



## ACAC - SEXUAL HARASSMENT

### Prohibition

Seacoast Classical Academy Chartered Public School hereby prohibits sexual harassment as defined in this policy.

### Definition

“Sexual harassment” prohibited by this policy is conduct on the basis of sex, occurring in an Academy education program or activity that satisfies one or more of the following:

1. An Academy employee conditioning an aid, benefit, or service of an education program or activity on an individual's participation or refusal to participate in sexual conduct irrespective of whether the conduct is welcomed by the scholar or other employee;
2. Unwelcome sex-based or sex-related conduct determined by a reasonable person to be so severe, pervasive, AND objectively offensive that it effectively denies a person equal access to the education program or activity (this standard requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and victim and the number of individuals involved and their authority); OR
3. Sexual assault, dating violence, domestic violence, or stalking as defined by law.

Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex.

Behaviors that constitute sexual harassment would need to satisfy one or more of the criteria in paragraphs 1-3 of the foregoing definition, and may include, but are not limited to:

- A. Sexually suggestive remarks or jokes;
- B. Verbal harassment or abuse of a sexual nature;
- C. Displaying or distributing sexually suggestive pictures, in whatever form (e.g., drawings, photographs, videos, irrespective of format);
- D. Sexually suggestive gesturing, including touching oneself in a sexually suggestive manner in front of others;
- E. Harassing or sexually suggestive or offensive messages that are written or electronic;
- F. Subtle or direct propositions for sexual favors or activities;
- G. Touching of a sexual nature or groping; and
- H. Teasing or name-calling related to sexual characteristics or the belief or perception that an individual is not conforming to expected gender roles or conduct.

## **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 Academy shall comply with said law. Nothing in this policy will prohibit the Academy from taking immediate action to protect victims of alleged sexual abuse.

## **Implementing Persons**

The Executive Director shall ensure the implementation of this policy, and in writing shall appoint an Investigator, who is a Faculty or Staff member, to receive and investigate complaints. On a case-by-case basis, the Executive Director may designate another person, including an outside party, as the Investigator of a complaint. When required by law, the Investigator shall also serve as the Title IX Coordinator to coordinate the Academy's compliance with Title IX of the Education Amendments Act of 1972. If the Executive Director is a subject of a complaint, the Board of Trustees shall appoint another person to perform the duties of the Executive Director under this policy.

## **Procedure to Allege Sexual Harassment**

Any person who believes he or she has been the victim of sexual harassment by an employee, volunteer, or scholar of the Academy, or any third person with knowledge or belief of conduct which may constitute sexual harassment, should report the alleged acts immediately to an appropriate Academy employee. If the report-receiving employee is not the Investigator, the employee shall report the alleged acts immediately to the Investigator, who shall notify the Executive Director. The Academy encourages, but does not require, the use of a complaint form available from the Investigator.

The complainant, or the complainant's parent or guardian, may file a complaint. The complainant may choose not to file a complaint, and to receive supportive measures. If the complainant and parent or guardian do not file a complaint, the Investigator may file a complaint if the Academy determines that its legal obligations compel it to do so.

Submission of a report or complaint of sexual harassment will not affect the reporting individual's future employment, grades or work assignments.

As much as is reasonably practicable, and consistent with the Academy's legal obligations and the necessity to investigate allegations of sexual harassment and take disciplinary action when the conduct has occurred, the Academy will respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed.

At all times, unless and until there is a final determination of responsibility for an allegation, the respondent (alleged perpetrator) will be considered not responsible, though the Academy may take immediate action intended to protect persons.

## **Parental Notification of Allegations**

If either the complainant or the respondent (alleged perpetrator) is a minor, the Investigator shall notify the parents of the minors within 48 hours of receiving an allegation of sexual harassment. Parental notification may be made by telephone, in writing, or in-person conference. The date, time, location, and medium of communication will be noted and included in the investigation report. All notifications will comply with the Family Educational Rights and Privacy Act (“FERPA”, 20 USC 1232g).

## **Prohibition of Retaliation**

The Academy prohibits retaliation against any person who makes a report or complaint, or against any person who assists, participates, or refuses to participate in any investigation of an act alleged under this Policy. Actions taken in response to materially false statements made in bad faith, or to submitting materially false information in bad faith, as part of a report or during a Title IX Grievance Process do not constitute retaliation. Complaints of retaliation with respect to reports or formal complaints of sexual harassment will be subject to disciplinary proceedings and remedial consequences.

## **Prohibition of False Accusations**

A scholar, employee, or volunteer found to have falsely and intentionally accused a person of sexual harassment, whether as a first instance or as an act of retaliation, will be subject to disciplinary proceedings and remedial consequences.

## **Investigation of Complaints**

Within 5 school days of receiving a complaint, but not before completing the parental notification of allegations, the Investigator shall initiate an investigation and specify the manner in which the investigation will be documented and the time, up to 30 days, within which it will be completed. In the conduct of the investigation, the Investigator shall consider this policy’s definition of sexual harassment.

All opportunities and restrictions of the investigation shall apply equally to both the complainant and the respondent. The investigation may include, without limitation, documented interviews with the complainant, respondent, and any witnesses. All interviews will be conducted privately.

The Executive Director may grant in writing an extension of the time period for the investigation and documentation of reports for up to an additional 30 days, if necessary. The Executive Director or designee shall notify in writing all parties involved of the granting of an extension.

The Investigator shall generate an investigation report, including enumerated findings of fact. Among the findings of fact should be references to specific elements of the definition in this policy. The findings shall include, without limitation, information on the context in which the alleged incidents occurred, the nature of the alleged behavior, and the relationships between the involved parties. The

Investigator shall provide the report to the Executive Director, who may refer the matter back to the Investigator with instructions for further investigation.

## **Decision and Remediation**

The Executive Director, or the Executive Director's designee who may not be the same person as the Investigator, shall make a formal written Determination of Responsibility for each allegation in the formal complaint, that the respondent did or did not engage in conduct constituting sexual harassment as defined in this policy. If there is no determination of sexual harassment, the Executive Director or designee shall dismiss the complaint. For any substantiated conduct duly determined to constitute sexual harassment, the Executive Director or designee shall prescribe in writing one or more remedies intended to restore or preserve the complainant's equal access to the educational programs and activities of the Academy. Possible remedies include disciplinary sanctions and non-disciplinary measures.

Disciplinary sanctions against an employee respondent may include any available sanction available for the discipline of employees, up to and including dismissal or non-renewal.

Disciplinary sanctions against a scholar may include any available discipline or sanction, up to and including expulsion under the Academy's Due Process Policy (Policy JIA).

Non-disciplinary measures, whether the respondent is an employee or a scholar, may include without limitation such measures as no-contact requirements, schedule adjustments, removal or exclusion from extracurricular activities, class reassignments, limits on future class registrations, restrictions on access to various spaces in Academy buildings, reassignment of attendance, and similar measures fine-tuned to respond appropriately to the circumstances surrounding a complainant's right to access the Academy's program and activity.

Additional remedial measures may include recommendations that a school-wide or system-wide response is needed, for example: additional staff training, harassment prevention programs, or such other measures as determined appropriate to protect the safety of the educational environment or to deter sexual harassment.

## **Reporting of Investigations and Decisions**

Regardless of the ultimate outcome of the process, the Academy shall generate a written factual report on the investigation, and a written report on the decision and the remediation, if any. These reports will be retained according to the Academy's policy on Records Retention (Policy EHB).

## **Appeals**

A person who is aggrieved by the outcome of the Academy's investigation or remedial measures may use the Academy's Grievance Process (Policy ACG) to appeal for review of the investigation and remedial measures.

## **Bypass of this Policy**

Any individual with a sexual harassment complaint may choose to bypass this Policy and accompanying regulation and proceed directly to: NH 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. 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 or federal law.

## **Notice and Training**

At least annually, the Academy administration shall provide this policy to all Academy employees and regular volunteers. All Academy employees will receive periodic training on their responsibilities under the law and this policy.

### References:

- Ed 303.01 (j)
- RSA 354-A:7 paragraph V
- Title IX of the Education Amendments Act of 1972

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