

LITCHFIELD SCHOOL DISTRICT

POLICY CODE: GBAA
APPROVAL: May 4, 2016

SEXUAL HARASSMENT, DISCRIMINATION AND VIOLENCE POLICY & PROCEDURES

I. GENERAL STATEMENT OF POLICY

It is the policy of the Litchfield School District to maintain a working and learning environment that is free from sexual harassment and violence. The Litchfield School District shall not tolerate any form of sexual harassment, discrimination or violence.

For the purpose of this policy, the following definitions apply:

"Employee" shall include, but not be limited to all school district staff, teachers, non-certified personnel, administrators, volunteers, coaches and/or other such personnel whose employment or position is directed by the school district.

"Third parties" include, but are not limited to parents, school visitors, service contractors or others engaged in district business, such as employees of businesses or organizations participating in cooperative work programs with the district and others not directly subject to district control.

The Litchfield School District will act to promptly investigate and equitably resolve all complaints, either formal or informal, oral or written, of sexual harassment, discrimination or violence, and to discipline any employee who is judged to have committed these offenses.

II SEXUAL HARASSMENT, DISCRIMINATION AND VIOLENCE

Sexual harassment shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct or communication of a sexual nature when:

1. The unwelcome conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or obtaining benefits; or
2. Submission to or rejection of that unwelcome conduct or communication is used as a basis for decisions affecting that persons' employment; or
3. That unwelcome conduct or communication has the purpose or effect of substantially interfering with an individual's employment, or creates an intimidating, hostile or offensive employment environment.

Sexual harassment is not limited to requests for sexual favors in return for job benefits. Sexual harassment may include, but is not limited to:

1. verbal harassment and/or abuse of a sexual nature;
2. leering at an individual's body;
3. jokes of a sexual nature;
4. the display anywhere on school facilities of sexually suggestive, sexually demeaning or pornographic objects, pictures, writing, posters, or cartoons;
5. graphic verbal comments about an individual's body, clothing, or sexual activity;
6. subtle pressure for sexual activity;
7. inappropriate patting or pinching;
8. intentional brushing against an individual's body;
9. demanding sexual favors accompanied by implied or overt threats concerning an individual's employment;

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10. demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment status;
11. any sexually motivated unwelcome touching; or
12. sexual violence, which is a physical act of aggression that includes a sexual act or sexual purpose.

Sexual harassment includes claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.

Hostile environment harassment occurs when unwelcome comments or conduct based on sex is so severe, persistent or pervasive that it interferes with an employee's performance or opportunities or creates an intimidating, hostile, or offensive environment. A victim can be anyone affected by the conduct, not just the individual to whom the offensive conduct is directed.

III. REPORTING PROCEDURES

Any person who believes he or she has been the victim of sexual harassment, discrimination or violence, by an employee of the Litchfield School District or any third person with knowledge or belief of conduct that may violate this policy should report the alleged acts immediately to an appropriate School District official as designated by this policy. One or more of the following individuals may be contacted:

- 1) Superintendent of Schools, (Title IX Coordinator/Human Rights Officer),
1 Highlander Court, Litchfield, NH 03052;**
- 2) any District Administrator;**
- 3) any school building principal or assistant principal.**

In Each School Building. The Principal is responsible for receiving oral or written reports of sexual harassment, discrimination or violence at the building level. Upon receipt of a report, the Principal shall notify the Superintendent of Schools 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 report or complaint as provided herein shall result in disciplinary action. If the complaint involves the building Principal or complaint manager, the complaint shall be filed directly with the Superintendent of Schools.

District-Wide. The Litchfield School Board hereby designates the Superintendent of Schools as the School District Title IX/Human Rights Officer to receive reports or complaints of sexual harassment, discrimination or violence from any employee, and also from the Principal as outlined in this policy. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board. Submission of a complaint or report of sexual harassment, discrimination or violence will not affect the complainant's work assignments or employment.

Use of formal reporting forms is voluntary. The Litchfield School District encourages the reporting party of complainant to use the report form available from the building Principal or available from the Superintendent's Office.

The Litchfield School 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 and take disciplinary action.

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IV. INVESTIGATION & RECOMMENDATION

The Superintendent as 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 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. The investigation may also consist of any other methods and documents deemed pertinent by the Investigator. Students who are interviewed may have a parent, guardian or other representative present.

The Investigator shall provide a written report of the status of the investigation within ten working days to the Superintendent of Schools. If the Superintendent is the subject of the complaint, the report shall be submitted to the School Board.

Whether a particular action or incident constitutes sexual harassment, discrimination, or violence requires a determination based on all the facts and surrounding circumstances. The investigator should consider the surrounding circumstances; the nature of the sexual advances; the relationship between the parties; the context and locations in which the alleged incidents occurred; whether the victim viewed the environment as hostile; whether it was reasonable to view the environment as hostile; the degree to which the conduct affected one or more employees' working environment; the type, frequency, and duration of the conduct; the number of individuals involved; age and sex of the alleged harasser and the subject of the harassment; and other incidents.

The District may take immediate steps, at its discretion, to protect the complainant, students, and employees pending completion of the investigation.

Upon completion of the investigation, the Investigator shall file a report with the Superintendent no later than twenty (20) working days following receipt of the complaint. If additional time is needed to complete the investigation or take appropriate action, the Superintendent shall provide all parties with a written status report within twenty (20) days following receipt of the complaint. The results of the investigation shall be reported in writing to the complainant and accused consistent with the requirements of FERPA and other privacy laws.

V. ACTION IF COMPLAINT IS SUBSTANTIATED

Upon determination that the complaint is valid, the District shall take such disciplinary action as it deems necessary and appropriate to end the harassment, and prevent its recurrence. Disciplinary measures include, but are not limited to, termination, verbal and written warnings/reprimands in the employee's file, requirement of a verbal and/or written apology to the victim and mandatory education and training on sexual harassment, discrimination, and violence. Any discipline will be in accordance with all laws and collective bargaining agreements, if applicable.

The administration should review the victim's records, evaluations, etc., with a view to correcting any injustice(s) that might have occurred as a result of the harassment. The School District may need to consider rehiring a terminated employee or offering a promotion or raise that might have been denied.

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Since it is not unusual for harassment to begin again after several weeks have lapsed, the harasser should be supervised closely. The victim should be encouraged to report any renewed problems to the Superintendent or his/her designee. If possible, the harasser and the victim should be separated, with the harasser being the one to be transferred. Care should be taken not to punish the victim.

VI. ACTION IF THE COMPLAINT IS UNSUBSTANTIATED

Communication or conduct which does not rise to the level of sexual harassment, discrimination, or violence, as defined by the policy, but is nonetheless inappropriate or is in violation of other Board policies or school rules, will be addressed on a case-by-case basis by the Superintendent or Principal, who may still impose discipline or order the offending employee to engage in some remedial action.

VII. APPEAL OF INVESTIGATOR'S FINDINGS

Any victim or accused who is still not satisfied with the outcome of the School District investigations may appeal to the Superintendent of Schools in writing within ten (10) working days following receipt of the School District's findings. If the Superintendent is the investigator or subject of the complaint, the appeal shall be to the School Board.

VIII. REPRISAL/RETALIATION

The Litchfield School District shall discipline any individual who retaliates or encourages others to retaliate against any person who reports alleged sexual harassment, discrimination or violence, or who retaliates against any person who testifies, assists, or participates in an investigation, proceeding or hearing relating to a sexual harassment, discrimination or violence complaint. If the complaint was not made in good faith, a reprimand or some other disciplinary action may be in order.

IX. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

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

The individual may choose to file the alleged violation or complaint with:

The New Hampshire Commission of Human Rights, 2 Chenell Road, Concord, NH 03301, phone 603-271-2767

The Equal Educational Opportunity Office (Title IX), New Hampshire Department of Education, 101 Pleasant Street, Concord, NH 03301-3860, phone 603-271-3494

Director, Office of Civil Rights, U.S. Department of Health & Human Services, Region 1, JFK Federal Building, Room 1875, Boston, MA 02203-2100, phone 617-565-2370.

X. SEXUAL HARASSMENT, DISCRIMINATION OR VIOLENCE AS SEXUAL ABUSE

Consistent with Litchfield School District policies, the Safe Schools Act, and State of NH laws, upon receipt of any complaint that contains evidence of violence or criminal activity, the Principal, the Superintendent of Schools, or School Board shall refer the complaint to law enforcement officials and appropriate child protection authorities for investigation.

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

XI. POSTING/PUBLICATION

Copies of this policy shall be given to all employees, students, and parents annually by publishing in the applicable handbook. Each Litchfield School District employee and School Board member shall receive and sign for a copy of the District's policy.

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)(9), Sexual Harassment

RSA 354-A:7, Unlawful Discriminatory Practices

Civil Rights Act of 1964

Title IX, Educational Amendments of 1972

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General Statement of Policy Prohibiting Sexual Harassment

The School District maintains a firm policy prohibiting all forms of discrimination based on sex. Sexual harassment, *discrimination* and violence against students or employees is sexual discrimination. All persons are to be treated with respect and dignity. Sexual violence, sexual advances or other forms of *sexual* harassment, *discrimination and violence* by any person, male or female, which create an intimidating, hostile or offensive environment will not be tolerated under any circumstances.

Complainant: _____

Home Address: _____

Work Address: _____

Home Phone: _____ Work Phone: _____

Date of Alleged Incident(s): _____

Name of person(s) you believe sexually harassed or was sexually violent toward you:

List any witnesses that were present:

Where did the incident(s) occur?

Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used; any verbal statements (i.e., threats, requests, demands, etc.); what, if any, physical contact was involved; what did you do to avoid the situation, etc. (Attach additional pages if necessary.)

This complaint is filed based on my honest belief that _____ has sexually harassed or was sexually violent to me. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Complainant Signature: _____ Date: _____

Received by: _____ Date: _____