

## **GBAA - SEXUAL HARASSMENT AND VIOLENCE – EMPLOYEES**

*Category P*

*See Also JBAA*

### **I. PURPOSE**

Sexual harassment is against the law. It is against Fremont School District policy for any employee or student to sexually harass any other employee or student. The purpose of this policy is to maintain a learning and working 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 employee to harass another employee or student through conduct or communication of a sexual nature as defined below. It is a violation of this policy for any employee or student to be sexually violent towards another employee or student.

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

### **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 or retaining employment, or 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 employment or education; or
3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile or offensive employment or education 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 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

Any employee who believes he or she has been the victim of sexual harassment or sexual violence should report the alleged act(s) immediately to his or her immediate supervisor. If the alleged perpetrator is the employee's immediate supervisor, the alleged victim may report the allegation to any other district employee. That employee shall then report the allegation immediately to an appropriate District official, as designated by this policy. The District encourages the reporting employee to use the report form available from the Principal of each building or available from the Superintendent's office.

In each building, the Principal is the person responsible for receiving oral or written reports of sexual harassment or sexual violence. Any employee who believes he or she has been the victim of sexual harassment or sexual violence should immediately report the alleged act(s) to the Principal. If the alleged perpetrator is the Principal, the alleged victim may report the allegation to any other district employee. That employee shall then immediately report the allegation to the Superintendent. The District encourages the reporting employee to use the report form available from the Principal of each building or from the Superintendent's office.

A. Upon receipt of a report, the Principal must 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 forward it to the Superintendent. 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 building Principal, the complaint shall be filed directly with the Superintendent.

B. District-Wide. The Board designates the Superintendent as the District Human Rights Officer to receive any report or complaint of sexual harassment and sexual violence. 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.

C. Submission of a complaint or report of sexual harassment or sexual violence will not affect the employee's standing in school, future employment, or work assignments.

D. 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 sexual violence and take disciplinary action when the conduct has occurred.

#### IV. INVESTIGATION AND RECOMMENDATION

By authority of the District, 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 District officials or by a third party designated by the School Board. The investigating party shall provide a written report of the status of the investigation within 10 working days to the Superintendent. If the Superintendent is the subject of the complaint, the report shall be submitted to the School Board.

In determining whether alleged conduct constitutes sexual harassment or sexual violence, the District 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 District 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. SCHOOL DISTRICT ACTION

- A. Upon receipt of a recommendation that the complaint is valid, the District will take such action as appropriate based on the results of the investigation.
- B. The complainant may appeal the investigation recommendations to the Superintendent (or if the Superintendent is under investigation, appeal is made to the Board).
- C. Regardless of the outcome of the investigation, the School District shall provide the complainant with a copy of the investigator's written report. The written report shall include factual findings and shall document any disciplinary action taken as a result of the complaint. To the extent required by law, the District may redact personally identifiable information before providing the complainant with a copy of the report.

## VI. REPRISAL

The School District will discipline any individual who retaliates against any employee 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

The procedures set forth in this policy do not limit the rights of individuals to pursue other avenues of recourse, including filing a complaint, initiating a civil action or seeking redress under criminal statutes. Any individual with a sexual harassment or sexual violence complaint may choose to bypass the procedures set forth in this policy and proceed by filing a complaint with the New Hampshire 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.

## 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 said law.

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

## IX. DISCIPLINE

The School District will take such disciplinary action it deems necessary and appropriate, including but not limited to warning, suspension or immediate discharge to end sexual harassment and sexual violence and prevent its recurrence.

### **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*

*RSA 354-A:7, Unlawful Discriminatory Practices*

First Reading 7/08/2008

Second Reading 10/28/08

Adoption 11/25/2008