

## HARASSMENT AND SEXUAL HARASSMENT OF STUDENTS

*Category: P*

*Appendix: ACAA-R*

*See Also: Policy AC, ACAD, GBEB, JFCK, JICIA, JICK*

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

School employees, fellow students, volunteers, visitors to the schools, and other persons with whom students may interact in order to pursue or engage in education programs and activities, are required to refrain from such conduct.

Harassment and sexual harassment of students by school employees is considered grounds for disciplinary action, up to and including discharge. Harassment and sexual harassment of students by other students is considered grounds for disciplinary action, up to and including expulsion. The Superintendent will determine appropriate sanctions for harassment of students by persons other than school employees and students.

### A. Harassment

Harassment includes, but is not limited to, verbal abuse and other offensive conduct based on of age, sex, gender identity, sexual orientation, race, creed, color, ancestry or national origin, marital status, familial status, physical or mental disability, religion or economic status. Harassment that rises to the level of physical assault, battery and/or abuse and bullying behavior are also addressed Board Policies JICIA – Weapons, Violence and School Safety and JICK – Bullying.

### B. Sexual Harassment

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

#### 1. Title IX Sexual Harassment

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

- a. "Quid pro quo" sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a better grade or a college recommendation) on an individual's participation in unwelcome sexual conduct;
- b. "Hostile environment" sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive *and* objectively offensive that it

effectively denies an individual's equal access to the school unit's education programs and activities; or

- c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.

## **2. Other Forms of Sexual Harassment**

Some forms of sexual harassment may not meet the definition under Title IX (see paragraph 1, above) but is still prohibited under New Hampshire law.

The District defines other forms of "sexual harassment" as unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature in the following situations:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of a student's educational benefits;
- b. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or
- c. Such conduct has the purpose and effect of substantially interfering with a student's academic performance or creates an intimidating, hostile or offensive environment.

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

All school employees are required to report possible incidents of harassment or sexual harassment involving students to the Title IX Coordinator. Failure to report such incidents may result in disciplinary action.

Students, parents/legal guardians and other individuals are strongly encouraged to report possible incidents of harassment or sexual harassment involving students to the Title IX Coordinator. The Title IX Coordinator is also available to answer questions and provide assistance to any individual who is unsure whether harassment or sexual harassment has occurred.

All reports and complaints of harassment or sexual harassment against students shall be addressed through the Student Unlawful Discrimination/Harassment and Title IX Sexual Harassment Procedures (ACAA-R).

#### **Legal Reference:**

*Americans with Disabilities Act (42 U.S.C. §12101 et seq., as amended; 28 C.F.R. § 35.107)*

*Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq., as amended; 34 C.F.R. § 104.7)*

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

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

*Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)*

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

*NH RSA 186:11; 193:38; 193:39; 354-A  
NH Code Admin. R. Ed. 303.01(i) and (j)*

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Clarksville School Board: Adopted – November 6, 2020

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