laws.

Any employee who engages in harassment or sexual harassment shall be subject to disciplinary action, up to and including discharge.

### A. Harassment

Harassment includes but is not limited to verbal abuse, threats, physical assault and/or battery based on age, sex, race, religion, creed, color, ancestry or national origin, genetic information or disability, veteran status, gender identity or sexual orientation.

### B. Sexual Harassment

Sexual Harassment is addressed under federal and state laws and regulations. The scope and definitions of sexual harassment under these laws differ, as described below.

#### 1. Title IX Sexual Harassment

Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit's education programs and activities:

- a. "Quid pro quo" sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a promotion or favorable evaluation) on an individual's participation in unwelcome sexual conduct;
- b. "Hostile environment" sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual's equal access to the school unit's education programs and activities; or
- c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.

#### 2. Sexual Harassment Under Title VII and New Hampshire Law

Under another federal law, Title VII, and under New Hampshire law/regulations, sexual harassment is defined differently. The New Hampshire Commission for Human Rights law states that unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature constitutes sexual harassment when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

### **C. Reports and Complaints of Harassment or Sexual Harassment**

Any employee who believes they have been harassed or sexually harassed is encouraged to make a report to the Human Rights Officer/Title IX Coordinator. The Human Rights Officer/Title IX Coordinator is also available to answer questions and provide assistance to any individual who is unsure whether harassment or sexual harassment has occurred.

All reports and complaints regarding harassment or sexual harassment of employees shall be addressed through the Employee & Third-Party Unlawful Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures (ACAB-R).

#### Legal References:

Title IX of the Education Amendments of 1972 (20 USC § 1681 et seq.)34C.F.R. Part 106

Clery Act (20 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault)

Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v)

Definition of sexual assault;34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. § 12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)

Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)

Title VII of the Civil Rights Act of 1964 (42 USC § 2000e,et.seq.;29 C.F.R § 1604.11Americans with Disabilities Act (42 USC § 12101 et seq.) as amended

Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 USC § 794 et seq.), as amended

Age Discrimination in Employment Act (29 USC § 623 et seq.)

Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)

NH RSA 354-A:7

NH Code Admin. R. Ed. 303.01(i) and (j)

Cross Reference: Policy 2404- Employee & Third Party Discrimination and Harassment Complaint Procedure

Policy 2401- Nondiscrimination/Equal Opportunity

Policy 5014 Hazing

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