

## ACA

### SEXUAL HARASSMENT

The Rochester School District abhors and prohibits sexual harassment activity by any of its employees, non-employee volunteers, students and/or any other persons who work subject to the control of school authorities and/or are present at school sponsored events or on school property.

#### A. Definitions

##### 1. *Conduct of a Sexual Nature*

Conduct of a sexual nature may include, but is not limited to, verbal or physical sexual advances, including subtle pressure for sexual activity, touching, pinching, patting, or brushing against; comments regarding physical or personality characteristics of a sexual nature; sexually oriented *kidding, teasing*, double-entendres, objectionable jokes, and any harassing conduct to which an employee, student, or guest would not be subjected but for such individual's sex.

##### 2. *Unwelcome Conduct of a Sexual Nature*

- a. Verbal or physical conduct of a sexual nature may constitute sexual harassment when the allegedly harassed employee has indicated, by his or her conduct, that it is unwelcome.
- b. An employee who has initially welcomed such conduct by active participation must give specific notice to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct to be deemed unwelcome.
- c. The School Board prohibits any conduct of a sexual nature directed toward students by teachers or others to whom this policy applies, and shall presume that any such conduct is unwelcome, whether specifically identified as such by the student or not.

#### B. Prohibitions

##### 1. *General Prohibitions*

For the purposes of this policy, unwelcome sexual advances or requests for sexual favors, and other unwelcome conduct of a sexual nature constitute prohibited sexual harassment if:

- a. submission to the conduct is made either an explicit or implicit condition of employment, or award of grades or other measures of student achievement;
- b. submission to or rejection of the conduct is used as a basis for an employment decision affecting the harassed employee or any decision affecting a student; or
- c. the conduct substantially interferes with an employee's or student's performance, or creates an intimidating, hostile, or offensive work or school environment.

##### 2. *Specific Prohibitions*

###### a. Administrators and Supervisors

- 1) It is sexual harassment for a manager or supervisor to use his or her authority to solicit sexual favors or attention from subordinates, when the subordinate's failure to submit will result in adverse treatment, or when the subordinate's acquiescence will result in preferential treatment.

- 2) It is sexual harassment for a manager or supervisor to subject another manager or supervisor to any unwelcome conduct of a sexual nature.
  - 3) Administrators and supervisors who either engage in sexual harassment or tolerate such conduct by other employees shall be subject to sanctions, as described below.
- b. Non-managerial and Non-supervisory Employees
- 1) It is sexual harassment for a non-administrative and non-supervisory employee to subject another such employee to any unwelcome conduct of a sexual nature. Employees who engage in such conduct shall be subject to sanctions as described below.
  - 2) It is sexual harassment for an employee to subject any other person to any unwelcome conduct of a sexual nature. Employees who engage in such conduct shall be subject to sanctions as described below.
- c. Adult Employee or Volunteer
- 1) It is sexual harassment for an adult to use his or her authority to solicit sexual favors or attention from students, when the student's failure to submit will result in adverse treatment, or when the subordinate's acquiescence will result in preferential treatment.
  - 2) It is sexual harassment to subject a student to any unwelcome conduct of sexual nature. Employees or volunteers who engage in such conduct shall be subject to sanctions as described below.
  - 3) It is sexual harassment for an employee to subject any other person to any unwelcome conduct of a sexual nature. Employees who engage in such conduct shall be subject to sanctions as described below.
- d. Student
- 1) It is sexual harassment for students to subject any other student to any unwelcome conduct of a sexual nature. Students who engage in such conduct shall be subject to sanctions under student disciplinary procedures.
  - 2) It is sexual harassment for a student to subject any other person to any unwelcome conduct of a sexual nature. Students who engage in such conduct shall be subject to sanctions under student disciplinary procedures.

### **C. Reporting, Investigation, and Sanctions**

1. It is the express policy of the Board to encourage victims of sexual harassment to report such claims. This may be done through the Title IX Grievance Procedure (Policy AC-R) or by reporting such matters to the Superintendent or Assistant Superintendent. It is required for any non-victim that is aware of sexual harassment to report this incident to the Superintendent or Assistant Superintendent.
  - a. Employees who feel that their superiors are conditioning promotions, increases in wages, continuation of employment, or other terms or conditions of employment upon agreement to unwelcome conduct of a sexual nature, are encouraged to report these conditions to the appropriate administrator. If the employee's direct administrator or supervisor is the offending person, the report shall be made to the next higher level of authority.

- b. Employees are also urged to report any unwelcome conduct of a sexual nature by superiors or fellow employees if such conduct interferes with the individual's work performance, or creates a hostile or offensive working environment.
  - c. Confidentiality will be maintained and no reprisals or retaliation will be allowed to occur as a result of the good-faith reporting of charges of sexual harassment.
  - d. Students are urged to report any conduct of a sexual nature by school employees or others to whom this policy applies to a school counselor or administrator.
2. In determining whether alleged conduct constitutes sexual harassment, the totality of the circumstances, the nature of the conduct and the context in which the alleged conduct occurred will be investigated. The Superintendent or the Board has the responsibility of investigating and resolving complaints of sexual harassment.
3. Any employee found to have engaged in sexual harassment shall be subject to sanctions to end sexual harassment and sexual violence and prevent its recurrence, including but not limited to, warning or reprimand, suspension, termination, or immediate discharge. All sanctions are subject to applicable procedural requirements. Conduct of a sexual nature directed toward students shall be reported as child abuse for investigation by appropriate authorities.

**Adoption Date:** June 9, 1994  
**Amended:** November 8, 2007  
**Reviewed/Approved:** May 8, 2008

#### **Administrative Rules ED 303.01 (j), 1-9**

The complainant may appeal the investigation recommendations to the Superintendent (presuming the Superintendent is not the investigator), or to the Board.

The results of the investigation of each complaint filed under these procedures will be reported in writing to the complainant by the School District. The report will document any disciplinary action taken as a result of the complaint.

#### **Reprisal.**

The School District will discipline any individual who retaliates against any person who reports alleged sexual harassment or sexual violence 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, reprisal or harassment.

#### **Right to Alternative Complaint Procedures.**

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Commissioner of Education, initiating civil action or seeking redress under state criminal statutes and/or federal law.

#### **Sexual Harassment 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 said law. Nothing in this policy will prohibit the School District from taking immediate action to protect victims of alleged sexual abuse.

**By-Pass of Policy.**

Any individual with a sexual harassment complaint may choose to by-pass this Policy and accompanying regulation and proceed directly to: NH Commission on Human Rights, 2 Chenelle Drive, Concord, NH; phone 603-271-2767; or Office of Civil Rights, Health and Human Services, Region #1, Room 2403, JFK Federal Building, Government Center, Boston, MA 02203; phone 617-565-1340.