



The Birches Academy of Academics and Art Student Sexual Harassment Policy

I. PURPOSE

The purpose of this policy is to create and maintain a learning environment for students that is free from sexual harassment or other improper or inappropriate behavior that may constitute harassment as defined below.

Sexual harassment is against the law and is against Board policy. Any form of sexual harassment is strictly prohibited.

It is a violation of this policy for any student to harass another student through conduct or communication of a sexual nature as defined by this policy.

The Birches Academy of Academics and Art will investigate all complaints, either formal or informal, verbal or written, of sexual harassment and will discipline any student who sexually harasses another student.

II. SEXUAL HARASSMENT/SEXUAL VIOLENCE DEFINED

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

1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits;
2. Submission to or rejection of the conduct or communication is used as the basis for educational decisions affecting a student;
3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with a student's educational performance or opportunities; or creates an intimidating, offensive or hostile educational environment.

Relevant factors to be considered will include, but not be limited to: did the student view the environment as hostile; was it reasonable to view the environment as hostile; the nature of the conduct; how often the conduct occurred and how long it continued; age and sex of the complainant; whether the alleged harasser was in a position of power over the student subjected to the harassment; number of individuals involved; age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the school involving the same or other students.

Examples of sexual harassment may include, but not be limited to: physical touching or graffiti of a sexual nature; displaying or distributing of sexually explicit drawings; pictures and written materials; sexual gestures or obscene jokes; touching oneself sexually or talking about one's



sexuality in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

III. REPORTING PROCEDURES

1. The Dean of School or his/her designee is responsible for implementing all procedures of this policy. Additionally, the Dean of School may develop and implement additional administrative regulations in furtherance of this policy.
2. Any student who believes he or she has been the victim of sexual harassment should report the alleged act(s) immediately to any school employee or the Dean of School. If a student initially reports the alleged act to a school employee, that employee shall immediately notify the Dean of School.
3. The Board encourages all students and staff members to use the report form included in this policy.
4. The Dean of School is the person responsible for receiving oral or written reports of sexual harassment. Upon receipt of a report, if the report was given verbally, the Dean of School shall commit it to written form within 24 hours. Failure to forward any sexual harassment report or complaint as provided herein will result in disciplinary action.
5. The Board designates the Dean of School as The Birches Academy of Academics and Art Human Rights Officer to receive any report or complaint of sexual harassment. If the complaint involves the Dean of School, the complaint shall be filed directly with the Board.
6. Submission of a complaint or report of sexual harassment will not affect the student's standing in school, grades, work assignments, eligibility for extra-curricular activities or any other aspect of the student's educational program.
7. The use of formal Reporting Forms provided by The Birches Academy of Academics and Art is voluntary. The Birches Academy of Academics and Art will respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible, consistent with The Birches Academy of Academics and Art's legal obligations and the necessity to investigate allegations of sexual harassment and take disciplinary action when the conduct has occurred.

IV. INVESTIGATION AND RECOMMENDATION

The Dean of School, as the designated Human Rights Officer, will authorize an investigation upon receipt of a report or complaint alleging sexual harassment. This investigation may be conducted by school officials or by a third-party designated by the Board.

If District officials conduct the investigation, the investigation should consider the surrounding circumstances, the nature of the sexual advances, the relationship between the parties and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes sexual harassment 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 or other representative present.

In addition, The Birches Academy of Academics and Art may take immediate steps, at its discretion, to protect the complainant, students and employees pending completion of an investigation of alleged sexual harassment.

If the Board determines that a third-party designee should conduct the investigation, The Birches Academy of Academics and Art agrees to assent to that party's methods of investigation.

Upon completion of an investigation conducted by either District officials or a third-party, the Board and the Dean of School will be provided with a written factual report and recommended action.

V. THE BIRCHES ACADEMY OF ACADEMICS AND ART ACTION

If the investigating party determines that the alleged conduct constituted sexual harassment, the Dean of School may discipline the offending student. Such discipline may include, but is not limited to, detention, in-school suspension, out-of-school suspension, or expulsion. Discipline will be issued in accord with other applicable Board policies. Due to FERPA and other privacy-related laws, the victim will not be informed of what discipline was imposed.

If the investigating party determines that the alleged conduct did not constitute sexual harassment, both the complaining party and the accused will be informed of such. No disciplinary action will be taken.

Conduct which does not rise to the level of sexual harassment as defined by the policy, but is nonetheless inappropriate or is in violation of other Board policies, will be addressed on a case-by-case basis by the Dean of School, who may still impose discipline or order the offending student to engage in some remedial action.

VI. RETALIATION

The Birches Academy of Academics and Art will discipline any student who retaliates against any other student who reports alleged sexual harassment 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, threats, reprisal or harassment.



VII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any student 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 and/or federal law.

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 Birches Academy of Academics and Art shall comply with all pertinent laws.

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

IX. AGE-APPROPRIATE SEXUAL HARASSMENT POLICY

Per the requirements of Ed 303.01(j), the Board is required to establish a policy on sexual harassment, written in age appropriate language and published and available in written form to all students. This policy is intended to apply to middle-school students.

The Dean of School is charged with establishing policies, rules, protocols and other necessary age-appropriate information or materials for The Birches Academy of Academics and Art.

X. BY-PASS OF POLICY

Any individual with a sexual harassment complaint may choose to bypass this Policy and accompanying regulation and proceed directly to: N.H. 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.

Legal References:

Ed 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy
Ed 306.04(a)(9), Sexual Harassment



SEXUAL HARRASSMENT AND SEXUAL VIOLENCE REPORT FORM

General Statement of Policy Prohibiting Sexual Harassment

The Birches Academy maintains a firm policy prohibiting all forms of discrimination based on sex. Sexual harassment and sexual violence against employees is sexual discrimination. All persons are to be treated with respect and dignity. Sexual violence, sexual advances or other forms of personal harassment 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: _____

Email Address: _____

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: _____