

Policies for Review - 1st Reading

September 14, 2020

KFA - Public Conduct on School Property

KFB - Community Use of School Facilities

KFB-R - Regulations Governing Community Use of Facilities & Fields

ACAC - Title IX Sexual Harassment Policy and Grievance Process

GBAA - Sexual Harassment - Employees

JBAA - Sexual Harassment - Students

NHSBA sample policy. We do not have this policy.

5-12-2020 Policy Committee

6-9-2020 Policy Committee

6-18-2020 Policy Committee

9-14-2020 School Board – first reading

KFA - PUBLIC CONDUCT ON SCHOOL PROPERTY

For purposes of this policy, "school property" means any buildings, vehicles, property, land, or facilities used for school purposes or school-sponsored events, whether public or private.

The School District expects mutual respect, civility, and orderly conduct among all individuals on school property or at a school event. No person on school property or at a school event shall:

1. Injure, threaten, harass, or intimidate **a student**, staff member, a School Board member, sports official or coach, or any other person;
2. Damage or threaten to damage another's property;
3. Damage or deface School District property;
4. Violate any New Hampshire law, or Town of **Gilford** or **Belknap** County ordinance;
5. Smoke, **vape** or otherwise use tobacco products;
6. Consume, possess, distribute, or be under the influence of alcoholic beverages or illegal drugs;
7. Possess dangerous devices or weapons **unless otherwise authorized by federal or state law**;
8. Impede, delay, disrupt, or otherwise interfere with any school activity or function (including using cellular phones in a disruptive manner);
9. Enter upon any portion of school premises at any time for purposes other than those that are lawful and authorized by the School Board;
10. Operate a motor vehicle in violation of an authorized District employee's directive or posted road signs;
11. Violate other District policies or regulations, or an authorized District employee's directive.

Any person who violates this policy or any other acceptable standard of behavior may be ordered to leave school grounds. Law enforcement officials may be contacted at the discretion of the supervising district employee if such employee believes it necessary.

Additionally, the District reserves the right to issue "no trespass" letters to any person whose conduct violates this policy, acceptable standards of conduct, or creates a disruption to the school district's educational purpose.

Legal References:

RSA 193:11, Disturbance

RSA 635:2, Criminal Trespass

*Current GSD policy for review
5-12-2020 Policy Committee
6-9-2020 Policy Committee
6-18-2020 Policy Committee
9-14-2020 School Board – first reading*

**KFB
Page 1 of 1**

COMMUNITY USE OF SCHOOL FACILITIES

POLICY

The Gilford School District facilities are provided by the people in order that the citizens and youth of the community may receive the benefits of a sound educational program. Although this is the basic purpose for which our schools are built, we believe that their complete educational function is not achieved unless the school facilities are also made available to serve the community.

To accomplish this objective and whenever possible, use will be made of the facilities for activities which are educational, recreational, and/or cultural in nature. Student-related activities will be given priority over community-based activities and related activities.

Groups using the facilities will be assessed appropriate fees to use the facility/grounds as determined by regulation. The board will require the renting organization to assume all liability for injury or damage to individuals or property and to indemnify and hold harmless the school board, district, and its employees from any loss or damage. The renting organization will observe all federal, state, and local regulations including district policies. This applies to both the buildings and grounds overseen by the district, including the “Meadows property” on Intervale Road in Gilford.

**(Adopted: 9/17/01)
(Revised 4/20/09)**

REGULATIONS GOVERNING COMMUNITY USE OF FACILITIES & FIELDS

The Gilford School District will not make any facility available for any use that is inconsistent with the educational function of the school or that involves the use or display of inherently dangerous items.

Reservations and Arrangements:

1. All use/rental applications shall be made at least 14 days in advance. Applications for facility use/rental are available online at our www.sau73.org website under Facilities department.
2. For all sports/athletic events, the District will establish an open request window by seasonal activities. Any request changes need to be shared with the Athletics Director. The organization that has requested the facility is responsible to inform the District if they do not plan to use the approved space.
3. The applicant and the organization shall be held responsible for the proper use of the facility, for the conduct of the persons attending and shall see to it that the activities are confined to the areas requested and hours agreed on the application. In the event that property loss or damage is incurred during such use or occupancy of district facilities, the amount of damage shall be decided by the Facilities office or designee and a bill for damages will be presented to the group using or occupying the facilities during the time loss or damage was sustained.
4. Users of school facilities must assume responsibility for the safety and protection of the participants, audience, and workmen to the extent required by law. The applicant shall be required to provide Commercial General Liability to use school facilities by providing a written certificate of insurance proving liability coverage and property damage insurance totaling \$1,000,000/\$1,000,000 with the Gilford School District listed on the certificate as an additional named insured.
5. Rental payment checks should be made payable to the Gilford School District. Payments are due within 30 days from the billing date. The District may request a 50% deposit.
6. Any additional expenses incurred during the event i.e., custodial, technical, kitchen help, crowd control or any other expenses will be billed within two (2) weeks after completion of rental. Payment of services will be expected within thirty days from billing date.
7. Anyone considering renting school facilities and wishing to take measurements or survey the area shall contact the Facilities office to make prior arrangement.

USER RESPONSIBILITIES AND GUIDELINES ON THE USE OF SCHOOL FIELDS

Regulations Governing the Use of the Fields:

The Town of Gilford and the Gilford School District are committed to providing quality athletic facilities for the benefit of Gilford residents and their guests. It must be understood by all athletic associations that utilization and play under wet conditions is the most limiting factor in providing quality athletic fields. The Gilford School District will not allow play when field conditions may contribute to unsafe play or when use would damage the fields and significantly lessen their safety and availability for future play.

The Gilford School District will make the decision to cancel any practice or game Monday through Friday until 6pm on a field by field basis. On Saturdays, Sundays and after 6pm Monday through Friday, a representative from each athletic association scheduled to use a field will evaluate the field's condition based on the following criteria. *If any of these conditions exist, the association representative is expected to cancel play.*

1. **Standing Water on the Field of Play:** This condition is the most obvious and under no circumstances shall play take place. Under these conditions, coaches, team managers, club *officials* or other leaders of athletic *associations* shall cancel and reschedule practices/ games/ events for that time slot.
2. **Soil Saturation:**
 - a. Walking on turf causes water to surface.
 - b. Walking on turf on heels cause's indentations.
 - c. One (1) inch or more of rain 48 hours prior to a scheduled game or practice accompanied by steady rain on the game or practice day.
 - d. Steady downpour of rain on game or practice day that could cause damage to turf or injury to participants.
3. **Specifics for Baseball and Softball Infields:**
 - a. Under no circumstances shall infield that have standing water or puddles be brushed off with a broom or squeegee. This practice pushes infield mix into the turf and creates lips.
 - b. When stepping onto a field, if the infield mix pushes out from under your shoes, the field is too wet and not playable.

General Use Guidelines

*Drills and Training Procedures: Utilize areas immediately adjacent to the prime playing areas whenever possible. Help preserve our fields by moving drills and other training procedures away from the most heavily utilized areas. Rotate the areas that drills and station work occur.

*Baseball and Softball Exiting Procedure: When a game or practice has ended, the pitcher's mound, base areas, home plate and any other heavily worn areas shall be leveled and raked, keeping in mind not to rake towards the grass edge and create lips.

*Athletic Equipment: All attendees to athletic events, including spectating children, must be prohibited from abusing equipment including, but not limited to, goals and nets, backstops, bases, landscaping,

bleachers or restroom facilities. Any misuse of these or other related amenities are subject to all appropriate action, including suspension from the use of the Town's athletic fields.

*There shall be no refreshments sold on the premises unless prior approval has been given.

*If no custodian is needed for an event, renter is responsible for the removal of all trash. Trash barrels and trash bags will be provided for your event.

*Parking is allowed only in designated areas. All fire lanes and gates must be kept clear at all times. Vehicles will be towed at the owner's expense.

USER RESPONSIBILITIES AND GUIDELINES ON THE USE OF SCHOOL FACILITIES

Regulations Governing the Use of Facilities:

Persons or organizations violating these regulations may forfeit their rights to further use of school facilities. Sponsoring organizations shall provide sufficient competent adult supervision that has the authority to sign the written agreement and is responsible to the organization seeking permission to use the school facilities. The responsibility for the enforcement and communication of these regulations shall rest with the person(s) or organizations(s) using the facilities. The staff member in charge should ascertain that users are aware of policy and regulations governing use of school facilities.

1. A member of the school staff (administrator, teacher, custodian, coach, assistant coach, aide, maintenance person) or an authorized program leader (coach, assistant coach, activity director/coordinator) must be present while a school facility is being used. Any organization using school facilities must agree to the assignment of custodial/supervisory personnel for continuous duty during the time stated on the application. Custodian(s) assigned to cover the events(s) will be responsible for locking and unlocking the facility; turning house lights on and off; security; and cleaning any debris left by the renting organization.
2. Organizations sponsoring events requiring police and/or traffic control are responsible for making all arrangements for such services directly with the police department. If this is not complied with, the school district reserves the right to cancel the contracted rental agreement. Payments for these services should be made directly to the police/fire department.
3. When schools have been closed because of inclement weather, the facilities will be closed for all use. There is no parking in any of the school parking lots during or after snow storms for safety, plowing and sand/salting purposes. The schools do not assume the responsibility of contacting groups when such closures occur.
4. Weekend/After Hours Events: The District reserves the right to cancel these events in case of an emergency, inclement weather, power outages or any additional unforeseen circumstances. The schools do not assume the responsibility of contacting groups when such closures occur.
5. If a school kitchen facility is included in a rental, the rental must be approved by the District Food Service Director. Use of kitchen facilities requires the presence of designated

cafeteria personnel. The kitchen area must remain under the direct control of the cafeteria manager because of the expensive equipment, food supplies and rigid sanitation requirements.

6. Only facilities explicitly contracted for in the written request may be used for an activity.
7. No school building or facility shall be used for any purpose which could result in rioting, disturbing the peace or damage to property or for any purpose prohibited by law.
8. Users have the responsibility for maintaining aisles, doorways and exits free and clear of all obstructions to permit unimpeded emergency access.
9. Users are responsible for emergency evacuation of buildings and publicly announcing the District provided provisions of that plan including the locations of the emergency exits to the attending public prior to the commencement of any activity.
10. Any activity which requires special equipment, a rearrangement of school furnishings, or signs/decorations attached to any building surface or windows, must have the written approval from the Facilities Director or designee prior to scheduling the event.
11. Consumption of food and beverages, other than water, is prohibited in the gymnasium and auditorium.
12. Use of alcoholic beverages, drugs, tobacco products, vapes, profane language, or gambling in any form is strictly prohibited on school district property. The use/possession/selling of drugs or other controlled substances on school district property is against federal and state laws. Any person who violates this section shall be guilty of a violation and notwithstanding RSA 651:2 shall be punished by a fine.
13. Individuals and/or groups renting school district property must clean the area rented and clear it of their belongings by the end of the scheduled reservation time. Gilford School District reserves the right to remove or discard any items left behind at renter's expense.
14. There shall be no changes in the stage lighting arrangement unless prior permission has been granted by the technical director. Under no conditions shall there be any tampering with stage light controls.
15. No food or beverages shall be sold on premises unless prior approval has been given.

Gym/Auditorium

1. No objects are to be fastened to or dragged across the gymnasium or auditorium stage floor.
2. No tape shall be applied to the auditorium or gymnasium floor, walls, or bleachers.
3. Small pieces of spike tape or electrical tape may be used to mark positions on the stage floor. Avoid putting tape on the seams of the floor. Tape must be removed by the user at the end of the rental period.
3. Reservation requests will be accepted on October 1 for the current school year.

4. Gymnasium systems (bleachers, floor protective tarps, scoreboard, adjusting basketball hoops, operating divider curtains, sound system) can only be operated by Gilford School District employees.
5. Auditorium systems (stage rigging, lighting, audio & video) can only be operated by Gilford School District employees.
6. All equipment, props, etc., owned by the renting organization must be removed from the premises the evening of the last performance, unless other arrangements have been made with the facilities office.
7. Props, backdrops, etc. may only be hung in a safe manner according to the intended use of stage rigging and sets. No objects are to be fastened to the stage curtains. No objects are to be hung from the sprinkler pipes. No objects are to be fastened to the stage floor or walls. The Theater Technician in conjunction with the Facilities Director has authority to ensure the safety of all scenery, props, equipment, etc., and to require the removal of the unsafe material or modifications to satisfy safety needs as determined by the Technical Director and the Facilities Director.

Time Limits

During a school day, the use of the middle and high school facilities may not be granted before 3:00 P.M. and may not extend beyond 10:00 P.M. During a school day, the use of the elementary facilities may not be granted before 4:00 P.M. and may not extend beyond 10:00 P.M. All facilities must be cleared within thirty minutes of closing time indicated on the application. For weekend and holidays, facility use will be granted between the hours of 7:00 A.M. to 10:30 P.M.

Cancellation:

Requests for cancellation must be received at least 24 hours in advance (weekend events 48 hours) of agreed upon starting time. Failure to cancel shall obligate the applicant to pay the custodial/auditorium tech service fees and any other expenses incurred. Cancellations can be made by contacting the Facilities Office. Verification of cancellation must be acknowledged by a Facilities staff member.

Fees for Use of School Facilities

All groups, both outside and non-profits, will be charged custodial, kitchen and auditorium tech fees for use on weekends, holidays or after regular hours.

CATAGORIES

No fee other than insurance costs for the use of school facilities will be charged for activities sponsored by the groups listed below in category A. This assumes that school personnel are on hand during the time the building is in use. If school personnel are needed during times outside normal work schedules, the cost of these personnel shall be borne by the user. The cost of any non-school personnel shall also be borne by the user.

A. Community/Municipality/Non-Profits within District

- Gilford community youth recreation programs
- Gilford youth groups
- Community service organizations
- Town of Gilford government
- Gilford School District

The following groups will be charged a custodial, equipment, and/or room rental fee at a rate set by the School District as listed in the fee schedule below.

B. Outside Groups: Non-profit (Proof of 501(c)3 Certificate of Tax Exemption may be required.)

C. Outside Groups: for Profit

Use Priorities

If there is a conflict in the scheduling of events in school facilities, consideration will be given in the following order:

1. Use for Gilford School District student activities.
2. Town Governmental business {voting, public hearing, deliberative sessions}
3. Use for Town of Gilford Recreation Programs.
4. Non-Profit programs serving the youth of the Gilford community.
5. Non-Profit programs serving Gilford adult community's recreational programs.
6. Non-Profit programs serving outside the Gilford community.
7. All other acceptable uses.

Fee Schedule:

Space	Group C - Outside Groups for Profit	Group B Outside Groups Non-Profit Proof of 501(c) Certificate of Tax Exemption may be Required
Auditorium	\$850	\$300
Auditorium – Rehearsal Fee	\$200	\$75
Café	\$300	\$100
Library	\$200	\$100
HS Gym	\$750	\$150
MS Gym	\$600	\$125
ES Gym	\$400	\$125
Classroom	\$100	\$50
Kitchen	\$100	\$75
Music Room	\$250	\$125

Custodial	\$40 per hour – 2 hour minimum
Kitchen Staff	\$40 per hour – 2 hour minimum
Crowd Control	\$30 per hour – 2 hour minimum
Auditorium Technician	\$40 per hour – 2 hour minimum
Technical Assistant	\$15 per hour – 2 hour minimum
Utilities	\$10 per hour

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

ADOPTION NOTES –***This text box, and all highlights within the policy should be removed prior to adoption.***

- (a) *This policy is intended to replace former samples JBAA and GBAA. This policy is intended to reflect the requirements of new federal regulations pertaining to Title IX of the Education Amendments Act of 1972. In general, the new regulations create a new definition of sexual harassment, require a district to respond promptly, equitably (to complainants and “respondents” (alleged perpetrators)), and in a manner that is not deliberately indifferent, whenever it has actual knowledge of sexual harassment in an educational program or activity of the District.*
- (b) *The new regulations create a complex process for addressing allegations of sexual harassment. Among other things, it makes a firm distinction between “reports” and “formal complaints” of sexual harassment, imposes different responsibilities upon the district and processes for each, changes the definition of sexual harassment, , and creates ancillary obligations relative to such things as training, record keeping, and dissemination. Because the numerous burdens imposed by the regulations (specific to sexual harassment under Title IX), NHSBA has determined not to include other forms of harassment (race, age, bullying, etc.) into this sample policy.*
- (c) *The Grievance Procedure included in this policy is structured according to requirements of the Title IX regulations. Because those requirements are numerous, and largely mandatory, NHSBA has included them as part of the policy. Districts may create additional, or more specific procedures, but any such additions, must apply equally to complainants and respondents. NHSBA strongly encourages Districts seeking to expand procedures or otherwise modify this policy to consult with the District’s attorney(s).*
- (d) ***Short term – Because the effective date of the regulations is August 14, 2020, NHSBA recommends that boards waive any policy requiring a pre-review by a policy committee and/or two readings, and approve on an emergency basis, and then reschedule the policy for a more complete review and approval. Additionally, it is important that districts implement the following as soon as possible:***
- a. designation and training of a Title IX Coordinator;*
 - b. training of all employees as to reporting requirement;*
 - c. training of all personnel involved in ordinary disciplinary processes as to the prohibition of any disciplinary sanction relative to sexual harassment without a “determination of responsibility” following the Title IX Grievance Process.*
- (e) *This policy includes several footnotes, some with yellow highlight, and some without. Those without indicate footnotes we recommend leaving in the policy, while the highlights, like highlighted in-line text, present options for districts to consider, information for the district to input, or simply, explanatory information, and should be removed. Highlighted footnotes should be removed from the approved policy.*
- (f) *Because of the numerous internal paragraph and section references (highlighted), it is important that districts take care before changing numbering and lettering of sections or paragraphs. The highlights should be removed.*
- (g) *General – As with all sample policies, NHSBA recommends that each district carefully review this sample prior to adoption to assure suitability with the district’s own specific circumstances, internal coding system, current policies, and organizational structures. Highlighted language or blank, underscored spaces indicate areas which Boards must change/complete to reflect local personnel titles, policy references, duty assignments etc.*
- (h) ***{**}*** *indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.*

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

The definition of “Sexual Harassment” is found in **Section II.B** of this Policy. Instructions for making a report or complaint of sexual harassment are found in **Section II.J.1**. The “Title IX Grievance Process”, is **Section III**, and procedures for filing a formal complaint to initiate the grievance process is found in **Section III.A**

I. RESTATEMENT OF POLICY PROHIBITING DISCRIMINATION ON THE BASIS OF SEX.

Per Board policy AC, Title IX of the Education Amendments Act of 1972 (“Title IX”), as well as RSA 193:38, among others, the District does not discriminate on the basis of sex in its educational programs and activities, including employment and admissions. All forms of sex-based discrimination, including sexual harassment are prohibited in the District.

II. TITLE IX SEXUAL HARASSMENT POLICY.**A. Application of This Policy.**

While all forms of sex-based discrimination are prohibited in the district, the purpose of this policy is to address, and only to address, *sexual harassment as defined in Title IX and Sec. II.B*, below, that occurs within the educational programs and activities of the district, and to provide a grievance process for investigating and reaching a final determination of responsibility for a formal complaint of sexual harassment. The “Title IX Grievance Process” is set out in **Sec. III** below. While the District must respond to all “reports” it receives of sexual harassment, the Title IX Grievance Process is initiated only with the filing of a formal complaint.

~~The purpose of this Policy, however, is to address, and only to address, sexual harassment as defined in Title IX that occurs within the educational programs and activities of the district.~~ For harassing conduct which does not meet the definition of sexual harassment under Title IX and this Policy, the District’s response will be governed under other applicable laws and policies per Board policy **[**]**AC, and policies referenced therein.

This Policy shall apply to all students, employees, and any third party who contracts with the District to provide services to District students or employees, upon District property or during any school program or activity.

Nothing in this policy will be construed to confer on any third party a right to due process or other proceedings to which student and employee respondents are entitled under this policy unless such right exists under law.¹ Volunteers and visitors who engage in sexual harassment will be directed to leave school property and/or be reported to law enforcement, the NH Division of Children, Youth and Families (DCYF), as appropriate. A third party under the supervision and control of the school system will be subject to termination of contracts/agreements, restricted from access to school property, and/or subject to other consequences, as appropriate.

¹ [Remove this footnote] The status of respondents who are not students, applicants, or employees is not clear under the Regulations. The District has the right to dismiss a formal complaint at any time during the investigation or adjudication if the respondent is “no longer” employed or enrolled in the school system. However, there is no clear right to act against a third-party respondent for alleged sexual harassment before or after a formal complaint is filed and either adjudicated or dismissed. Consult the District’s attorney if a third party is a respondent in a sexual harassment case.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

The Superintendent shall have overall responsibility for implementing this Policy, and shall annually appoint a District Title IX Coordinator² as that position is described in **Section II.C**, below. The name and contact information for the Title IX Coordinator is set forth in Board Policy AC-E/**/, which policy shall be updated and disseminated annually, **or sooner when applicable**, with the Title IX Coordinator's name as set forth in Board policy AC/**/.

B. Definitions.

As used in this Policy and the Title IX Grievance Process, the terms below shall have the meaning ascribed.

“Actual knowledge” occurs when the District's Title IX Coordinator or **ANY** employee of one of the District's schools (other than a “respondent” or alleged harasser) receives a notice, report or information or becomes aware of sexual harassment or allegations of sexual harassment.

“Complainant” is an individual who is alleged to be the victim of conduct that could constitute sexual harassment, whether or not that person files a report or formal complaint.

“Days” shall mean calendar days, but shall exclude non-weekend days on which the SAU office is closed (e.g., holidays, office-wide vacations), or any weekday during the school year on which school is closed (e.g., snow days).

“Decision Maker” means persons tasked with: the responsibility of making initial determinations of responsibility (at times referred to as “initial decision maker”); or the responsibility to decide any appeal (at times “appeals decision maker”) with respect to formal complaints of sexual harassment in accordance with the Title IX Grievance Process.

“Determination of Responsibility” is the formal finding by the decision-maker on each allegation of Sexual Harassment contained in a Formal Complaint that the Respondent did or did not engage in conduct constituting Sexual Harassment Under Title IX.

“Formal Complaint” means a document filed by a complainant, the complainant's parent/guardian, or the Title IX Coordinator, alleging sexual harassment against a respondent, and requesting that the district investigate the allegation of sexual harassment.

“Respondent” is an individual who is reported to be the individual accused of conduct that could constitute sexual harassment.

“Sexual harassment” prohibited under Title IX and by this policy *is conduct on the basis of sex (including, without limitation, gender, sexual orientation, and/or gender identity)*, occurring in a school system educational program or activity that satisfies one or more of the following:

1. A school district employee conditioning an aid, benefit, or service of educational program or activity on an individual's participation or refusal to participate in sexual conduct irrespective of whether the conduct is welcomed by the student or other employee;

² [REMOVE] A specific position titled “Title IX Coordinator” is now mandated by federal regulations. NHSBA recommends that the person appointed as Title IX Coordinator also be designated as the District's Human Rights or Anti-Discrimination Officer (see sample policy AC). This dual appointment will help assure that a case is processed appropriately as a Title IX or other harassment case as the circumstances require – either from the outset, or as the case progresses (i.e., moving a case to a different track, e.g., bullying, or from another track).

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

2. Unwelcome sex-based/related conduct determined by a reasonable person to be so severe, pervasive, **AND** objectively offensive that it effectively denies a person equal access to the educational programs or activity (this standard requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and victim and the number of individuals involved and their authority; **OR**
3. Sexual assault, dating violence, domestic violence, or stalking as defined in state or federal law.³

Behaviors that constitute sexual harassment may include, but are not limited to:

- i. Sexually suggestive remarks or jokes;
- ii. Verbal harassment or abuse;
- iii. Displaying or distributing sexually suggestive pictures, in whatever form (e.g., drawings, photographs, videos, irrespective of format);
- iv. Sexually suggestive gesturing, including touching oneself in a sexually suggestive manner in front of others;
- v. Harassing or sexually suggestive or offensive messages that are written or electronic;
- vi. Subtle or direct propositions for sexual favors or activities;
- vii. Touching of a sexual nature or groping; and
- viii. Teasing or name-calling related to sexual characteristics ~~or the belief or perception~~ that an individual is not conforming to expected gender roles or conduct.

Note: incidents of the above conduct would still need to satisfy one or more of the criteria in paragraphs 1-3 of this definition.

Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex.

The context of behavior can make a difference between conduct falling within the technical definition of Sexual Harassment Under Title IX, and conduct of a sexual nature that is offensive or hostile in itself, but which does not arise to the level within that definition. **District policies prohibit both, but for purposes of its Title IX obligations the District must address reports or complaints of conduct which may constitute sexual harassment as defined above, under this specific, limited scope Policy and Title IX Grievance Process.** Except as used in other laws (e.g., Title VII) or policies (e.g., Board policy JICK^{**}) pertaining to harassment, including of a sexual nature, other than Title IX sexual harassment, all references to “sexual harassment” in this policy mean sexual harassment that meets the above definition.

³ [REMOVE] NHSBA has purposefully refrained from including statutory definitions for the terms in section 3 of the definition of sexual assault. If a district WISHES to include definitions, refer to 34 CFR 106.30(a), and the corresponding state statutes.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

Conduct that satisfies this definition is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States, **unless on a school sanctioned trip**, or (2) under circumstances in which the school system did not have substantial control over both the harasser/respondent and the context in which the harassment occurred.

***NOTE Regarding Concurrent Enrollment and Dual Enrollment, Extended Learning Opportunities, 3rd Party Distance Learning and Other Alternative Instructional Programs:** Under federal regulations, in order for the District to have jurisdiction over conduct that would otherwise meet the definition above of sexual harassment, the District must have substantial control over both the respondent and the context in which the harassment occurred. In general, this will mean that unless such learning program is occurring upon district property, conduct otherwise meeting the definition of sexual harassment within that program, may not be subject to this policy.*

“**Supportive Measures**” are free, non-disciplinary, non-punitive, individualized services and shall be offered to the complainant, and may be offered to the respondent, as appropriate. These measures may include, but are not limited to, the following:

1. Counseling;
2. Course modifications;
3. Schedule changes; and
4. Increased monitoring or supervision
5. [district may add additional types of supportive services (non-punitive/disciplinary)].

Such measures shall be designed to restore or preserve equal access to the District’s educational programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment and/or deter sexual harassment. Supportive measures shall remain confidential with exclusive exceptions stated required in **Sec. II.E**, below.

C. Title IX Coordinator.

The Title IX Coordinator shall respond ~~promptly~~ **in accordance with policy** to all general reports as well as formal complaints of sexual harassment. the Title IX Coordinator shall receive general and specific reports of sexual harassment, and coordinate the District’s responses to both reports and formal complaints of sexual harassment so that the same are prompt and equitable. In addition to any other specific responsibilities assigned under this Policy, or as assigned by the Superintendent, the Title IX Coordinator will be responsible for:

1. meeting with a complainant, and informing the parent/guardian once the Title IX Coordinator becomes aware of allegations of conduct that could constitute sexual harassment as defined in this Policy;
2. identification and implementation of supportive measures;
3. signing or receiving formal complaints of sexual harassment;
4. engaging with the parents/guardians of parties to any formal complaint of sexual harassment;

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

5. coordinating with District and school-level personnel to facilitate and assure implementation of investigations, and remedies, and helping to assure that the District otherwise meets its obligations associated with reports and complaints of sexual harassment;
6. coordinating with the Superintendent with respect to assignment of persons to fulfill the District's obligations, both general and case specific, relative to this Policy (e.g., investigator, decision makers, etc.; this may involve the retention of third party personnel.);
7. coordinating with District and school-level personnel to assure appropriate training and professional development of employees and others in accordance with Sec. **II.D** of this Policy; and
8. helping to assure that appropriate systems are identified and maintained to centralize sexual harassment records and data.

In cases where the Title IX Coordinator is unavailable, including unavailability due to a conflict of interest or other disqualifying reason (see **Sec. II.G, below**), the Superintendent shall assure that another person with the appropriate training and qualifications is appointed as acting Title IX Coordinator for that case, in such instances "Title IX Coordinator" shall include the acting Title IX Coordinators.

D. Training.

All District employees shall receive regular training relative to mandatory reporting obligations, and any other responsibilities they may have relative to this Policy.

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must receive training on the definition of sexual harassment, this Policy, the scope of the District's educational programs or activity, and how to conduct an investigation (including the requirements of the reporting and the Title IX Grievance Process, including hearings, appeals, and information resolution processes). The training must also include avoiding prejudice of the facts, conflicts of interest and bias.

Decision-makers must also receive training on issues of relevance of questions and evidence, including when questions about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of sexual harassment, and must be made available to the public as provided in **Sec. II.H** of this Policy.

E. Confidentiality.

The District will respect the confidentiality of the complainant and the respondent as much as possible, however, some information may need to be disclosed to appropriate individuals or authorities. All disclosures shall be consistent with the District's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action. Examples of required disclosure include:

1. information to either party to the extent necessary to provide the parties due process during the Title IX Grievance Process;

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

2. information to individuals who are responsible for handling the District’s investigation and determination of responsibility to the extent necessary to complete the District’s grievance process;
 3. mandatory reports of child abuse or neglect to DCYF or local law enforcement (per Board policy JLF (**));
 4. information to the complainant’s and the respondent’s parent/guardian as required under this Policy and or the Family Educational Rights and Privacy Act (“FERPA”); and
 5. reports to the New Hampshire Department of Education as required under N.H. Code of Administrative Rules Ed 510 regarding violations of the NH Code of Conduct for Education Professionals.
- 6. non-public School Board meetings.**

Additionally, any supportive measures offered to the complainant or the respondent shall remain confidential to the extent that maintaining such confidentiality would not impair the ability of the school district to provide the supportive measures.

Except as specified above, the District shall keep confidential the identity of:

1. Any individual who has made a report or complaint of sex discrimination;
2. Any individual who has made a report or filed a formal complaint of sexual harassment;
3. Any complainant;
4. Any individual who has been reported to be the perpetrator of sex discrimination⁴;
5. Any respondent; and
6. Any witness.

Any supportive measures provided to the complainant or respondent shall be kept confidential to the extent that maintaining such confidentiality does not impair the ability of the District to provide the supportive measures.

F. Retaliation Prohibited.

Retaliation against any person who makes a report or complaint, or against any person who assists, participates, or refuses to participate⁵ in any investigation of an act alleged in this Policy is prohibited. Actions taken in response to **materially** false statements made in bad faith, or to submitting **materially** false information in bad faith, as part of a report or during the Title IX Grievance Process do not constitute retaliation. A finding of responsibility alone is insufficient to conclude that a person made a materially false statement in bad faith. Complaints of retaliation with respect to reports or formal complaints of sexual harassment shall be filed under the District’s general grievance process.

⁴ 34 CFR 106.71 (a).

⁵ 34 CFR 106.71 (a).

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

G. Conflict of Interest.

No person designated as a Title IX Coordinator, investigator, decision-maker, nor any person designated by the District to facilitate an informal resolution process, may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

H. Dissemination and Notice.

The District shall include in all student and employee handbooks, and shall make *[publicly available on the district's website] {OR, BUT only if the District does not maintain a website} [available to members of the public as government records]* the following information:

1. The District's policy of non-discrimination on the basis of sex (included in Board policy AC{**}).
2. the title, name, office address, email address, and telephone number of the Title IX Coordinator (to be provided pursuant to Board policy AC{**} and its addendum, updated annually, ACE{**});
3. the complaint process;
4. how to file a complaint of sex discrimination or sexual harassment;
5. how the District will respond to such a complaint; and
6. a statement that Title IX inquiries may be referred to the Title IX Coordinator or to the Assistant Secretary for Civil Rights.

The same information shall be provided to all persons seeking employment with the District, or seeking to enroll or participate in the District's educational programs or activities.

Additionally, the District will make this Policy, as well as any materials used to train personnel as required under **Sec. II.D** *[publicly available on the district's website] {OR, BUT only if the District does not maintain a website} [available to members of the public as government records]*.

I. Records and Record Keeping.

1. For each report or formal complaint of sexual harassment, the District, through the Title IX Coordinator, must create, and maintain for seven (7) years, record of:
 - a. Any actions, including any supportive measures,
 - b. The basis for the District's conclusion that its response was not deliberately indifferent; and
 - c. Documentation which:
 - If supportive measures were provided to the complainant, a description of the supportive measures taken designed to restore or preserve equal access to the District's educational programs or activity; or
 - If no supportive measures were provided to a complainant, explains the reasons why such a response was not clearly unreasonable in light of the known circumstances.
2. In addition, the District shall maintain the following records for a minimum of seven (7) years:

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

- a. Records for each formal complaint of sexual harassment, including:
 - Any determination regarding responsibility, including dismissals;
 - Any disciplinary sanctions imposed on the respondent;
 - Any remedies provided to the complainant designed to restore or preserve equal access to the District’s educational programs or activity;
 - Any appeal and the result therefrom;
 - Any informal resolution process and the result therefrom;
- b. All materials used to train Title IX Coordinators, investigators, and decision-makers.

J. Reports of Sexual Harassment, Formal Complaints and District Responses.

1. Report of Sexual Harassment.

NOTE: *A report does not initiate the formal Title IX Grievance Process. That process is begun only upon the filing of a formal complaint under the procedures set out in II.J.3, and III.A, below.*

Any person may report sexual harassment whether relating to her/himself or another person.

However, if any District employee – other than the employee harasser, or the Title IX Coordinator – receives information of conduct which may constitute sexual harassment under this Policy, s/he shall, without delay, inform the Title IX Coordinator⁶ of the alleged sexual harassment. Failure to report will subject the employee to discipline up to and including dismissal.

A report of sexual harassment may be made at any time, in person, by mail, by telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Additionally, while the District strongly encourages reports of sexual harassment to be made directly to the Title IX Coordinator, the report may be made to **any** District staff member, including, for instance, a counselor, teacher or principal.

If the Title IX Coordinator is the alleged respondent, the report or formal complaint may be made directly to the Superintendent, who shall thereafter fulfill the functions of the Title IX Coordinator regarding that report/complaint, or delegate the function to another person.

NOTE: For any allegation of sexual assault on a student under the age of 18, such conduct shall be reported immediately to the DCYF per Board policy **{**}**JLF. If the alleged respondent (perpetrator) is a person holding a license or credential from the New Hampshire Department of Education (i.e., “credential holder”), then a report shall also be made pursuant to Board policy **{**}**GBEAB.

2. District Response to Report of Sexual Harassment.

The district will ~~promptly~~ respond **in accordance with policy** when there is actual knowledge of sexual harassment, even if a formal complaint has not been filed. The district shall treat complainants

⁶ [REMOVE] The new regulations charge the District with “actual knowledge” or a report of sexual harassment as soon as any employee of the district (other than a respondent/alleged harasser) receives the information. Accordingly, it is imperative that Districts adequately train all employees of the District about reporting responsibilities beginning with school year 2020-21.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

and respondents equitably by providing supportive measures to the complainant⁷ and by following the Title IX Grievance Process prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

As soon as reasonably possible after receiving a report of alleged sexual harassment from another District employee or after receiving a report directly through any means, the Title IX Coordinator shall contact the complainant to:

- i. discuss the availability of and offer supportive measures;
- ii. consider the complainant's wishes with respect to supportive measures;
- iii. inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
- iv. explain to the complainant the process for filing a formal complaint.

3. Formal Complaints.

Pursuant to federal regulations, and this Policy, a formal complaint that contains an allegation of sexual harassment and a request that the District investigate the allegations is required before the District may conduct a formal investigation of sexual harassment or take any action (other than supportive measures) against a person accused of sexual harassment. **Once a formal complaint of sexual harassment is received by the Title IX Coordinator, s/he shall commence the Title IX Grievance Process set out in Sec. III below. The process for filing a formal complaint is set forth in Sec. III.A.**

4. Limitation on Disciplinary Action.

In no case shall the District impose disciplinary consequences or sanctions against a respondent who has been accused of conduct which may constitute sexual harassment, until the Title IX Grievance Process has been completed.

5. Emergency Removal and Administrative Leave.⁸

At any point after receiving a report or formal complaint of sexual harassment, the Title IX Coordinator (or other District official charged with a specific function under this Policy or the Title IX Process: e.g., investigator, decision maker, etc.) may request the Superintendent to direct that an individualized safety and risk analysis be performed to determine whether a respondent student is an immediate threat to the physical health or safety of any person. In the event that the safety and risk analysis determines that the respondent student does present an immediate threat to the physical health and safety of any person, the District may remove that student, provided that such removal is in full compliance with the IDEA, a student's IEP and or 504 plan if applicable. Such emergency removal shall not be disciplinary. However,

⁷ The Title IX Coordinator may offer supportive measures to a complainant, even if the information from the complainant does not/does not appear to meet the full definition of sexual harassment under this Policy. Districts should consult with counsel before it "imposes" any supportive measures against a respondent.

⁸ [REMOVE] Emergency removal/administrative removal should not be seen as the equivalent or alternative to a disciplinary short or long-term suspension. The US DOE in the commentary to the regulations cautioned: The threshold for an emergency removal under § 106.44(c) is ... high to prevent recipients from using emergency removal as a pretense for imposing interim suspensions and expulsions. (85 Fed. Reg. Vol. 97, p. 30234). See also Sec. II.J.4.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

the District must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal, and shall continue to offer educational programming until a final determination is made pursuant to the Title IX Grievance Process.

The Title IX Coordinator shall keep the Superintendent of Schools informed of any employee respondents so that he/she can make any necessary reports to New Hampshire Department of Education in compliance with applicable administrative rules and the New Hampshire Code of Conduct for Educational Professionals. In appropriate cases, the Superintendent may place an employee respondent on non-disciplinary administrative leave pursuant to RSA 189:31.

III. TITLE IX GRIEVANCE PROCESS.

The Title IX Grievance Process is used only upon the filing of a formal complaint of sexual harassment as described in **Sec. III.A, below**. The provisions of Section I of the Policy are incorporated as part of the Title IX Grievance Process. Upon receipt of a formal complaint of sexual harassment, the Title IX Coordinator will coordinate the District's efforts to comply with its responsibilities related to the Title IX Grievance Process.

A. Process for Filing a Formal Complaint of Sexual Harassment.

The Title IX Grievance Process is initiated by way of a formal complaint (“complaint” or “formal complaint”) filed by the complainant, the complainant’s parent/guardian, or the Title IX Coordinator. The complainant may file a complaint or choose not to file a complaint and simply receive the supportive measures. If the Complainant does not file a complaint, the Title IX Coordinator may sign a formal complaint, but only if initiating the grievance process against the respondent is not clearly unreasonable in light of the known circumstances, and in other cases where, in the exercise of good judgment and in consultation with the District’s attorney as appropriate, the Title IX Coordinator determines that a grievance process is necessary to comply with the obligation not to be deliberately indifferent to known allegations of sexual harassment (e.g., reports of sexual assault, employee on student harassment, repeat reports, or the conduct in the complainant’s report has not been adequately resolved through the provision of supportive measures). If the complaint is filed by the Title IX Coordinator, he/she is not a party to the action, and the District must comply with all of the provisions of the Title IX Grievance Process relative to respondents and complainants.

If no formal complaint is filed by the complainant or the Title IX Coordinator no disciplinary action may be taken against the respondent based upon conduct that would constitute sexual harassment under this policy.

Although there is no time limit per se to filing a formal complaint, for complaints initiated by the complainant or his/her parent/guardian, the complainant must be employed by the District or participating in or attempting to participate in the educational programs or activities of the District at the time of filing. Additionally, although the District will initiate the Title IX Grievance Process regardless of when the formal complaint is submitted, delays in reporting may significantly impair the ability of school officials to investigate and respond to the allegations.

At a minimum, a formal complaint must:

1. contain the name and address of the complainant and the student’s parent or guardian if the complainant is a minor student;
2. describe the alleged sexual harassment,

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

3. request an investigation of the matter, and
4. be signed by the complainant or otherwise indicate that the complainant is the person filing the complaint.

The complaint may be filed with the Title IX coordinator in person, by mail, or by email.⁹ Complaint forms may be obtained from the Title IX Coordinator *[or on the District and school websites]*.

B. Initial Steps and Notice of Formal Complaint.

1. The Title IX Coordinator will provide notice to the complainant and the complainant's parent/guardian (if the complainant is a non-eligible student under FERPA), and to the respondent (if known) and the respondent's parent/guardian (if the respondent is a non-eligible student under FERPA), as well as to any other known parties, of the following:
 - a. this Title IX Grievance Process, including any informal resolution process;
 - b. the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview; "sufficient details" shall include to the extent known identities of persons involved, the conduct allegedly constituting sexual harassment, and the date and location of the incident;
 - c. a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
 - d. that each party may have an advisor of their choice, who may be, but is not required to be, an attorney;
 - e. that each party is entitled to inspect and review evidence; and
 - f. a reference to any provision in the District's code of conduct¹⁰ that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
2. The Title IX Coordinator will contact the complainant to discuss and offer supportive measures.
3. The Title IX Coordinator may contact the respondent to discuss, and or impose, non-disciplinary supportive measures.
4. The Title IX Coordinator will examine the allegations in the formal complaint, to determine whether even if assumed true, the allegations are sufficient to sustain a finding of sexual harassment under this Policy. If the Title IX Coordinator was not involved with preparing the formal complaint, the Title IX

⁹[REMOVE] If the school system has an electronic portal for reporting sexual harassment to the Title IX coordinator, note it in the text.

¹⁰[REMOVE] NHSBA recommends that districts review their respective codes of conduct for a provision that prohibits making false statements or knowingly submitting false information during any investigation of discrimination, bullying or sexual harassment.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

Coordinator will contact the complainant to discuss the complaint and whether amendment is appropriate, in which case the process of **Sec. III.C.4** will apply.

5. If the formal complaint fails to satisfy the definition of sexual harassment in this Policy, the complaint shall be dismissed as provided in **Sec. III.G**, below.
6. If the complaint is not dismissed, then Title IX Coordinator will consult with the Superintendent as to whether the Title IX Coordinator should act as the investigator or whether a different District or other employee shall act in that capacity. At the same time, the Title IX Coordinator and the Superintendent shall appoint the person who shall make the initial determination of responsibility (initial decision maker). *[The District's policy contains additional language regarding appointment of decision maker. Can be optional language, e.g., {"Ordinarily the building principal shall serve as the initial decision maker..." or "The Superintendent, in consultation with the Title IX Coordinator, shall appoint an initial decision maker on a case-by-case basis."}¹¹]* In all cases, the investigator and the initial decision maker must be properly trained and otherwise qualified (see **Sec. II.D** "Training", and **Section II.G** "Conflict of Interest").
7. If the report alleges sexual harassment by the Superintendent, the Title IX Coordinator will inform the School Board Chair and the *[_____ {state title of alternate} Assistant Superintendent/BA/BM]*, the latter of whom shall have authority to seek guidance from the District's general counsel, but shall not delay the District's response to the report as outlined in this Policy.

C. **General Provisions and Additional Definitions Relative to Title IX Grievance Process.**

1. **Copies and Notices.** Except as specifically stated elsewhere in this Policy, for any document, information or material required to be delivered to a party or to a person assigned with responsibility under the Title IX Grievance Process, the manner of transmittal may be by electronic mail, regular mail or such other manner reasonably calculated to assure prompt delivery with evidence thereof (such as a commercial carrier or other receipted delivery). Hand delivery will only be permitted if made to the District official charged with the specific function under this Policy (e.g., Title IX Coordinator, Superintendent, investigator, decision maker(s), etc.). Any document required to be delivered to a minor or other non-eligible student, must also be delivered to the minor's parent/guardian. Copies should also be sent to a party's advisor if the information for the advisor has been previously communicated to the sending party. (Under federal regulations, copies of the investigative evidence, as well as the investigative report, must be forwarded to a party's advisor. See Sections **III.E.3**, and **III.E.4**).
2. **Risk Analysis and Emergency Removal.** At any point during the Title IX Grievance Process, the Title IX Coordinator may arrange for an individualized safety and risk analysis as described in **Sec. II.J.5**, following which a student may be removed.

¹¹ [REMOVE] A district with enough trained personnel, can designate specific personnel as decision maker(s), or it may be addressed on a case-by-case basis. However, a decision maker must have adequate training as provided in Sec. II.D, and be free from conflict of interest as provided in Sec. II.G. Districts may find it more cost effective to retain an independent "decision maker", and even the investigator, rather than maintain staff trained in accordance with the standards discussed in Sec. II.D.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

3. Administrative Leave. At any point during the Title IX Grievance Process, the Superintendent, and at his/her own discretion, and with or without consulting the Title IX Coordinator, may place an employee on administrative leave pursuant to RSA 189:31.
4. Additional Allegations. If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that were not included in the previous notice, the District shall simultaneously provide notice of the additional allegations to the parties whose identities are known.
5. No Interference with Legal Privileges. At no point in process will the Title IX Coordinator, the investigator, any decision maker, or any other person participating on behalf of the District, require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege (e.g., doctor/patient, attorney/client, clergy, etc.), unless the person holding such privilege (parent/guardian for minor student) has waived the privilege in writing to use the information with respect to the Title IX Grievance Process.
6. Consolidation of Complaints. The District may consolidate formal complaints of allegations of sexual harassment where the allegations of sexual harassment arise out of the same facts or circumstances and the formal complaints are against more than one respondent; or by more than one complainant against one or more respondents; or by one party against the other party. When the District has consolidated formal complaints so that the grievance process involves more than one complainant or more than one respondent, references to the singular “party”, “complainant”, or “respondent” include the plural, as applicable.
7. Remedies: Range of Disciplinary Sanctions and Remedial Actions Upon Final Determination of Responsibility.
 - a. “Disciplinary sanctions” are consequences imposed on a respondent when s/he is found responsible for sexual harassment under this Policy. Remedial actions are actions intended to restore or preserve a complainant’s equal access to the educational programs and activities of the District.
 - b. “Disciplinary sanctions” against an employee respondent may include any available sanction available for the discipline of employees, up to and including dismissal or non-renewal for any other violation of Board policy, NH Code of Conduct for Educational Professionals, applicable individual or collective bargaining contract, or state or federal laws or regulations.
 - c. “Disciplinary sanctions” against a student may include any available discipline or sanction, up to and including expulsion, under the policies, rules and procedures that establish the district’s comprehensive student code of conduct.
 - d. “Remedial actions” as to a respondent after a final finding of responsibility, whether employee or student, may include the imposition upon a responsible respondent of any additional non-disciplinary measures appropriate to effecting a remedy for sexual harassment, and may include such measures as no-contact requirements, scheduling adjustments, removal or exclusion from extracurricular activities, class reassignments, limits on future class registrations, restrictions on access to various spaces in the school buildings, reassignment of attendance, and similar measures fine-tuned to respond appropriately to the

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

circumstances surrounding a successful complainant's right to access the district's program and activity.

Additional remedial actions may include recommendations that a school-wide or system-wide response is needed in order to respond to the sexual harassment in a way that is not clearly unreasonable under the circumstances. In such cases, the Superintendent shall provide additional staff training, harassment prevention programs, or such other measures as determined appropriate to protect the safety of the educational environment and/or to deter sexual harassment.

D. Timeframe of Grievance Process.

The District shall make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the grievance process will be concluded through at least the determination of responsibility decision within ~~80~~ **90** days after filing the formal complaint.¹² In more complex cases, the time necessary to complete a fair and thorough investigation or other circumstances mean that a determination of responsibility cannot reasonably be made within that timeframe.

1. Summary of Grievance Process Timeline. *[With the exception of paras b&c, the below are timeframes recommended by NHSBA. Both para. b & c, however, are minimum timeframes mandated under the federal regulations.]*
 - a. Investigation 20 +/- days as the complexity of the case demands (Sec. III.E.1)
 - b. 10 days for reviewing information prior to conclusion of investigation
 - c. 10 days after receiving report to respond to report
 - d. 10 days for decision maker to allow initial questions
 - e. 10 days for responses to questions
 - f. 10 days for questions and responses to follow-up questions.
 - g. 10 days for determination of responsibility decision
 - h. 10 days for appeal (6 additional days for administrative steps)
 - i. 10 days for argument/statement challenging or supporting determination
 - j. 10 days for decision on appeal
2. Delays and Extensions of Time. At any stage of the grievance process, the District (through the Superintendent, or if the Superintendent is the respondent, the Title IX Coordinator or designee) may for good cause allow for temporary delays or extensions of time upon request of either party, or on his/her own initiative. Examples of good cause may include such things as availability of parties or witnesses, school or school administrative office holidays or vacations, referral back to an earlier stage of the grievance process, concurrent law enforcement or other agency activity, or need to obtain interpreters or accommodation of disabilities. For any such delay or extension of time, the

¹² [REMOVE] This time frame may be modified. The board should establish a realistic time frame that is achievable and may want to seek a recommendation from the board attorney. The board is required to provide a "prompt" resolution of formal complaints and should strive to balance the need for an expeditious process with the need to provide school officials and parties sufficient time for action at each step in the grievance process. Additional time is provided for the appeals phase of the process.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

Superintendent or the Title IX Coordinator will provide written notice to the parties of the delay/extension and the reason(s).

E. Investigation.

The Title IX Coordinator will coordinate the investigation. The investigator shall be as appointed pursuant to **Sec. III.B.5.**

1. The Title IX Coordinator may conduct the investigation, or, in consultation with the Superintendent, designate another qualified person to investigate. The investigation and investigator must:
 - a. Include objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence. (Evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such evidence about the complainant's prior sexual behavior is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the evidence concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and is offered to prove consent.)
 - b. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on either of the parties;
 - c. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence;
 - d. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
 - e. Provide the parties with the same opportunities to have others present during any interview or other part of the investigation, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. The investigator may restrict any others from participating, as long as the restrictions apply equally to both parties;
 - f. Provide, to a party (e.g., respondent or complainant – and parent/guardian as appropriate) whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate within the timeframes established in **Sec. III.D.**, below.
 - g. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint;
2. Prior to completion of the investigative report, the District, through the Title IX Coordinator, must send to each party and party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report;
3. The investigator must prepare a written investigative report that fairly summarizes relevant evidence, including, without limitation, witness credibility, discrepancies, inculpatory and exculpatory information, and relevant District policies, rules and regulations, and the manner in which the same were made known to the pertinent school populations or specific parties. The investigative report shall include a description of the procedural steps taken, starting with the receipt of the formal complaint,

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

and continuing through the preparation of the investigative report, including any notifications to the parties, interview with parties and witnesses, site visit, and methods used to gather evidence.

4. The investigator shall provide the investigative report in hard copy or electronic format to the Title IX Coordinator, to each party and each party's advisor, if any. Each party will have 10 days from receipt to provide the Title IX Coordinator a written response to the investigative report.
5. It serves all parties when investigations proceed diligently and conclude within a reasonable time, which may vary case by case. In most cases, it is expected that the investigator will conclude the initial investigation, and provide the parties the evidence and other information required under **Sec. III.E.2**. Not more frequently than every other week, any party may request the Title IX Coordinator to obtain and provide the parties with a basic status report on the investigator's progress toward completion. In most cases, the investigator should conclude the investigation within **10-20 days[NHSBA recommends]** after receiving a Formal Complaint.

F. Determination of Responsibility and Initial Decision Maker.

The determination of responsibility of the respondent shall be made by the initial decision maker as appointed pursuant to **Section III.B.5**.

1. Prior to making a determination of responsibility, the initial decision maker will afford each party **10 days [NHSBA recommends]** to submit written, relevant questions to the initial decision maker that the party wants asked of any party or witness.
2. The initial decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the question and evidence concern specific incidents of the complainants prior sexual behavior with respect to the respondent and are offered to prove consent¹³.
3. The initial decision maker will provide the questions to the party/witness, with copies to each party, and provide no less than **10 days[NHSBA recommends]** for written responses, likewise to be provided to each party.
4. The initial decision maker will provide **5 days[NHSBA recommends]** each for supplementary, limited follow-up questions and **5 days[NHSBA recommends]** for answers, and may provide for additional rounds of follow-up questions, as long as the provision is extended to both parties equally.
5. The initial decision maker may not make any creditability determinations based on the person's status as a complainant, respondent or witness.
6. The respondent must be deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
7. The initial decision maker may impose disciplinary sanctions and remedies as described in Section **III.C7**, above.

¹³ [REMOVE] The Federal regulations neither provide a definition for consent, nor require a District to have a specific definition.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

8. The standard to be used for formal complaints in determining whether a violation has occurred and/or that the respondent is responsible is the preponderance of the evidence standard,¹⁴ which is only met when the party with the burden convinces the fact finder (the initial decision maker) that there is a greater than 50% chance that the claim is true (i.e., more likely than not).
9. The initial decision-maker must issue a written determination/decision within **10 days [NHSBA recommends]** after the close of the period for responses to the last round of follow-up questions. The written “Initial Determination of Responsibility” must include:
 - a. Identification of the allegations potentially constituting sexual harassment;
 - b. A description of the procedural steps taken from the receipt of the formal complaint through the Initial Determination of Responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of the **District’s applicable codes of conduct, policies, administrative regulations or rules** to the facts;
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether or not the respondent is responsible for sexual harassment), and any disciplinary sanctions or remedies; and
 - f. The District’s procedures and permissible bases for the complainant and respondent to appeal (as set forth in Section **III.H.**, below).
10. The decision maker shall provide the Initial Determination of Responsibility to the Title IX Coordinator, the Superintendent and the parties simultaneously.

G. Dismissal of a Formal Complaint.

1. The District must dismiss a formal complaint with regard to Title IX sexual harassment if the alleged conduct:
 - a. Would not constitute sexual harassment, even if proved;
 - b. Did not occur in the District’s educational programs or activity; or
 - c. Did not occur against a person in the United States, **unless on a school sponsored trip.**
2. The District may dismiss a formal complaint with regard to Title IX sexual harassment if at any time during the investigation or determination of responsibility stage(s):

¹⁴ [REMOVE] The regulations allow districts to choose between the “preponderance of the evidence” or “**clear and convincing**” standard, as long as it applies the same standard to both employee and student cases. NHSBA recommends using the preponderance standard as that is the one used in all other cases heard within the school context. If a district determines to elect the higher evidentiary standard, it should consult with its private attorneys for language and advice.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

- a. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
 - b. The respondent is no longer enrolled or employed by the District; or
 - c. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
3. Prior to dismissal of a complaint, the person responsible at that stage shall consult with the Superintendent.
 4. Upon dismissal of a formal complaint, the District must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

The dismissal of a formal complaint under Title IX does not preclude the District from continuing any investigation or taking action under other District policies, code of conduct or administrative rules/regulations. In some cases, the District may have an obligation to continue an investigation and proceed under a different policy or mandated process.

H. Appeals Process.

1. Either party may appeal the Initial Determination of Responsibility or the dismissal of a formal complaint or any allegation in a formal complaint by notifying the Superintendent in writing (“written appeal”), with a copy to the Title IX Coordinator. If there are multiple determinations of responsibility, the written appeal shall specify which ones are included in the appeal. The written appeal must be received by the Superintendent within **10 days [NHSBA recommends]** of the Initial Determination of Responsibility or written notice of dismissal being communicated to the parties.
2. An appeal under this Policy may only be based upon one or more of the following bases, which must be stated specifically in the party’s written appeal:
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
 - iii. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

iv. [Additional bases may be added by a district if made available equally to both parties].

Appeals for any other reason or upon any determination of responsibility not included in the written appeal will not be heard.

Appeals pertain only to the determination of responsibility and non-disciplinary remedies. Once a determination of responsibility is final per **Sec. III.I**, below, appeals of disciplinary sanctions may be made pursuant to the District’s ordinary review process for discipline, or, to the extent applicable, any statutory or other processes provided under collective bargaining agreements or individual contracts.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

3. Within 3 days [NHSBA recommends] of receipt of the written appeal, the Superintendent shall appoint a decision maker for appeal (“appeals decision maker”),¹⁵ who must have adequate training as provided in Section II.D, be free from conflict of interest as provided in Section II.G, and may not be the same person as the initial decision maker, the person who ordered dismissal, the investigator(s), or the Title IX Coordinator. Upon the appointment of the appeals decision maker, the Superintendent shall provide a Notice of Appeal to each party and to the Title IX Coordinator, with a copy of the written appeal. The Notice of Appeal must include information about all deadlines and timeframes in the appeal stage.
 4. Each party shall have 10 days [NHSBA recommends] from the date the Notice of Appeal is delivered to the parties to submit to the appeals decision maker a written statement, with copies to the Superintendent, Title IX Coordinator, and other party a statement (“appeal statement”) in support of, or challenging, the determination of responsibility or dismissal.
 5. Each party shall provide copies of the appeal statement to the other party, the Superintendent, and the Title IX Coordinator at the same time the appeal statement is given to the appeals decision maker. If the basis of the appeal is newly available evidence affecting the outcome, the party shall submit such evidence or a summary of such evidence along with the party’s appeal statement.
 6. The appeals decision maker may refer an appealed issue back to a prior point in the grievance process, with written notice to the parties, the Superintendent and the Title IX Coordinator.
 7. The appeals decision maker shall provide a written appeals decision after considering the record and the parties’ appeal statements. The appeals decision maker will only overturn the Initial Determination of Responsibility upon a conclusion that it was clearly erroneous (i.e., either made on unreasonable grounds, or without any proper consideration of the circumstances). If the basis or one of the bases for the appeal was new evidence, the appeals decision maker may either make a determination of responsibility regarding that evidence, or refer it back to the appropriate stage of the Title IX Grievance Process. The written appeals decision will describe the result(s) of the appeal and the rationale, with copies provided to the parties, Superintendent and Title IX Coordinator, no more than 10 days [NHSBA recommends] after receiving the last of the parties’ written statements per Section III.H.5.
- I. Finality of Determination of Responsibility.** The determination regarding responsibility becomes final either on the date that the recipient, through the Superintendent, provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal of the Initial Determination of Responsibility would no longer be considered timely. The final determination shall be identified as the Title IX Decision.

Once the Title IX Decision is final, the District may implement remedies and disciplinary sanctions. The Title IX Coordinator is responsible for effective implementation of any non-disciplinary remedies, with the assistance of building and District administrative personnel, while disciplinary sanctions will be imposed by persons charged with such responsibilities under other Board policies, regulations or administrative procedures. The District may also proceed against the respondent or complainant pursuant

¹⁵ Although the school board is not precluded from serving as a decision maker with respect to appeals, before it may do so, each member of the board must meet both the training and conflict of interest requirements described in Sections II.D and II.G. Such training may be provided on an as-needed basis, but because of necessary timelines, the framework will need to be in place long before a case is appealed.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

to the District's applicable code of conduct or other Board policies, collective bargaining agreement, individual contract or administrative rules/regulations/procedures. The issue of responsibility for the conduct at issue shall not be subject to further review or appeal within the District.

J. Informal Resolution.

At any time prior to reaching a determination regarding responsibility (but only after the filing of a formal complaint), the District may offer an optional informal resolution process¹⁶ (e.g., mediation, arbitration), provided that the District:

1. Provides written notice to the parties disclosing:
 - a. The allegations of the formal complaint;
 - b. The requirements of the information resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to an informal final resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
 - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
2. Obtains the parties' voluntary written consent to the informal resolution process; and

In no event may the District offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

District Policy History:

NHSBA recommends that all districts adopt this sample policy as quickly as possible. Accordingly, we are recommending that districts waive any requirement of "2 readings" before adopting this policy. The board could also at the same time require that the policy be scheduled for review and revision over the succeeding months after the initial adoption.

Legal References:

Title IX of the Education Amendments of 1972, 20 U.S.C 1681, et seq 20 U.S.C. §1232g, Family Educational Rights and Privacy Act

34 CFR. Part 99, Family Educational Rights and Privacy Act Regulations

34 CFR 106.8, Designation of responsible employee and adoption of grievance procedures.

34 CFR 106.30, Definitions

34 CFR 106.44, Recipient's response to sexual harassment

34 CFR 106.4, Grievance process for formal complaints of sexual harassment

34 CFR 106.71, Retaliation

RSA 193:38, Discrimination in Public Schools

¹⁶ [REMOVE] The regulations do not require districts to offer an information resolution process. When it does offer the process, it must adhere to the provisions included in this Sec. III.J.

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

9-2-2020 Policy Committee

9-2-2020 Sent to GEA

9-14-2020 School Board – first reading

*NH Dept of Ed. Rules Ed 303.01 (i), School Board Substantive Duties
Ed 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy*

***Legal References Disclaimer:** These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

When adopting this sample or variation of the same, a district should not include the NHSBA history or NHSBA policy notes appearing below. The district should, to the extent possible, include its own adoption/revision history, as well as the legal references and disclaimer as indicated above.

NHSBA history: New policy – June 2020.

NHSBA revision notes, June 2020, this new policy is intended to replace former samples JBAA and GBAA. This policy is intended to reflect the requirements of new federal regulations pertaining to Title IX of the Education Amendments Act of 1972. In general, the new regulations impose several procedural steps in responding to sexual harassment, create a new definition of sexual harassment, and require a district to respond promptly, equitably (to complainants and “respondents” (alleged perpetrators)), and in a manner that is not deliberately indifferent whenever it has actual knowledge of sexual harassment in an educational program or activity of the District.

w/p-update/2020/spring/ACAC Sexual Harassment (f) 2020-U2

DISCLAIMER: This sample policy is copyrighted to the New Hampshire School Boards Association and is intended for the sole and exclusive use of NHSBA Policy Service Subscribers. This sample is provided for general information only and as a resource to assist subscribing Districts with policy development. School Districts and boards of education should consult with legal counsel and revise all sample policies and regulations to address local facts and circumstances prior to adoption. NHSBA continually makes revisions based on school Districts' needs and local, state and federal laws, regulations and court decisions, and other relevant education activity.

SEXUAL HARASSMENT – EMPLOYEES/STAFF

I. PURPOSE

The purpose of this policy is to maintain a learning environment that is free from sexual harassment or other improper and 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 employee or third party to harass any person through conduct or communication of a sexual nature as defined by this policy.

"Employee" shall include, but not be limited to all school district staff, teachers, non-certified personnel, administrators, volunteers, coaches and/or other such personnel whose employment or position is directed by the school district.

"Third parties" include, but are not limited to parents, school visitors, service contractors or others engaged in district business, such as employees of businesses or organizations participating in cooperative work programs with the district and others not directly subject to district control.

The District will investigate all complaints, either formal or informal, verbal or written, of sexual harassment and will discipline any employee who sexually harasses or is sexually violent toward another person.

II. SEXUAL HARASSMENT DEFINED

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, sexual physical conduct, and /or conduct of a sexual nature when:

- (1) Submitting to the unwelcome conduct is made a term or condition of an individual's employment, either explicitly or implicitly.
- (2) Submitting to or rejecting the unwelcome conduct is used as the basis for decisions affecting a person's employment; or
- (3) The unwelcome conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile, or offensive working environment.
- (4) Sexual violence.

Sexual harassment may include, but is not limited to:

1. Verbal harassment and/or abuse of a sexual nature;
2. Subtle pressure for sexual activity;
3. Inappropriate patting, pinching or other touching;
4. Intentional brushing against an employee's body;

5. Demanding sexual favors accompanied by implied or overt threats;
6. Demanding sexual favors accompanied by implied or overt promises of preferential treatment;
7. Any sexually motivated unwelcome touching; or
8. Sexual violence that is a physical act of aggression that includes a sexual act or sexual purpose.

III. REPORTING PROCEDURES

1. The Superintendent or his/her written 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.
2. Any employee who believes he or she has been the victim of sexual harassment should report the alleged act(s) to the building Principal and/or the building Title IX coordinator. The names of the building Title IX coordinators are posted in the mailroom of each school. If the alleged perpetrator is the Principal, the alleged victim may report the allegation to any other district employee. That employee shall then report the allegation to the Superintendent. The Board encourages the employee to use the report form, GBAA-R, that is available from the Principal, Superintendent or on the District website under policies.
3. In each building, the Principal or Title IX Coordinator is the person responsible for receiving oral or written reports of sexual harassment. 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 as provided herein will result in disciplinary action. If the complaint involves the building Principal, the complaint shall be filed directly with the Superintendent.
4. The Board designates the Superintendent as the District Human Rights Officer to receive any report or complaint of sexual harassment. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board. The District shall post the name of the Human Rights Officer in conspicuous places throughout school buildings, including a telephone number and mailing address.
5. Submission of a complaint or report of sexual harassment will not affect the employee's standing in school, future employment, or work assignments.
6. The use of formal Reporting Forms provided by the District is voluntary. The 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.

IV. INVESTIGATION AND RECOMMENDATION

The Human Rights Officer will authorize an investigation upon receipt of a report or complaint alleging sexual harassment. This investigation may be conducted by District officials or by a third-party designated by the School Board.

If 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 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 Board determines that a third-party designee should conduct the investigation, the District agrees to assent to that party's methods of investigation.

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

V. SCHOOL DISTRICT ACTION

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

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 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.

VI. APPEAL OF INVESTIGATOR'S RECOMMENDATION

Either the complainant or the accused may appeal the investigator's recommendation and subsequent District action, if any, to the School Board.

After a hearing, the School Board will vote to either accept or deny the investigator's recommendation and resulting discipline.

Either party may then appeal the Board's decision in accordance with applicable law.

VII. REPRISAL

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

VIII. 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.

IX. SEXUAL HARASSMENT AS SEXUAL ABUSE

Under certain circumstances, sexual harassment may constitute sexual abuse under New Hampshire law. In such situations, the 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.

X. BY-PASS OF POLICY

Any individual with a sexual harassment complaint may choose to bypass this Policy and accompanying regulation and proceed directly to: N.H. Commission on Human Rights, at 2 Chenelle Dr., Concord, NH 03301, phone 603-271-2767 or US Department of Health & Human Services, Office for Civil Rights, Region 1, JFK Building, Room 1875, Boston, MA 02203, phone 617-565-1340.

Legal References:

Ed 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy

Ed 306.04(a)(9), Sexual Harassment

RSA 354-A:7, Unlawful Discriminatory Practices

(Adopted: 1/8/2018)

GILFORD SCHOOL DISTRICT
SEXUAL HARASSMENT AND SEXUAL VIOLENCE

REPORT FORM

General Statement of Policy Prohibiting Sexual Harassment

The School District maintains a firm policy prohibiting all forms of discrimination based on sex. Sexual harassment and sexual violence against students or employees is sexual discrimination. All persons are to be treated with respect and dignity. Sexual violence, sexual advances or other forms of personal harassment by any person, male or female, which create an intimidating, hostile or offensive environment will not be tolerated under any circumstances.

Complainant: _____

Home Address: _____

Work Address: _____

Home Phone: _____

Work Phone: _____

Date of Alleged Incident(s):

Name of person(s) you believe sexually harassed or was sexually violent toward you:

List any witnesses that were present:

Where did the incident(s) occur?

Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used; any verbal statements (i.e., threats, requests, demands, etc.); what, if any, physical contact was involved; etc. (Attach additional pages if necessary.)

This complaint is filed based on my honest belief that _____ has sexually harassed or was sexually violent to me. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Complainant Signature: _____

Date: _____

Received by: _____

Date: _____

(Adopted: 1/8/2018)

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 whether it is written, verbal, electronic communication, physical act or gesture, or any combination thereof, directed at another student.

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, either 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 PROCEDURES

1. The Superintendent or his/her written 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.
2. 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.
3. The Board encourages all students and staff members to use Report Form, JBAA-R, available from the Principal, Superintendent or on the District website under policies.
4. In each building, the Principal is the person responsible for receiving oral or written reports of sexual harassment. 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 as provided herein will result in disciplinary action. If the complaint involves the building Principal, the complaint shall be filed directly with the Superintendent.
5. The Board designates the Superintendent as the District Human Rights Officer to receive any report or complaint of sexual harassment. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board.
6. 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.
7. The use of formal Reporting Forms provided by the District is voluntary. 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, as the designated Human Rights Officer, will authorize an investigation upon receipt of a report or complaint alleging sexual harassment. This investigation may be conducted by District officials or by a third-party designated by the School Board.

If 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 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 Board determines that a third-party designee should conduct the investigation, the District agrees to assent to that party's methods of investigation.

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

V. SCHOOL DISTRICT ACTION

If the investigating party determines that the alleged conduct constituted sexual harassment, the Superintendent or Principal 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 Board policies. 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 Superintendent or 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 TO ALTERNATIVE COMPLAINT PROCEDURES

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.

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. AGE-APPROPRIATE SEXUAL HARASSMENT POLICY

Per the requirements of Ed 303.01(j), the School Board is required to establish a policy on sexual harassment, written in age appropriate language and published and available in written form to all students. This policy is intended to apply to middle-school and high-school aged students.

The Superintendent and building Principal(s) are charged with establishing policies, rules, protocols and other necessary age-appropriate information or materials for the District's elementary schools.

X. BY-PASS OF POLICY

Any individual with a sexual harassment complaint may choose to bypass this Policy and accompanying regulation and proceed directly to: N.H. Commission on Human Rights, at 2 Chenelle Dr., Concord, NH 03301, phone 603-271-2767 or US Department of Health & Human Services, Office for Civil Rights, Region 1, JFK Building, Room 1875, Boston, MA 02203, phone 617-565-1340.

Legal References:

Ed 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy

Ed 306.04(a)(9), Sexual Harassment

(Adopted: 1/8/2018)

THE SCHOOL DISTRICT

SEXUAL HARASSMENT AND SEXUAL VIOLENCE

REPORT FORM

General Statement of Policy Prohibiting Sexual Harassment

The School District maintains a firm policy prohibiting all forms of discrimination based on sex. Sexual harassment and sexual violence against students or employees is sex discrimination. All persons are to be treated with respect and dignity. Sexual violence, sexual advances or other forms of personal harassment by any person, male or female, which create an intimidating, hostile or offensive environment will not be tolerated under any circumstances.

Complainant: _____

Home Address: _____

Work Address _____

Home Phone: _____

Work Phone: _____

Date of Alleged Incident(s)

Name of person you believe sexually harassed or was sexually violent toward you.

List any witnesses that were present.

Where did the incident(s) occur?

Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used; any verbal statements (i.e., threats, requests, demands, etc.); what, if any, physical contact was involved; etc. (Attached additional pages if necessary.)

This complaint is filed based on my honest belief that _____ has sexually harassed or was sexually violent to me. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

(Complainant Signature) _____

(Date) _____

Received by: _____

(Date) _____

(Adopted: 1/8/2018)