

## NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT, AND ANTI-DISCRIMINATION PLAN

### A. INTRODUCTION AND GENERAL POLICY AGAINST DISCRIMINATION AND HARASSMENT

The District recognizes the right of all students and staff members to learn and work in an environment free from discrimination or harassment, and likewise, that persons participating or attempting to participate in District programs, employment or activities have the right to do so free from discrimination or harassment.

Accordingly, the District prohibits any type of unlawful harassment or discrimination based on age, race, color, religion, creed, sex, national or ethnic origin, gender identity, sexual orientation, marital status, familial status, physical or mental disability, pregnancy, genetic information, or veteran status by employees, students, members of the school community, or by vendors or visitors on school property or at school-sponsored events. No person shall be excluded from or denied the benefits of educational programs or activities on the basis of any of the above classes or economic status.

As described above, the blanket prohibition afforded under this policy, as well as other Board policies, reflects, but goes further than, some of the same protections afforded under multiple State and Federal statutes or regulations, such as, but not limited to, NH RSA 354-A, and NH RSA 193:38-39, Titles IV, VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1972, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, and the Pregnant Worker Fairness Act. Additionally, bullying or general harassment of students unrelated to any of the characteristics ("protected classes") identified above, is further prohibited under Board policy **JICK** and RSA 193-F. Statutory and regulatory statements and notices of nondiscrimination are included in Section I of this policy.

The District has determined that the most effective way to limit harassing or discriminating statements or conduct that is illegal or unlawful under those statutes is to treat it as misconduct under Board policies even when such conduct or statements might not rise to the level of discrimination or harassment prohibited under federal or state law.

### B. DEFINITIONS

The definitions found here apply to each Board policy unless and to the extent that such definition is contrary to specific language or context of that policy or other legal authority.

*"Days"* means calendar days, but excludes non-weekend days on which the SAU office is closed (e.g., holidays, office-wide vacations), or any weekday during the school year on which school is closed (e.g., snow days).

*"Discrimination"* is conferring benefits upon, refusing or denying benefits to, or providing differential treatment to a person or class of persons in violation of law based on race, color, religion, sex, national origin, ancestry, disability, age, genetic information, or any other characteristic protected by law, or based on a belief that such a characteristic exists.

A *"Grievance"* or *"Complaint"* is a verbal or written report or complaint of discrimination, harassment, or retaliation that objectively can be understood as a request for the District to

investigate and make a determination about alleged discrimination. The required form and the specific process for making a report may vary depending on the nature of the conduct or issue. See Section D, below, for further information.

"*Harassment*" generally refers to the use of words or engaging in behaviors that annoy, threaten, intimidate, or demean a person without a legitimate purpose. Harassment will often constitute bullying prohibited under Board policy **JICK**. Additionally, harassment may constitute illegal discrimination if the harassing statements or behaviors include explicit or implicit reference to age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion or national origin.

"*Retaliation*" means intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by state or federal law, or District policies, procedures, regulations or rules, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, hearing, or appeal under such policies, procedures, etc.

### **C. POLICY APPLICATION**

This policy is applicable to all persons employed or served by the District. It applies to all sites and activities the District supervises, controls, or where it has jurisdiction under the law, including where it (a) occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or (b) occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a student's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event, as set forth in Board policy **JICK**, Pupil Safety and Violence Prevention. Examples of sites and activities include all District buildings and grounds, school buses and other vehicles, field trips, and athletic competitions.

### **D. REPORT, COMPLAINT, AND GRIEVANCE PROCEDURES**

1. Reports or complaints of sex discrimination, including sex-based harassment, or sexual violence should be made under Board policy **ACAC**;
2. Reports or complaints by students of discrimination on the basis of educational disability under the IDEA should be made under Board policy **ACE**;
3. Reports or complaints of bullying or other harassment of pupils should be made under Board policy **JICK**;
4. Reports or complaints of discrimination, harassment, or retaliation not specified above, including, without limitation, claims relating to race, ethnicity, disability (e.g., ADA or 504), religion, etc., and not involving or relating to the District's food services (see number 5 below) should be made under the grievance procedure in Board policy **ACA**; and
5. Reports or complaints of discrimination based upon protected classes relative to any of the District's food and nutrition services (FNS) programs (school lunches, etc.) should be made under Board policy **ACF**, unless the alleged discriminatory conduct relates to a class identified in Sections D.1 or D.2..

Any person who believes that they have been discriminated against, harassed, or bullied in violation of this policy by any student, employee, or other person under the supervision and control of the school system, or any third person who knows or suspects conduct that may

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constitute discrimination, harassment, or bullying, should contact the District Human Rights Officer, or otherwise as provided in the policies referenced above under this same heading.

Any employee who has witnessed, or who has reliable information that another person may have been subjected to discrimination, harassment, or bullying in violation of this policy has a duty to report such conduct to their immediate supervisor, the District Human Rights Officer, or as provided in one of the policies or administrative procedures referenced above under this same heading. Additionally, employees who observe an incident of harassment or bullying are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator, and it is safe to do so. If an employee knows of an incident involving discrimination, harassment, or bullying and the employee fails to report the conduct or take proper action or knowingly provides false information in regard to the incident, the employee will be subject to disciplinary action up to, and including, dismissal.

Investigations and resolution of any complaints shall be according to the policies listed above and related administrative procedures or regulations. Complaints or reports regarding matters not covered in those policies should be made to the District Human Rights Officer.

#### **E. ALTERNATIVE COMPLAINT PROCEDURES AND LEGAL REMEDIES**

At any time, whether an individual files a complaint or report under this policy or policy **ACA**, an individual may file a complaint with an external agency, such as the Office for Civil Rights (“OCR”) of the United States Department of Education, the New Hampshire Commission for Human Rights, or another relevant authority. The contact information for such agencies is located in **AC-R(2)**. Complaints to the OCR, however, must be made within 180 days of the last act of alleged discrimination, harassment or retaliation giving rise to the complaint or from the date the Complainant could reasonably become aware of such occurrence.

Notwithstanding any other remedy, any person may contact the police or pursue criminal prosecution under state or federal criminal law.

#### **F. RETALIATION PROHIBITED**

No reprisals or retaliation of any kind will be taken by the Board or by any District employee against the complainant or other individual on account of their filing a complaint or report or making statements during an investigation or grievance procedure. Charging an individual with a code of conduct violation for making a materially false statement in bad faith during an investigation, a disciplinary proceeding, or grievance proceeding does not constitute retaliation, provided, however, that a finding explicitly or implicitly negating a statement, alone, is not sufficient alone to conclude that the person made a materially false statement in bad faith.

#### **G. HUMAN RIGHTS COORDINATOR, TITLE IX, AND 504/ADA COORDINATORS**

The Superintendent shall ensure that District and or building personnel are assigned to the positions listed below. Each year, and more often when personnel change, the Superintendent shall prepare and disseminate as a supplement to this policy **AC-R(2)** an updated list of the person or persons acting in those positions, along with their District contact information, including telephone number, email, and postal and physical addresses:

Human Rights Officer  
Title IX Coordinator  
504/ADA Coordinator

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The Appendix will also include current contact information for relevant state and federal agencies including:

U.S. Department of Education, Office of Civil Rights  
U.S. Department of Agriculture, Office of Civil Rights  
N.H. Human Rights Commission  
N.H. Department of Justice, Civil Rights Unit  
N.H. Department of Education, Commissioner of Education

#### **H. DISTRICT ANTI-DISCRIMINATION PLAN**

No later than October 15, 2020, the Superintendent shall develop and provide to the Board for approval, a coordinated written District Anti-Discrimination Plan (the "Plan") to include guidelines, protocols, and procedures intended to prevent, assess the presence of, intervene in, and respond to incidents of discrimination.

Among other things, the Plan should include provisions and recommendations with respect to resources, policies, complaint procedures, student education programs, Plan dissemination, and training appropriate to carrying out the Plan objectives stated in the preceding paragraph.

In developing the Plan, the Superintendent is encouraged to seek input from appropriate groups of the school and local community and coordinate with the District's Human Rights Officer and Title IX and 504 Coordinators.

No less than once every two years (off years from review of the District's Suicide Prevention Plan per Policy **JLDBB**), the Superintendent shall update the District Anti-Discrimination Plan, and present the same to the Board for review. Such Plan updates should be submitted to the Board in time for appropriate budget consideration.

#### **I. STATUTORY AND REGULATORY NONDISCRIMINATION STATEMENTS AND NOTICES**

##### **1. Comprehensive Prohibition Against Discrimination in Educational Programs and Activities.**

Under State or Federal law and Board policy, no person shall be excluded from, denied the benefits of, or subjected to discrimination in the District's public schools because of their age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion or national origin. As used in this section, "race" means immutable traits associated with race, including hair texture and protective hairstyles and "protective hairstyles" means hairstyles or hair type, including braids, locs, tight coils or curls, cornrows, Bantu knots, Afros, twists, and headwraps. Discrimination, including harassment, against any person in the District's education programs, on the basis of any of the above classes, or a person's creed, is prohibited.

Finally, there shall be no denial to any person of the benefits of educational programs or activities, on the basis of any of the above classes, or economic status.

Harassment of students other than on the basis of any of the classes or categories listed above is prohibited under Board policy **JICK** Pupil Safety and Violence Prevention.

2. **Equal Opportunity of Employment and Prohibition Against Discrimination in Employment.**

The School District is an Equal Opportunity Employer. The District ensures equal employment opportunities without regard to age, color, creed, disability, gender identity, marital status, national origin, pregnancy, race, religion, sex, or sexual orientation. The District will employ individuals who meet the physical and mental requirements, and who have the education, training, and experience established as necessary for the performance of the job as specified in the pertinent job description(s).

Discrimination against and harassment of school employees because of age, sex, race, creed, religion, color, marital status, familial status, physical or mental disability, genetic information, national origin, ancestry, sexual orientation, or gender identity are prohibited. Additionally, the District will not discriminate against any employee who is a victim of domestic violence, harassment, sexual assault, or stalking.

3. **USDA Nondiscrimination Statement (copied from Policy ACF).**

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: [USDA Form AD-3027](#) (linked tested 2024/5/9), from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- a. **Mail:**  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- b. **Fax:**  
(833) 256-1665 or (202) 690-7442; or
- c. **Email:**  
[Program.Intake@usda.gov](mailto:Program.Intake@usda.gov)

4. **Title IX Nondiscrimination Policy and Notice of Nondiscrimination.**

a. **Nondiscrimination Policy.** (copied from Board policy **ACAC**)

The District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

b. **Title IX Notice of Nondiscrimination and Grievance Procedures and Dissemination of Notice.**

i. **Form of Notice** - Title IX regulations and Board policy **ACAC** prescribe the form of the District's Title IX Notice of Nondiscrimination and further requires the full printing of the notice in the locations described in paragraph I.4.ii below because the required Notice of Nondiscrimination must include the name and contact information for the Title IX Coordinator, the full notice is included in the supplement to this policy **AC-R(2)** which policy, per Section G above, the Superintendent is authorized and directed to update at least annually, and may also be found on the District's website at: [www.gwrsd.org](http://www.gwrsd.org)

ii. **Dissemination of Notice.** Except as provided in paragraph I.4.c, below, the Superintendent shall ensure that the Title IX Notice of Nondiscrimination is included in full on the District's website, in each student, employee, parent or volunteer handbook, and in each catalog, announcement, bulletin, and application/enrollment form that it makes available to students, parents, employees, applicants, or which are otherwise used in connection with the recruitment of students or employees. The District will likewise provide the notice to any applicable bargaining unit or other organizations with professional agreements with the District.

c. **Alternative Notice.**

If the format or size of any publication of the kind listed in paragraph I.4.b.ii make it necessary to do so, the following Alternative Notice may be used:

- The District prohibits sex discrimination in any education program or activity that it operates. Individuals may report concerns or questions to the Title IX Coordinator. The District's full Title IX Notice of Nondiscrimination is located at: [www.gwrsd.org](http://www.gwrsd.org)

To report information or make a complaint about conduct that may constitute sex discrimination or sex-based harassment, please refer to Board policy **ACAC**.

**J. COLLABORATION WITH OUTSIDE AGENCIES**

Information may be disclosed if necessary to further the investigation, appeal or resolution of a grievance, or if necessary to carry out interim or disciplinary measures. The District will disclose information to the District's attorney, law enforcement, and others when necessary to enforce this policy or when required by law. In implementing this policy, the District will comply with state and federal laws regarding the confidentiality of student and employee records. Information regarding any resulting employee or student disciplinary action will be

maintained and released in the same manner as any other disciplinary record. The District will keep any documentation created in investigating the complaint including, but not limited to, documentation considered when making any conclusions, in accordance with Board policy, state and federal laws, and as advised by the District's attorney.

**K. ADDITIONAL REPORTING REQUIREMENTS**

Reports under this Policy are in addition to and do not replace other reporting requirements mandated by law or other policies - see, e.g., educator code of conduct, abuse or neglect of children (see RSA 169-C:29 and policy **JLF**), acts of "theft, destruction, or violence" (see RSA 193-D:4, I (a) and Ed 317.06), incidents of "bullying" (see RSA 193-F and policy **JICK**), and hazing (see RSA 671:7).

**L. ADMINISTRATIVE PROCEDURES, REGULATIONS AND TRAINING PROGRAMS**

The Superintendent shall develop such other procedures and regulations, and shall ensure that training programs are provided as are necessary and appropriate to implement this policy as well as the other policies referenced above.

**M. NOTICE OF COMPLIANCE**

The Superintendent will provide notice of the nondiscrimination statements and notices, the Anti-Discrimination Plan, to all applicants for employment, employees, students, parents, and other interested persons as required by statute, policy or regulation, or as the Superintendent may otherwise deem appropriate.

**Legal References:**

<i>RSA 186:11, XXXIII Discrimination</i>	
<i>RSA 193-F</i>	<i>Student Safety and Violence Protection Act</i>
<i>RSA 193:38</i>	<i>Discrimination in Public Schools</i>
<i>RSA 275:71</i>	<i>Prohibited Conduct by Employer</i>
<i>RSA 275:78-83</i>	<i>Policies Relating to Nursing Mothers (Scroll down to sections 275:78-83)</i>
<i>RSA 354-A</i>	<i>State Commission for Human Rights</i>
<i>NH Dept of Ed. Rule 303.01 (i)</i>	<i>School Board Substantive Duties</i>
<i>89 FR 29182</i>	<i>Pregnant Workers Fairness Act ("PWFA")</i>
<i>20 U.S.C 1681, et seq</i>	<i>Title IX of the Education Amendments of 1972</i>
<i>20 U.S.C. § 1400-1417</i>	<i>Individuals with Disabilities Education Act (IDEA)</i>
<i>29 U.S.C. § 794</i>	<i>Rehabilitation Act of 1973 (Section 504)</i>
<i>29 U.S.C. 621, et seq.</i>	<i>The Age Discrimination in Employment Act of 1967</i>
<i>29 U.S.C. 705</i>	<i>The Rehabilitation Act of 1973 – Definitions</i>
<i>29 U.S.C. 794</i>	<i>Rehabilitation Act of 1973 (Section 504)</i>
<i>42 U.S.C. 12101, et seq.</i>	<i>Title II of The Americans with Disabilities Act of 1990</i>
<i>42 U.S.C. §2000c</i>	<i>Title IV of the Civil Rights Act of 1964</i>
<i>42 U.S.C. 2000d, et seq</i>	<i>Title VII of The Civil Rights Act of 1964</i>
<i>42 U.S.C. 2000gg</i>	<i>Pregnant Worker Fairness Act ("PWFA")</i>
<i>42 U.S.C. 218d</i>	<i>Pump for Nursing Mothers Act ("PUMP Act")</i>

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