

# **JBAA - SEXUAL HARASSMENT AND VIOLENCE -- STUDENTS**

updated on January 22, 2020

GENERAL STATEMENT OF POLICY Sexual harassment is a form of sex discrimination which violates Section 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq., and Title IX. Sexual violence is a physical act of aggression that includes a sexual act or sexual purpose.

## **I. PURPOSE**

The purpose of this policy is to maintain a learning environment that is free from sexual harassment and violence, or other improper or inappropriate behavior that may constitute harassment as defined below.

Any form of sexual harassment or violence is strictly prohibited.

It is a violation of this policy for any student to harass another student through conduct or communication of a sexual nature as defined by this policy. It is a violation of this policy for any student to be sexually violent toward another student.

The charter school will investigate all complaints, either formal or informal, verbal or written, of sexual harassment or sexual violence and will discipline any student who sexually harasses or is sexually violent toward another student.

## **II. SEXUAL HARASSMENT/SEXUAL VIOLENCE DEFINED**

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly of obtaining an education; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education; or
3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's education, or creating an intimidating, hostile or offensive educational environment.

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 a another;

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**

Any student who believes he or she has been the victim of sexual harassment or sexual violence should report the alleged act(s) immediately to a charter school employee. That employee shall then report the allegation immediately to an appropriate charter school official, as designated by this policy. The charter school

A. The Title IX Coordinator is the person responsible for receiving oral or written reports of sexual harassment or sexual violence. Upon receipt of the report, the Human Rights Officer must notify the Dean of School immediately without screening or investigating the report. If the report was given verbally, the Human Rights Officer shall reduce it to written form within 24 hours. Failure to forward any sexual harassment or sexual violence report or complaint as provided herein will result in disciplinary action. If the complaint involves the Dean of School, the complaint shall be filed directly with the Board.

B. Charter School-Wide. The Board designates the Dean of School or his/her designee as the charter school Human Rights Officer to receive any report or complaint of sexual harassment and sexual violence.

The charter school shall post the name of the Human Rights Officer in conspicuous places throughout school buildings, including a telephone number and mailing address.

C. Submission of a complaint or report of sexual harassment or sexual violence will not affect the student's standing in school, grades, assignments, or right to attend school and receive an education.

D. The use of formal reporting forms provided by the charter school is voluntary. The charter school will respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible, consistent with the charter school's legal obligations and the necessity to investigate allegations of sexual harassment and sexual violence and take disciplinary action when the conduct has occurred.

### **IV. INVESTIGATION AND RECOMMENDATION**

The Human Rights Officer, upon receipt of a report or complaint alleging sexual harassment or sexual violence shall immediately authorize an investigation. This investigation may be conducted by charter school officials or by a third party designated by the Board, if the complaint involves the Dean of School. The investigating party shall provide a written report of the status of the investigation within 10 working

days to the Dean of School. If the Dean of School is the subject of the complaint, the report shall be submitted to the Board.

In determining whether alleged conduct constitutes sexual harassment or sexual violence, the charter school should consider the surrounding circumstances, the nature of the sexual advances, relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes sexual harassment or sexual violence 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 present during the interview.

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

#### **V. CHARTER SCHOOL ACTION**

- A. Upon receipt of a recommendation that the complaint is valid, the charter school will take such action as appropriate based on the results of the investigation.
- B. The complainant may appeal the investigation recommendations to the Dean of School (if Dean of School is under investigation, appeal is made to the Board).
- C. The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant by the charter school. The report will document any disciplinary action taken as a result of the complaint.

#### **VI. REPRISAL**

The charter school will discipline any individual who retaliates against another 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.

#### **VII. 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.

#### **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 charter school shall comply with said law.

Nothing in this policy will prohibit the charter school from taking immediate action to protect victims of alleged sexual abuse.

#### **IX. DISCIPLINE**

The charter school will take such disciplinary action it deems necessary and appropriate, including warning, counseling, suspension or immediate discharge to end sexual harassment and sexual violence and prevent its recurrence.

#### **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.

**Policy Committee Approved: September 24, 2019**

**Board Approved: May 20, 2020**

#### **Legal Reference:**

*NH Code of Administrative Rules, Section Ed. 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy*

*NH Code of Administrative Rules, Section 306.04(a)(8), Student Harassment*

*NH Code of Administrative Rules, Section 306.04(a)(9), Sexual Harassment*

*Appendix: GBAA-R*

*BBA-R*