

**PROHIBITING SEXUAL HARASSMENT AND VIOLENCE- EMPLOYEES****General Statement of Policy**

The Bow School District is committed to providing all students and staff with a safe and supportive school environment. Members of the school community are expected to treat each other with mutual respect. It is the policy of the Bow School District to maintain a learning and working environment that is free from all harassment and/or violence. The School District prohibits any form of harassment and/or violence based on an individual's religion, ethnicity, disability, racial, sexual orientation and prohibit all forms of sexual harassment and/or violence.

Bow School District Policy **GB/JBA** specifically defines and addresses racial, religious, ethnic, disability and sexual orientation harassment and/or violence. This policy (**GBAA**) will specifically define and address employee sexual harassment and sexual violence. This policy should not be read to abrogate other District policies prohibiting other forms of unlawful discrimination, inappropriate behavior, and/or hate crimes within the District. It is the intent of the District that all such policies be read consistently to provide the highest level of protection from unlawful discrimination in the provision of educational services and opportunities.)

It shall be a violation of this policy for any pupil, teacher, administrator, or other school personnel of the School District to harass any student through conduct or communication of a sexual nature.

It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of the School District to inflict, threaten to inflict, or attempt to inflict sexual violence upon any student.

It shall be a violation of this policy for any pupil, teacher, administrator, other school personnel or member of the public during any school related activity including sporting events or other extra curricular activities to engage in harassment through conduct or communications of a sexual nature or to engage in any violence.

The Bow School District will respond to incidents of sexual harassment and/or violence when they occur. The response will be done in a manner that effectively deters future incidents and affirms respect for individuals. The School District will investigate all complaints, either formal or informal, verbal or written, of sexual harassment or violence and will discipline or take appropriate action against any pupil, teacher, administrator, school personnel or member of the public who is found to have violated this policy.

**Sexual Harassment and Violence Defined****A. Sexual Harassment Definition**

For purposes of this policy, sexual harassment of a student consists of unwelcome and unsolicited sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

(i) submission to such conduct or communication is made either explicitly or implicitly a term or condition of an individual's employment, or

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(ii) submission to or rejection of such conduct or communication by an individual is used as the basis for employment decisions,

(iii) such conduct or communication has the purpose of effect of unreasonably limiting or interfering with an individual's work performance or creating an intimidating, hostile or offensive environment.

Examples of conduct which may constitute sexual harassment include, but are not limited to:

1. Sexual advances
2. Touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex
3. Coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts
4. Coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another
5. Graffiti of a sexual nature
6. Sexual gestures
7. Sexual or "dirty" jokes
8. Touching oneself sexually or talking about one's sexual activity in front of others
9. Unwelcome, sexually motivated or inappropriate patting, pinching or physical contact. This prohibition does not preclude legitimate, non-sexual physical conduct such as the use of necessary restraints to avoid physical harm to persons or property, or conduct such as a teacher's consoling hug of a young student.
10. Sexist remarks about an individual's clothing, body or sexual activities, leering or ogling of an individual's body, constant brushing up against an individual's body, public or offensive display of sexually suggestive objects or pictures.

Sexual harassment is illegal under both state and federal laws and all forms of sexual harassment are violations of this policy. Any behavior of a sexual nature (verbal or non-verbal) that is unwanted or unwelcome is a form of sexual harassment.

**B. Sexual Violence Definition**

Physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas. Sexual violence may include, but is not limited to:

- (i) touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
- (ii) coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;

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- (iii) coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or;
- (iv) threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse on another;
- (v) threatening or forcing exposure of intimate apparel or body parts by removal of clothing.

**Complaint Reporting Procedures**

Any student who believes he or she has been the victim of sexual harassment and/or violence by a pupil, teacher, administrator, or other school personnel or by any other person who is participating in, observing or otherwise engaged in any school related activity including sporting events or other extracurricular activities should report the alleged acts immediately to an appropriate School District official designated by this policy. Complaints of sexual harassment or violence should be initiated within six (6) months of the incident.

Any person with knowledge or belief of conduct which may constitute sexual harassment and/or violence toward a pupil should report the alleged acts immediately to an appropriate School District official designated by this policy.

Any teacher, administrator or other school official who has received notice that a student has or may have been the victim of sexual harassment and/or violence is required to report the alleged acts to an appropriate school official designated by this policy.

The School District encourages the use of the report form available from the principal of each building or available from the School district office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting sexual harassment or violence directly to a District Human Rights Officer or to the Superintendent.

Any employee who feels s/he has been sexually harassed should report such conduct to their building principal. If this is not possible, individuals are encouraged to seek assistance from the School District Human Rights Officer.

School District staff is reminded that any incident involving alleged or suspected sexual abuse of a student shall be immediately reported to appropriate state agencies, including but not limited to, the Division for Children and Youth Services and the local police department.

A. In each school building. The building principal is the person responsible for receiving oral or written reports of a sexual harassment or violence at the building level. Any adult School District personnel who receives a report of sexual harassment or violence shall inform the building principal immediately. Upon receipt of a report, the principal must notify the School District Human Rights Officer immediately, without screening or investigating the report. The principal may request, but may not insist upon, a written complaint. If a written complaint is received by the principal, it will be forwarded as soon as practicable by the principal to the Human Rights Officer. If the report was given verbally, the principal shall personally reduce it to written form within 24 hours and forward it to the Human Rights Officer.

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Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the principal. If the complaint involves the building principal, the complaint shall be made or filed directly with the Superintendent or the School District Human Rights Officer by the reporting party or complainant.

It is suggested that complaints be put on the complaint form, either by the complainant or the building principal. A written complaint will include the following:

- (i) the name of the complainant
- (ii) the name of the alleged offender
- (iii) the nature of the allegations
- (iv) location and frequency of the offenses
- (v) a detailed description of the incidents(s) including verbal comments made by either party
- (vi) a list of all known witnesses
- (vii) the date and signature of the complainant and the person receiving the complaint.

A completed complaint form is a confidential document. Only those individuals conducting an investigation will have access to the complaint form.

B. In the District. The School Board hereby designates the Director of Special Education as the School District Human Rights Officer to receive reports or complaints of sexual harassment or violence. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the Superintendent.

The School District shall conspicuously post the name of the Human Rights Officer, including mailing addresses and telephone numbers.

C. Submission of a good faith complaint or report of sexual harassment or violence will not affect the complainant or reporter's future employment, grades or work assignments.

D. Use of formal reporting forms, as set forth above, is suggested but not mandatory.

E. The School District will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the School District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

F. Confidentiality. The School District will, to the extent possible, honor a student complainant's request that his/her name be withheld if this can be done consistent with the School District's obligation to remedy the harassment and if it will allow the accused to adequately defend him/herself.

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The School District shall consider the rights of the accused individual to receive information about the accuser if a formal proceeding may result. Confidentiality of the injured party, the alleged harasser, and any witnesses is to be maintained unless release of their identities is required to conduct a thorough investigation and to resolve the matter. If a student is found guilty of harassment (consistent with current interpretations of FERPA), information with regard to subsequent disciplinary action taken against the student will not be released to the complainant unless the information directly relates to the complainant. For example, an order requiring the student harasser not to have contact with the complainant.

**Investigation**

By authority of the School District, the Human Rights Officer, upon receipt of a report or complaint alleging sexual harassment or violence, shall immediately undertake to authorize an investigation. The investigation may be conducted by School District officials or by a third party designated by the School District.

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, a review of records when appropriate to determine the existence of previous reports. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

A. Informal Procedure: It may be possible to resolve an offensive situation informally without an extensive and involved investigation, particularly when the incident occurs between two or more students. (However, any involved parties may request a formal investigation at any time based on the seriousness of the charge. The Human Rights Officer may also decide that a formal investigation is most appropriate to address the issues. If informal procedures are utilized, those procedures will be documented by the Human Rights Officer.) The Human Rights Officer may conduct the informal process in a variety of ways which may result in several possible resolutions. They are optional. Some examples are:

- (i) facilitating a conversation between the two parties where the complainant may tell the respondent that the behavior is offensive and must stop
- (ii) assisting the complainant in writing a letter to the respondent saying the behavior is offensive and must stop
- (iii) the Human Rights Officer having separate conversations with the complainant and the respondent.

Examples of possible resolutions are a verbal statements of apology, letters of apology, assurances that the offensive behavior will end, and/or disciplinary action.

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The informal procedure will be attempted to be completed within five (5) school days. During this time, the Human Rights Officer will notify all involved parties of the result of the informal process. If all parties involved in the informal process feel that the resolution has been achieved, this discussion will remain confidential and no further action will be taken. Documentation of the informal procedure and the resolution will be kept in a confidential file separate from the employee's personnel file. If any of the parties feel that resolution has not been achieved, the parties will engage in for the formal procedure. Investigative deadlines may be extended under extenuating circumstances such as illness, or an excessive number of individuals to interview.

In determining whether alleged conduct constitutes a violation of this policy, the School District will consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

In addition, the School District may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other school personnel pending completion of an investigation of alleged sexual harassment or violence.

When a formal investigation is initiated, it will be completed as soon as practicable and in most instances within ten (10) work days. The School District Human Rights Officer shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the School Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. The report will include, but not be limited to, the following information:

- (i) all facts and circumstances of the incident
- (ii) a summary of the investigation of all allegations, which will include interviews with the individual(s) reasonably believed to have relevant information: the complainant, the respondent, witnesses and anyone else who may have been the victim of similar conduct
- (iii) a description of any actions already taken and/or proposed by the Human Rights Officer
- (iv) a summary, including the Human Rights Officer's decision and rationale.

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**V. School District Action**

A. Upon receipt of a report that a violation has occurred, the School District will take prompt appropriate formal action (as set forth above) to address, and where appropriate remediate the violation. Appropriate actions may include but are not limited to counseling, awareness training, parent-teacher conferences, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School District action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, New Hampshire and federal law and School District policies.

B. The result of the School District's investigation of each complaint filed under these procedures will be reported in writing to the complainant by the School District in accordance with state and federal law regarding data or records privacy.

C. **Right of Appeal:** If the results of the School District's evaluation of a complaint of harassment or violence results in a conclusion that an individual has engaged in unlawful harassment or violence in violation of this policy, or that the School District personnel have failed to report harassment or violence as required herein, that individual may appeal this determination by use of established School Board procedures for appealing other adverse personnel and/or education related actions. If the results of the School District's evaluation of a complaint of harassment or violence results in a conclusion that no unlawful harassment or violence has occurred, an individual who was allegedly subjected to harassment or violence and believes that this conclusion is erroneous may appeal this determination by use of established School Board procedures for appealing other adverse personnel actions.

**Reprisal**

The School District will discipline or take appropriate action against any teacher, administrator or other school personnel who retaliates against any person who reports alleged sexual harassment or violence or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. 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 New Hampshire Human Rights Commission, 163 Loudon Road, Concord, NH (603) 271-6053 or the Office for Civil Rights, J.W. McCormack Office and Courthouse Building, Room 222, Boston, Massachusetts 02109-4557 (617) 223-9662, initiating civil action or seeking redress under state criminal statutes and/or federal law.

**Sexual Harassment or Violence as Abuse**

Under certain circumstances, alleged sexual harassment or violence may also be defined as abuse under New Hampshire law. If so, the duties of mandatory reporting under New Hampshire law may be applicable.

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

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**Dissemination of Policy and Training**

- A. This policy shall be conspicuously posted throughout each school building in areas accessible to pupils and staff member.
- B. The school district will develop a method of discussing this policy with employees
- C. This policy shall be reviewed at least annually for compliance with state and federal law.
- D. All administrators, supervisors and teachers will receive appropriate training in the identification and prevention of sexual harassment and violence.