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AC - Nondiscrimination/Equal Opportunity and Affirmative Action

AC - NONDISCRIMINATION/EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

MSAD #35 does not discriminate on the basis of sex and other protected categories in its education programs and activities, as required by federal and state laws and regulations.

MSAD #35 prohibits discrimination, including harassment, of school employees on the basis of:

- Race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists, and locks);
- Sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions;
- Parental, family, or marital status;
- Color;
- Religion;
- Ancestry or national origin;
- Age;
- Disability; and
- Genetic information.

MSAD #35 prohibits discrimination, including harassment, of students on the basis of:

- Race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists, and locks);
- Sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions;
- Parental, family, or marital status;
- Color;
- Religion;
- Ancestry or national origin; and
- Disability.

The Board directs the school administration to implement a continuing program designed to prevent discrimination against all applicants, employees, students and other individuals having access rights to school premises, programs, and activities.

MSAD #35 has designated and authorized an Affirmative Action Officer/Title IX Coordinator who is responsible for ensuring compliance with all federal and state requirements prohibiting discrimination, including sexual/sex-based harassment. The Affirmative Action Officer/Title IX Coordinator is a person with direct access to the Superintendent.

MSAD #35 has implemented complaint procedures for resolving complaints of discrimination and harassment under this policy. The school unit provides required notices of non-discrimination policies and complaint procedures, how they can be accessed, and the school unit's compliance with federal and state civil rights laws and regulations to all applicants for employment, employees, students, parents, and other interested parties.

Legal References:

Equal Employment Opportunity Act of 1972 (P.L. 92-261), amending Title VII of the Civil Rights Act of 1965, 42 U.S.C. §§ 2000e to 2000e-17.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, as amended by 34 C.F.R. § 106.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7. Age Discrimination in Employment Act, 29 U.S.C. §§ 623-634.

Equal Pay Act of 1963, 29 U.S.C. § 206.

Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, as amended by 34 C.F.R. § 104.7.

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, as amended by 28 C.F.R. § 35.107.

Genetic Information Nondiscrimination Act of 2008, 29 U.S.C. §§ 2000ff to 2000ff-11.

Pregnant Workers Fairness Act, 42 U.S.C. §§ 2000gg to 2000gg-6. Maine Human Rights Act, 5 M.R.S.A. §§ 4551-4634 (2023).

Cross References:

MSAD #35 Affirmative Action Plan

ACAA- Harassment of Students

ACAA-R1 – Student Discrimination and Harassment Complaint Procedure

ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure

ACAB – Harassment of Employees

ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure

ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure

GBGB – Workplace Bullying

JICK – Bullying

JIE – Pregnant Students

Policy Adopted: January 20, 1993

Policy Revised: April 25, 2001, December 4, 2002, January 5, 2005, February 25, 2009, July 18, 2018, December 18, 2019, November 18, 2020, April 27, 2022, December 21, 2022; November 20, 2024

AC-R - Grievance Procedure For Persons with Disabilities

AC-R - Grievance Procedure For Persons with Disabilities

The Board has adopted this grievance procedure to provide a local avenue for persons with disabilities to raise concerns about whether the school unit is fully meeting its obligations under state and federal laws to protect persons with disabilities. This procedure is intended to meet the requirements of the federal Rehabilitation Act (34 CFR § 104.7(b)) and the federal Americans with Disabilities Act (28 CFR § 35.107(b)).

Questions about this grievance procedure should be directed to the ADA/504 compliance coordinator:

Scott Reuning

MSAD #35

180 Depot Road,

Eliot, ME 03903

Phone: 207-439-2438

Step One

A person with an identifiable disability, or someone acting on that person's behalf, may file a written grievance regarding compliance with state or federal disabilities laws with the building principal where the grievance arose, or with the ADA/504 compliance coordinator. If filed with the ADA/504 compliance coordinator, that person shall forward it to the appropriate building principal. No grievance will be heard if it involves actions that occurred more than 60 days prior to the filing of the grievance.

The building principal, after consultation with the ADA/504 compliance coordinator, shall respond in writing to the grievance within 15 working days of its receipt. Extensions of 15 working days may be allowed if necessary to address fully the issues in the grievance. The principal's written response shall be forwarded to the grievant and to the ADA/504 compliance coordinator.

Step Two

If dissatisfied with the response, the grievant may obtain a review by the Superintendent of the principal's decision.

The grievant must request that review within 15 working days of the decision by the principal. The Superintendent, after consultation with the ADA/504 compliance coordinator, shall respond in writing to the grievance within 15 working days. Extensions of 15 working days may be allowed when necessary to address fully the issues in the grievance. The Superintendent's written response shall be forwarded to the grievant and to the ADA/504 compliance coordinator.

Except for grievances regarding physical alterations to school buildings or grounds, the decision of the Superintendent shall be final. In the case of grievances regarding physical alterations to school buildings or grounds, a dissatisfied grievant may obtain a review by the School Board of the Superintendent's decision.

The grievant must request that review within 15 working days of the decision by the Superintendent. The Board shall have a reasonable time to schedule a meeting on the grievance and to issue its decision.

Nothing in this grievance procedure in any way forecloses a person with a disability from seeking redress for their concerns at any time through other legal avenues, such as through the Office for Civil Rights, the Department of Justice, the Maine Human Rights Commission or the Maine Department of Education.

Questions about other legal avenues available for persons with disabilities to pursue compliance concerns under various disabilities laws should be directed to the ADA/504 compliance coordinator [name, address, phone number].

This notice is available in large print and on audio tape from the ADA/504 compliance coordinator:

Scott Reuning

MSAD #35

180 Depot Road,

Eliot, ME 03903

Phone: 207-439-2438

Cross Reference: AC – Nondiscrimination, Equal Opportunity and Affirmative Action

MSAD #35/RSU #35 School Department Affirmative Action Plan

Adopted: July 18, 2018

Reviewed: March 18, 2020

Policy Revised: May 12, 2021

ACAA - Harassment and Sexual Harassment of Students

ACAA - HARASSMENT OF STUDENTS

MSAD #35 prohibits harassment of students on the basis of:

- Race (including traits associated with race involving hair texture, Afro hairstyles, and protective hairstyles such as braids, twists, and locks);
- Sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions;
- Parental, family, or marital status;
- Color;
- Religion;
- Ancestry or national origin; and
- Disability.

Such conduct is a violation of Board policy and may constitute illegal discrimination under state and/or federal laws.

School employees, fellow students, volunteers, visitors to the schools, and other individuals with whom students may interact in order to pursue or engage in education programs and activities, are required to refrain from such conduct.

A. Harassment

Harassment includes, but is not limited to, verbal abuse and other unwelcome, offensive conduct based on the protected categories listed above. Harassment that rises to the level of physical assault, battery, and/or abuse, and/or bullying behavior are also addressed in Board Policies JICIA – Weapons, Violence and School Safety and JICK – Bullying.

B. Sexual/Sex-Based Harassment

Sexual Harassment and other forms of Sex-Based Harassment are addressed under federal and state laws/regulations. The scope and definitions of sexual/sex-based harassment under these laws differ, as described below.

1. Sex-Based Harassment Under Title IX

Under the federal Title IX law and its accompanying regulations, sex-based harassment includes harassment on the basis of sex, including sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions, that is:

- a. “Quid pro quo” harassment by a school employee, agent, or other person authorized by the school unit to provide an aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service (such as a better grade or college recommendation) on the individual’s participation in unwelcome sexual conduct.
- b. “Hostile environment” harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offense, and is so severe or pervasive that it limits or denies an individual’s ability to participate in or benefit from the school unit’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors (identified in ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure).
- c. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined in applicable federal laws/regulations.

2. Sexual Harassment Under Maine Law

Under Maine law, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of a student’s educational benefits;
- b. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or
- c. Such conduct has the purpose and effect of substantially interfering with a student’s academic performance, or creates an intimidating, hostile, or offensive environment.

C. Reports and Complaints of Harassment

All employees (except employees designated by the school unit as “confidential employees” in regard to sexual/sex-based harassment complaints) are required to report possible incidents of harassment involving students to the Affirmative Action Officer/Title IX Coordinator. Failure to report such incidents may result in disciplinary action.

Students, parents/guardians, and other individuals are strongly encouraged to report possible incidents of harassment involving students to the Affirmative Action Officer/Title IX Coordinator, so

that they can be appropriately addressed.

The Affirmative Action Officer/Title IX Coordinator is also available to answer questions and provide assistance to any individual who is unsure whether harassment has occurred.

Reports of discrimination and harassment of students shall be addressed through ACAA-R1 – Discrimination and Harassment of Students Complaint Procedure. Reports of sex discrimination, including sexual/sex-based harassment, are addressed in ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure.

Legal References:

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, as amended by 28 C.F.R. § 35.107.

Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, as amended by 34 C.F.R. § 104.7.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, as amended by 34 C.F.R. § 106.

Title IV of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c to 2000c-9.

Maine Human Rights Act, 5 M.R.S.A. §§ 4551-4634 (2023).

20-A M.R.S.A § 6553 (2019).

MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, Ch. 4.

Cross Reference:

ACAA-R1 – Student Discrimination and Harassment Complaint Procedure

ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure

AC – Nondiscrimination/Equal Opportunity and Affirmative Action

ACAB – Harassment of Employees

ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure

ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure

ACAD – Hazing

GBEB – Staff Conduct with Students

JFCK – Student Use of Cellular Telephones and Other Electronic Devices

JICIA – Weapons, Violence and School Safety

JICK – Bullying

JIE – Pregnant Students

Policy Adopted: January 5, 2005

Policy Revised: March 4, 2009, March 1, 2017, July 18, 2018, December 18, 2019, December 2, 2020, December 21, 2022; November 20, 2024

ACAB - Harassment of Employees

ACAB - HARASSMENT OF EMPLOYEES

MSAD #35 prohibits harassment of employees on the basis of:

- Race (including traits associated with race involving hair texture, Afro hairstyles, and protective hairstyles such as braids, twists, and locks);
- Sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions;
- Parental, family, or marital status;
- Color;
- Religion;
- Ancestry or national origin;
- Age;
- Disability; and
- Genetic information.

Such conduct is a violation of Board policy and may constitute illegal discrimination under state and/or federal laws.

A. Harassment

Harassment includes, but is not limited to, verbal abuse, threats, physical assault/battery, and other unwelcome, offensive conduct based on the protected categories listed above. Harassment that rises to the level of physical assault, battery, and/or abuse is also addressed in Board Policy JICIA – Weapons, Violence and School Safety, and bullying conduct is also addressed in Board Policy GBGB – Workplace Bullying. Under the Maine Civil Rights Act, violence or threats of violence against a person or their property based on their sexual orientation is also illegal.

B. Sexual/Sex-Based Harassment

Sexual Harassment and other forms of Sex-Based Harassment are addressed under federal and state laws/regulations. The scope and definitions of sexual/sex-based harassment under these laws differ, as described below.

1. Sex-Based Harassment Under Title IX

Under the federal Title IX law and its accompanying regulations, sexual/sex-based harassment includes harassment on the basis of sex, including sexual orientation, gender identity, sex

stereotypes, sex characteristics, pregnancy or related conditions, that is:

- a. “Quid pro quo” harassment by a school employee, agent, or other person authorized by the school unit to provide an aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service (such as a promotion or favorable evaluation) on the individual’s participation in unwelcome sexual conduct.
- b. “Hostile environment” harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offense, and is so severe or pervasive that it limits or denies an individual’s ability to participate in or benefit from the school unit’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors (identified in ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure).
- c. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined in applicable federal laws/regulations.

2. Sexual Harassment Under Maine Law

Under Maine law, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
- b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or
- c. Such conduct has the purpose and effect of substantially interfering with an employee’s work performance, or creates an intimidating, hostile, or offensive environment.

C. Reports and Complaints of Harassment

Any employee who believes they have been harassed or sexually harassed is strongly encouraged to make a report to the Affirmative Action Officer/Title IX Coordinator.

The Affirmative Action Officer/Title IX Coordinator is also available to answer questions and provide assistance to any individual who is unsure whether harassment has occurred.

All reports and complaints of discrimination/harassment of employees shall be addressed through ACAB-R1 – Discrimination and Harassment of Employees Complaint Procedure or ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure.

Legal References:

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, as amended by 28 C.F.R. § 35.107.

Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, as amended by 34 C.F.R. § 104.7.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, as amended by 34 C.F.R. § 106.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7.

Title VII of the Civil Rights Act of 1965, 42 U.S.C. §§ 2000e to 2000e-17, as amended by 29 C.F.R. § 1604.11.

Age Discrimination in Employment Act, 29 U.S.C. §§ 623-634.

Genetic Information Nondiscrimination Act of 2008, 29 U.S.C. §§ 2000ff to 2000ff-11.

Pregnant Workers Fairness Act, 42 U.S.C. §§ 2000gg to 2000gg-6.

Maine Human Rights Act, 5 M.R.S.A. §§ 4551-4634 (2023).

MHRC Rule Chapter 94-348, Ch. 3.

20-A M.R.S.A. § 1001(22) (2023).

26 M.R.S.A. §§ 806-807 (2017).

Cross Reference:

ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure

ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure

AC – Nondiscrimination/Equal Opportunity and Affirmative Action

ACAA – Harassment of Students

ACAA-R1 – Student Discrimination and Harassment Complaint Procedure

ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure

GBGB – Workplace Bullying

ACAD – Hazing

JICIA – Weapons, Violence and School Safety

JIE – Pregnant Students

Policy Adopted: March 7, 2001

Policy Revised: January 5, 2005, March 4, 2009, March 1, 2017, July 18, 2018, December 18, 2019, November 18, 2020, April 27, 2022, December 21, 2022, November 20, 2024

ACAC - Service Animals in Schools

ACAC - Service Animals in Schools

The Board recognizes that service animals may be used to provide assistance to some persons with disabilities. This policy governs the presence of service animals in the schools, on school property, including school buses, and at school activities.

DEFINITION

As applied to schools, federal and Maine laws define a “service animal” as a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purpose of this definition.

The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.

USE OF SERVICE ANIMALS IN SCHOOLS

Use of a service animal by a qualified student with a disability will be allowed in school when it is determined that the student's disability requires such use in order to have equal access to the instructional program, school services and/or school activities.

Use of a service animal by a qualified employee with a disability will be allowed when such use is necessary to enable the employee to perform the essential functions of his/her job or to enjoy benefits of employment comparable to those of similarly situated non-disabled employees.

The parent/guardian of a student who believes the student needs to bring a service animal to school, or an employee who wishes to bring a service animal to school, must submit a written request to the building principal. The building principal, in consultation with the Section 504 Coordinator or Director of Special Services, as appropriate, and the Superintendent will determine whether or not to permit the service animal in school.

Parents or animal handlers who will be present in school for the purpose of assisting a student with his/her service animal will be required to submit to a sex offender registry and criminal background check. In addition, parents and handlers must comply with all standards of conduct that apply to school employees and volunteers.

The school unit may impose additional conditions on the presence of a service animal, depending upon the circumstances.

The building principal may remove or exclude a service animal from the school or school property if the presence of the animal poses a direct threat to the health and safety of others or the student, employee or handler is unable to fully control the animal; or the animal fails to consistently perform the function(s)/service(s) for which it has been trained and brought to school.

A parent or employee whose service animal has been removed or excluded may appeal the decision to the Superintendent. If dissatisfied with the Superintendent's decision, the parent or employee may appeal to the Board.

SERVICE ANIMALS AT SCHOOL-SPONSORED EVENTS

Individuals with disabilities may be accompanied by their service animals to events or activities open to the public that are held in schools or on school property. The use of a service animal may not be conditioned on the payment of a fee or security deposit, but the individual is liable for any damage done to the premises or facilities by such an animal.

The building principal may revoke or exclude the service animal only if the animal poses a direct threat to the health and safety of others, the use of the animal would result in substantial physical damage to the property of others, or would substantially interfere with the reasonable enjoyment of the event or activity by others.

Legal Reference:

42 USC § 12101 et seq.

36 CFR § 104, 302

5 MRSA §§ 4553, 4592

Me. Human Rights Commission Rule Chapter 7

Cross References:

AC - Nondiscrimination, Equal Opportunity, and Affirmative Action

KFC - Public Conduct on School Property

Policy Adopted: September 7, 2005

Policy Reviewed: February 10, 2014

Policy Revised: December 7, 2005 and April 27, 2022

ACAD - Hazing

ACAD - Hazing

Maine law defines injurious hazing as any action or situation, including harassing behavior that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in a public school.

Injurious hazing also includes any activity expected of a student as a condition of joining or maintaining membership in a group that humiliates, degrades, abuses or endangers a student, regardless of the student's willingness to participate in the activity.

Injurious hazing activities of any type, either on or off school property, by any student, staff member, group or organization affiliated with this school unit, are inconsistent with the educational process and shall be prohibited at all times.

"Harassing behavior" includes acts of intimidation and any other conduct that recklessly or intentionally endangers the mental or physical health of a student or staff member.

"Acts of intimidation" include extortion, menacing, direct or indirect threats of violence, incidents of violence, bullying, statements or taunting of a malicious and/or derogatory nature that recklessly or intentionally endanger the mental or physical health of another person, and property damage or theft.

No administrator, faculty member, or other employee of the school unit shall encourage, permit, condone, or tolerate injurious hazing activities. No student, including leaders of any student organizations or school-sponsored teams, shall plan, encourage, or engage in injurious hazing activities.

Students who violate this policy may be subject to disciplinary action which may include suspension, expulsion, or other appropriate measures. Administrators, professional staff, and all other employees who violate this policy may be subject to disciplinary action up to and including dismissal.

In the case of an organization affiliated with this school unit that authorizes hazing, penalties may include rescission of permission for that organization to operate on school property or to receive any other benefit of affiliation with the school unit.

Persons not associated with this school unit who fail to abide by this policy may be subject to ejection from school property and/or other measures as may be available under the law.

These penalties shall be in addition to any civil or criminal penalties to which the violator or organization may be subject.

The Superintendent/designee shall be responsible for administering this policy. In the event that an individual or organization disagrees with an action—or lack of action—on the part of the Superintendent/designee as he/she carries out the provisions of this policy, that individual or organization may appeal to the Board. The ruling of the Board with respect to the provisions of this policy shall be final.

This right to appeal does not apply to student suspensions of 10 days or less or to matters submitted to grievance procedures under applicable collective bargaining agreements.

A copy of this policy shall be included in all school, parent, and employee handbooks or otherwise distributed to all school employees and students.

Legal Reference: 20-A MRSA § 6553

Cross Reference: ACAA - Harassment and Sexual Harassment of Students

ACAB - Harassment and Sexual Harassment of Employees

ACAE - Weapons, Violence and School Safety

Policy Adopted: November 1, 1989

Policy Revised: October 1, 1997, March 7, 2001, November 20, 2002, April 15, 2009, October 16, 2019

AD - Educational Philosophy/Mission

AD - Educational Philosophy/Mission

The mission of Marshwood School District is to provide a place where students, parents, staff and community members work together to foster a life-long passion for learning and engage all students in developing the skills and knowledge they need to be successful; live healthy lives; and become ethical, kind, compassionate, responsible citizens who thrive in an ever-changing world.

Our school community strives to:

- Advance sustainability practices and programs in district operations and infrastructure, and encourage environmental stewardship.
- Empower students to become strong, independent, growth-minded, critical thinkers who have the courage to act on their own beliefs.
- Create a districtwide culture of kindness in which students develop compassion for others and a commitment to practicing good citizenship.
- Create a safe, inclusive, differentiated learning environment in which all students feel safe, heard, and supported in the development of their whole selves - social, emotional, physical and cognitive.
- Ensure all students are challenged, motivated and inspired by innovative learning opportunities that meet or exceed standards.

As advocates for children, the Board recognizes that the thorough and efficient education of children is its primary statutory-based responsibility. To this end, the Board considers proper and adequate support of schools to be a civic responsibility shared by all citizens.

The school unit will provide an educational environment designed to encourage each student to acquire the necessary skills and perspectives needed for a meaningful life and career. All schools will strive to encourage students to form desirable habits that are necessary for them to become

responsible, informed citizens. In general, we aim to have students develop attitudes and practices necessary for satisfying, worthwhile lives.

We believe that all children must be provided equitable opportunities to allow them to achieve at levels commensurate with their abilities. We believe that all students must learn in an environment that allows them to develop positive attitudes toward themselves and genuine respect for others.

The school unit will provide a rigorous core curriculum designed to achieve specific learning outcomes will be provided. The curriculum will be planned with the goal of creating and maintaining standards which will furnish students with the skills necessary for success in a global society while giving them a broad educational foundation compatible with their interests, aptitudes, and aspirations. The curriculum and graduation requirements will be regularly evaluated to ensure their continued appropriateness.

In order to achieve our goals and to implement this philosophy, we believe that all schools must secure the involvement of the community, students, staff, parents, and citizens. Educational responsibility must be shared with important community institutions. We strongly believe that our school system's success depends on good rapport and cooperation with our communities and its institutions.

The Board recognizes the professional staff as the body that is legally charged with the responsibility of providing education to all children. In fulfilling this responsibility, the staff will seek to ensure the following.

- A. All children will master basic skills in the areas of language arts, mathematics, science, history, and technology.
- B. Instruction will be provided which is appropriate to each individual with respect to goals, methodology and evaluation.
- C. Students will be seen in their totality as physical, mental, social, and aesthetic beings, which requires knowledge of child growth and development.
- D. Staff members, in order to effectively execute their responsibilities, will establish goals for themselves consistent with the philosophy of the Board and individual schools. Staff members will engage in a self-evaluation process for the purpose of self-improvement--the ultimate objective being an improved instructional program for all students.
- E. The Board recognizes that this highly technological society demands that students learn how to cope with change and learn to accept that "learning" is a continuous process.

The Board fully accepts the responsibility of formulating policies and acquiring adequate funding to support the education process. The Board will always consider the welfare of students as the single most important factor in making decisions relative to educational policy. It will be the responsibility of the Board and administrators to promote sound educational practices and professional development.

Legal Reference: 20-A MRSA, §§ 1001(1-A); 4511(3)(A)

Policy Adopted: March 1, 2017

Cross References: JICK - Bullying

Policy Revised: November 17, 2021

ADAA - School System Commitment to Standards for Ethical and Responsible Behavior for Students

ADAA - School System Commitment to Standards for Ethical and Responsible Behavior for Students

The School Board believes that promoting ethical and responsible behavior for students is an essential part of the school unit's educational mission. The Board recognizes that ethics, constructive attitudes, responsible behavior, and "character" are important if a student is to leave school as a "responsible and involved citizen," as described in the Guiding Principles of the Maine Learning Results. The Board also recognizes that Maine law requires the adoption of a district-wide student code of conduct consistent with statewide standards for student behavior developed by the Commissioner of the Department of Education in compliance with 20-A MRSA § 254(11).

The Board seeks to create and maintain a school climate in which ethical and responsible behavior can flourish. The Board believes that instilling a sense of ethics and responsibility in students requires setting positive expectations for student behavior as well as establishing disciplinary consequences for behavior that violates Board policy or school rules. Further, the Board believes that in order to teach ethical and responsible behavior, adults who interact with students must strive to model and reinforce ethical and responsible behavior. To that end, the Board supports an active partnership between schools and parents.

Recognizing that collaboratively identified core values are the foundation for a school culture that encourages and reinforces ethical and responsible student behavior, the Board is committed to the establishment and implementation of a process for identifying shared values and setting and enforcing standards for behavior, including procedures for the management of student behavior. The process for identifying such shared values will invite and include the participation of Board members, school administrators, staff, parents, students, and the community. Core values will be reviewed periodically, with opportunity for public participation. The Board will direct the Superintendent/designee to develop a process to assess school system progress toward achievement of an ethical and responsible school culture.

Following the identification of core values, the Board, with input from administrators, staff, parents, students, and members of the community, will adopt a Student Code of Conduct consistent with statewide standards for student behavior that shall, as required by law:

1. Define unacceptable student behavior;
2. Establish standards of student responsibility for behavior;
3. Establish guidelines for addressing violations of the Student Code of Conduct, including first-time violations, when appropriate;
4. Describe appropriate procedures for referring students in need of special services to those services;
5. Establish criteria to determine when further assessment of a current Individual Education Plan (IEP) is necessary, based on the removal of the student from class;
6. Establish policies and procedures concerning the removal of disruptive or violent students from a classroom or a school bus, as well as student disciplinary and placement decisions, when appropriate; and
7. Establish guidelines and criteria concerning the appropriate circumstances when the Superintendent/designee may provide information to the local police or other appropriate law enforcement authorities regarding an offense that involves violence committed by any person on school grounds or other school property.
8. Establish policies and procedures to address bullying, harassment, and sexual harassment.

The Student Code of Conduct will be reviewed periodically by the School Board, with input from administrators, staff, parents, students, and members of the community. Students, parents, staff, and the community will be informed of the Student Code of Conduct through handbooks and/or other means selected by the Superintendent/designee.

When revising the Student Code of Conduct, the Board shall consider (evaluate and revise, as deemed necessary or desirable) relevant existing district-wide school disciplinary policies and/or consider adoption of new policies that:

1. Focus on positive interventions and expectations, and avoid focusing exclusively on unacceptable behavior;
2. Focus on positive and restorative interventions that are consistent with evidence-based practices rather than set punishments for specific behaviors, and avoid “zero tolerance” practices unless specifically required by federal or state laws, rules, or regulations;
3. Allow administrators to use their discretion to fashion appropriate discipline that examines the circumstances pertinent to the case at hand; and
4. Provide written notice to the parents of a student when a student is suspended from school, regardless of whether the suspension is an in-school or out-of-school suspension.

“Positive interventions” and “restorative interventions” shall have the same meaning as provided in 20-A MRSA § 1001(15).

Ethics and Curriculum

The Board encourages integration, examination, and discussion of ethical issues within content areas of the curriculum, as appropriate. The Board also encourages school administrators and staff to provide students with meaningful opportunities to apply values and ethical and responsible behavior through activities such as problem-solving, service learning, peer mediation and student government/leadership development.

Legal Reference:

20-A MRSA §§ 254, 1001(15), 1001(15-A)

Cross Reference:

JIC - District-Wide Student Code of Conduct

JICK - Bullying

JKD - Suspension of Students

Policy Adopted: June 10, 2009

Policy Revised: February 28, 2024

ADC - Tobacco-Free Schools: Use and Possession of Tobacco and Electronic Smoking Devices

ADC - Tobacco-Free Schools: Use and Possession of Tobacco and Electronic Smoking Devices

The Board recognizes that research shows that tobacco continues to be the leading cause of preventable disease and death in Maine and the United States, for both users and those exposed to second-hand smoke. The Board is also aware that a growing body of evidence suggests that the chemicals present in the aerosols (“vapor”) produced by electronic smoking devices, may pose significant long-term risks to health, as well the risk of addiction to nicotine.

The Board is committed to providing a safe and healthy environment for students, staff, and visitors to the schools, including members of the community who use school facilities for recreational and other purposes.

To that end, and in compliance with applicable state and federal laws, all persons are prohibited from smoking and tobacco use in school buildings, on any school grounds (including parking lots), on school buses, in school-owned or leased vehicles, in privately owned vehicles at all school sponsored events “at all times”.

“At all times” means 24 hours per day, 365 days a year, including all days when school is not in session and at all functions taking place on school grounds, including organized non-school-sponsored activities and events and casual recreational uses.

DEFINITIONS:

For the purpose of this policy:

“Tobacco use” means smoking or the carrying or possession a tobacco product (22 MRSA §1578-B (1)(D).

“Smoking” includes carrying or having in one’s possession a lighted or heated cigarette, cigar or pipe or heated tobacco or plant product intended for human consumption through inhalation

whether natural or synthetic in any manner or any form. "Smoking" includes the use of an electronic smoking device (22 MRSA § 1541(6)).

"Tobacco product" means any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved inhaled or ingested by any other means, including but not limited to, a cigarette, cigar, hookah, pipe tobacco, chewing tobacco, snuff or snus. "Tobacco product" also means an electronic smoking device and any component or accessory used in the consumption of a tobacco product such as filters, rolling papers, pipes and liquids used in electronic smoking devices whether or not they contain nicotine (22 MRSA § 1551(3)).

All persons are prohibited from selling, distributing, or dispensing tobacco products to students in school buildings, on school grounds or at school-sponsored events at all times.

CONSEQUENCES FOR VIOLATION

STUDENTS:

The Superintendent/designee(s) shall be responsible for developing age-appropriate disciplinary guidelines for students violating this policy and for employing strategies, as practicable, to address prevention, education, and information about community programs for cessation assistance.

The Superintendent or his/her designee reserves the right to refer students to a law enforcement agency, on a case-by-case basis, as he/she may deem necessary. However, the Superintendent/designee shall refer to a law enforcement agency any student reasonably suspected of selling, dispensing or distributing tobacco products or vaping devices/products.

Parents/guardians will be notified of all violations involving their student and action taken by the school.

STAFF:

School unit employees who violate this policy will be subject to appropriate disciplinary measures up to and including dismissal.

Any school unit employee suspected of selling, distributing or in any way dispensing tobacco products or vaping devices/products to students shall be referred to a law enforcement agency.

OTHER PERSONS IN VIOLATION:

All other persons violating this policy, including parents, vendors/contractors, spectators at school events and other visitors shall be asked to refrain from use and reminded of the Board's policy. Persons who do not comply will be asked to leave school grounds. Failure to leave school grounds will be treated as trespassing and law enforcement personnel may be contacted.

Persons suspected of selling, distributing or in any way dispensing tobacco products or vaping devices/products to students shall be referred to an appropriate law enforcement agency.

RESPONSIBILITY FOR ENFORCEMENT

The building principal/designee will be responsible for enforcing this policy at the school level.

NOTICE

Notice of this policy and disciplinary consequences for violations will be posted on the school unit's website and included in the student code of conduct and/or student handbooks and in annual employee communications.

Parents/guardians will have access to the Board's policy via the district website.

"Tobacco-free campus" signage will be posted in highly visible areas at entrances and on school grounds, including entrances to athletic facilities.

EDUCATION

Age-appropriate tobacco/"vaping" prevention and awareness instruction will be incorporated into the school unit's health curriculum, in alignment with Maine's system of Learning Results and in support of the school unit's wellness policy goals, to educate students about the dangers of tobacco and vapor products and to encourage a tobacco and "vape-free" lifestyle.

As feasible, information regarding treatment and cessation resources will be made available to students and school unit employees who want to quit.

ADVERTISING OF TOBACCO PRODUCTS

Advertising of tobacco products is prohibited in school buildings, on school property, and in school publications.

Legal Reference: 22 MRSA §§ 1541, 1551, 1578-B

Me. PL Ch. 61 (2019) (*An Act to Prohibit the Possession and Use of Electronic Smoking Devices on School Grounds*)

20 USC 6081-6084 (*Pro-Children Act of 1994*)

Cross Reference: JICA – Student Dress

JICDA – District-wide Student Code of Conduct

JICIA - Weapons, Violence and School Safety

JL – Student Wellness

KF – Community Use of School Facilities

KHB – Advertising in the Schools

Policy Adopted: June 10, 2009

Policy Reviewed: April 13, 2016

Policy Revised: February 12, 2020, May 12, 2021

ADF - School District Commitment to Learning Results

ADF - School District Commitment to Learning Results

M.S.A.D. #35 hereby adopts Maine's system of Learning Results. The Learning Results system is intended to serve as a foundation for education reform and to promote and provide an assessment of student learning, accountability, and equity. The Board recognizes that the legislative intent of the Learning Results system is to provide children with schools that reflect high expectations and create conditions where these expectations can be met.

The Board understands that implementation of the Learning Results system and the mandate to provide all students with equitable opportunities to meet the content standards of the system of Learning Results have broad implications for the school unit, including curriculum, budget, professional development, student assessment, professional evaluation, and graduation requirements. Therefore, the Board is committed to examining its policies and school system practices to ensure that they are consistent with the intent and goals of the Learning Results system. This will require a concerted and coordinated effort involving the Board, the Superintendent, administrators, teachers, parents, students, and the community.

Legal Reference: 20-A MRSA §§ 1001(6), 6208-6209

L.D. 1536, Chapter 51 Resolves

Ch. 127 § 3 (Me. Dept. of Ed. Rule)

Cross Reference: IK - Evaluation of Student Achievement

IGA - Curriculum Development and Adoption

Policy Adopted: September 3, 2003

Policy Revised: March 18, 2009

ADA - School District Goals and Objectives

ADA - SCHOOL DISTRICT GOALS AND OBJECTIVES

The Board recognizes its responsibility to set goals for the efficient operation of the school unit. In discharging this responsibility, the Board will strive to ensure that the resources of the unit are directed toward meeting the educational needs of each eligible student.

The Board will develop annual goals based on input solicited from a variety of sources. These goals will be shared with the community, the staff, and the students. The administration shall develop appropriate objectives designed to achieve the stated priorities.

The Board will regularly evaluate progress toward meeting the goals and will adopt appropriate policies designed to facilitate their accomplishment.

Legal Reference: 20-A MRSA § 4511(3)(A)

Policy Adopted: October 16, 2024

ACAA-R1 - STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

ACAA-R1 - STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this student procedure in order to provide prompt and equitable resolution of complaints of unlawful discrimination and harassment based on race; color; religion; ancestry or national origin; and disability. Complaints of sex discrimination, including sexual/sex-based harassment, are addressed in ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure. In cases where allegations include sex discrimination or sexual/sex-based harassment and one or more other protected categories, ACAA-R2 will be used.

Complaints alleging unlawful discrimination and harassment of an employee are addressed under ACAB-R1 - Employee Discrimination and Harassment Complaint Procedure or ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure.

Any individual who is unsure about whether unlawful discrimination or harassment has occurred, and/or which complaint procedure applies, is encouraged to contact the Affirmative Action Officer/Title IX Coordinator:

Heidi Early

Affirmative Action Officer/Title IX Coordinator

MSAD #35

180 Depot Road, Eliot, ME 03903

207-439-2438

heidi.early@rsu35.org

Section 1. Definitions

For purposes of this complaint procedure, the following definitions will be used.

A. “Discrimination or harassment”: Discrimination or harassment on the basis of an individual’s membership in a protected category.

B. “Discrimination”: Treating individuals differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected category.

C. “Harassment”: Oral, written, graphic, electronic, or physical conduct relating to an individual’s actual or perceived membership in a protected category that is sufficiently severe or pervasive so as to interfere with or limit that individual’s ability to participate in the school unit’s education program or activities by creating a hostile, intimidating, or offensive environment.

D. “Complaint” is defined as an allegation that a student has been discriminated against or harassed on the basis of race, color, religion, ancestry, national origin, or disability.

Section 2. Complaint Procedure

This procedure should be used to address any report or complaint of unlawful discrimination or harassment based on a protected category which does not involve sex discrimination or sexual/sex-based harassment.

A. How to Make A Complaint

1. School employees are required to promptly make a report to the AAO/Title IX Coordinator if they have reason to believe that a student has been discriminated against or harassed.
2. Students (and others) who believe that they, or another student has been harassed or discriminated against should report their concern promptly to the AAO/Title IX Coordinator.
3. The individual making the report must provide basic information concerning the allegation of discrimination or harassment (i.e., date, time, location, individuals involved, nature of allegation(s)) to the AAO/Title IX Coordinator. If the report is made orally, the AAO/Title IX Coordinator will document it.
4. If the individual is unsure as to whether unlawful discrimination or harassment has occurred, or needs assistance in preparing a complaint, they are encouraged to discuss the matter with the AAO/Title IX Coordinator.
5. Individuals will not be retaliated against for reporting suspected discrimination or harassment, or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary action, up to and including termination for employees, and expulsion for students.
6. Individuals are encouraged to utilize the school unit’s complaint procedure. However, individuals are hereby notified that they also have the right to report incidents of discrimination or harassment to:

- Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333; telephone: 207-624-6290; website: <https://www.mhrc.gov/mhrc/>; and/or
- Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111; website: https://ocrcas.ed.gov/contact-ocr?field_state_value=688).

B. Complaint Handling and Investigation

1. The AAO/Title IX Coordinator will promptly inform the Superintendent and the person who is the subject of the complaint (respondent) that a complaint has been received.
 - a. If the allegations include sex discrimination or sexual/sex-based harassment, ACA-R2 will be followed instead of this procedure.
2. The AAO/Title IX Coordinator may pursue an informal resolution of the complaint with the agreement of the parties involved. Any party to the complaint may decide to end the informal resolution process and pursue the formal process at any point. Any informal resolution is subject to the approval of the parties and the Superintendent, who shall consider whether the resolution is in the best interest of the school unit and the parties in light of the particular circumstances and applicable policies and laws.
3. The AAO/Title IX Coordinator may implement supportive measures for a student to reduce the risk of further discrimination or harassment of the student while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals involved, changing class schedules, or other steps.
4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the AAO/Title IX Coordinator. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the Board Chair, who should consult with legal counsel concerning the handling and investigation of the complaint.
5. The investigator shall consult with the AAO/Title IX Coordinator as appropriate during the investigation process.
6. The respondent will be provided with an opportunity to be heard as part of the investigation.
7. The complainant and the respondent may suggest witnesses to be interviewed and/or submit materials they believe are relevant to the complaint.

8. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement will be applied.
9. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
10. The investigation will be completed within forty (40) school days of receiving the complaint, if practicable.
11. The investigator will provide a written report and findings to the AAO/Title IX Coordinator.

C. Findings and Subsequent Actions

1. The AAO/Title IX Coordinator shall consult with the Superintendent concerning the investigation and findings.
2. If there is a finding that discrimination or harassment occurred, the AAO/Title IX Coordinator, in consultation with the Superintendent, shall:
 - a. Determine what remedial action(s), if any, are required to end the discrimination or harassment, remedy its effect, and prevent recurrence; and
 - b. Determine what disciplinary action(s) should be taken against the individual(s) who engaged in discrimination or harassment, if any.
1. Inform the complainant and the respondent in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).

D. Appeals

1. After the conclusion of the investigation, the complainant or respondent may seek an appeal of the findings solely on the basis of either:
 - a. Prejudicial procedural error; or
 - b. The discovery of previously unavailable relevant evidence that could significantly impact the outcome.
1. Appeals must be submitted in writing to the Superintendent within five (5) school days after receiving notice of the resolution.
2. Upon receipt of a valid appeal, the Superintendent shall provide notice to the other party, along with an opportunity to provide a written statement within five (5) school days.
3. The Superintendent shall review the available documentation and may conduct further investigation if deemed appropriate.

4. The Superintendent's decision on the appeal will be provided to the parties within ten (10) school days, if practicable. The Superintendent's decision is final.

E. Records

The AAO/Title IX Coordinator will keep a written record of the complaint process and actions taken.

Cross References:

AC – Nondiscrimination/Equal Opportunity and Affirmative Action

ACAA – Harassment of Students

ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure

JIE – Pregnant Students

Policy Adopted: November 20, 2024

ACAA-R2 - STUDENT SEX DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

ACAA-R2 - STUDENT SEX DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this student procedure in order to provide prompt and equitable resolution of reports and complaints of unlawful sex discrimination, including allegations of sexual harassment and other forms of sex-based harassment, as described in Policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAA – Harassment of Students.

Although the specific provisions under Title IX and Maine law differ somewhat in regard to sex discrimination and sexual/sex-based harassment, the Board has chosen to address all such complaints under this procedure, which meets all Title IX and Maine law requirements.

Complaints alleging unlawful discrimination or harassment of a student on the basis of other protected categories (race; color; religion; ancestry or national origin; and disability) are addressed under ACAA-R1 – Student Discrimination and Harassment Complaint Procedure.

Complaints alleging unlawful discrimination and harassment of an employee are addressed under ACAB-R1 - Employee Discrimination and Harassment Complaint Procedure or ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure.

Any individual who is unsure about whether unlawful discrimination or harassment has occurred and/or which complaint procedure applies is encouraged to contact the Affirmative Action Officer/Title IX Coordinator:

Heidi Early

Affirmative Action Officer/Title IX Coordinator

MSAD #35

180 Depot Road, Eliot, ME 03903

207-439-2438

heidi.early@rsu35.org

Section 1. Definitions

For purposes of this complaint procedure, the following definitions will be used.

- A. "Complainant" means (1) the student victim of alleged sex discrimination (including sexual/sex-based harassment); or (2) other victim of alleged sex discrimination (including sexual/sex-based harassment) who was participating or attempting to participate in the school unit's education programs or activities at the time of the alleged sex discrimination.
- B. "Complaint" under the Title IX regulations: An oral or written request to the MSAD 35 to investigate and make a determination about alleged discrimination under Title IX." An oral request for investigation should be documented by the Affirmative Action Officer/Title IX Coordinator.
- C. "Confidential employee" means (1) an employee of the school unit whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of Title IX, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (2) an employee of the school unit designated as confidential for the purpose of providing services to persons related to sex discrimination (in which case the employee's confidential status applies only to information received about sex discrimination in connection with providing those services).
- D. "Discrimination": Treating individuals differently or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected category.
- E. "Gender identity": The gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth."
- F. "Parental status": The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: (1) a biological parent; (2) an adoptive parent; (3) a foster parent; (4) a stepparent; (5) a legal custodian or guardian; (6) in loco parentis with respect to such a person; or (7) actively seeking legal custody, guardianship, visitation, or adoption of such a person."
- G. "Party": A complainant or respondent.
- H. "Pregnancy and related conditions" includes "(1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions."
- I. "Respondent": A person who is alleged to have violated the school unit's prohibition on sex discrimination.
- J. "Retaliation" under Title IX: Intimidation, threats, coercion, or discrimination against any person by the school unit, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or services under MSAD 35's education program or activity, for the purpose of

interfering with any right or privilege secured by Title IX/regulations, or because the person has reported information, made a complaint, testified, assisted, or participating or refused to participate in any manner in an investigation, proceeding, or other action taken by a school unit in regard to allegations of sex discrimination.”

K. “Sex-based harassment” under Title IX: Harassment on the basis of sex, including sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions, that meets one of the following:

1. “Quid pro quo” harassment by a school employee, agent, or other person authorized by the school unit to provide aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service on the individual’s participation in unwelcome sexual conduct.
2. “Hostile environment” harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies an individual’s ability to participate in or benefit from the school unit’s education program or activity (i.e., creates a hostile environment). A school unit is obligated to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient’s education program or activity. Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors.
 - a. Factors to consider in regard to the creation of a “hostile environment”: “(i) the degree to which the conduct affected the complainant’s ability to access the [school unit’s] education program or activity; (ii) the type, frequency, and duration of the conduct; (iii) the parties’ ages, roles within the [school unit’s] education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other sex-based harassment in the [school unit’s] education program or activity.”
3. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined below or in the Title IX regulations.
 - a. “Sexual assault” is an offense classified as a forcible or nonforcible sex offense under the uniform reporting system of the Federal Bureau of Investigation. Such offenses include but are not limited to rape, sodomy, sexual assault with an object, and fondling.
 - b. “Dating violence” is violence committed by a person: (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship, (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.”

c. "Stalking": Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for the person's safety or the safety of others; or (b) suffer substantial emotional distress."

L. "Sexual harassment" under Maine law: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a student's educational benefits;
2. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or
3. Such conduct has the purpose and effect of substantially interfering with a student's academic performance, or creates an intimidating, hostile, or offensive environment.

M. "Sexual orientation": Under Maine law: A person's "actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression." Sexual orientation is also covered by Title IX.

N. "Student": A person enrolled in the school unit.

Section 2. Complaint Procedure

This procedure should be used to address any report or complaint of sex discrimination or sexual/sex-based harassment of a student.

A. Reports of Alleged Sex Discrimination or Sexual/Sex-Based Harassment

1. Any school unit employee (except for designated confidential employees) who receives a report or has reason to believe that a student may have been discriminated against or harassed on the basis of sex is required to promptly notify the Affirmative Action Officer/Title IX Coordinator.
2. Confidential employees who receive a report that a student may have experienced sex discrimination or sexual/sex-based harassment must inform the person making the report that the employee is designated "confidential" and inform them of the circumstances in which the employee is not required to make a report to the Affirmative Action Officer/Title IX Coordinator. The confidential employee will provide the reporter with the Affirmative Action Officer/Title IX Coordinator's contact information and explain that the Affirmative Action Officer/Title IX Coordinator may be able to offer and coordinate supportive measures, initiate an informal resolution process, or initiate an investigation under this complaint procedure.
3. Students (and others) who believe that they or another student has been discriminated against or harassed on the basis of sex should report their concern promptly to the Affirmative Action Officer/Title IX Coordinator. The report will be documented by the Affirmative Action Officer/Title IX Coordinator.

4. The individual making the report should provide basic, available information orally or in writing concerning the allegation (i.e., individuals involved, date, time, location, and type of allegation). If the information is conveyed orally, the Affirmative Action Officer/Title IX Coordinator will document it.
5. If an individual is unsure as to whether unlawful discrimination or harassment has occurred, they are encouraged to discuss the matter with the Affirmative Action Officer/Title IX Coordinator.
6. Individuals will not be retaliated against for reporting suspected discrimination or harassment or for participating in an investigation. Retaliation is illegal under federal/state nondiscrimination laws and Board policies, and any retaliation will result in disciplinary action, up to and including termination for employees and expulsion for students.
7. The Superintendent will be promptly notified of all reports of alleged discrimination or harassment of a student.
8. Students and others are encouraged to utilize this complaint procedure. However, individuals are hereby notified that they also have the right to report incidents of discrimination or harassment to:
 - Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333; telephone: 207-624-6290; website: <https://www.maine.gov/mhrc/>); and/or
 - Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111; website: https://ocrcas.ed.gov/contact-ocr?field_state_value=688).

B. Processing of Complaints

1. The Affirmative Action Officer/Title IX Coordinator will treat complainants and respondents equitably through the complaint procedure.
2. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the Affirmative Action Officer/Title IX Coordinator will meet with the alleged victim to discuss the allegations and supportive measures that may be appropriate in the particular circumstances and to explain the complaint procedure.

If the alleged victim is unknown to the Affirmative Action Officer/Title IX Coordinator, the person who made the report will be notified of the availability of the complaint procedure.

3. Supportive Measures
 - a. Supportive measures are individualized measures designed to ensure the student can continue to access educational programs and activities (including but not limited to requiring no contact between individuals, changing schedules, classes, extracurricular activities, etc.).
 - b. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the school unit's educational environment or to provide

support during the complaint procedure or an informal resolution process. The school unit may not impose such measures for punitive or disciplinary reasons.

c. Supportive measures may be continued even if a complaint or informal resolution process is not initiated, or after the conclusion of such processes, if appropriate under the circumstances.

d. Complainants and respondents must be provided with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of a decision to provide, deny, modify, or terminate supportive measures applicable to them. This employee must not be the Affirmative Action Officer/Title IX Coordinator and must have the authority to modify or reverse the decision.

e. Complainants and respondents also have the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change.

f. The school unit will not disclose information about supportive measures to persons other than the person to whom they apply unless it is necessary to provide a supportive measure or to restore or preserve a party's access to education programs and activities.

g. If a complainant or respondent is a student with a disability, the Affirmative Action Officer/Title IX Coordinator will consult with one or more members of the student's IEP team or Section 504 Team, if any, to determine how to comply with the requirements of the IDEA and Section 504 in implementing supportive measures.

4. If the Affirmative Action Officer/Title IX Coordinator reasonably determines that the conduct alleged does not involve illegal discrimination or harassment, the school unit is not obligated to initiate the complaint process and may dismiss the complaint (See Subsection C.1. below). If the alleged conduct potentially violates other laws, Board policies/procedures, or professional expectations (in the case of employees), the matter may be referred to the Superintendent and/or other appropriate administrator(s) to address as deemed appropriate.
5. In response to a complaint alleging prohibited sex discrimination or sexual/sex-based harassment, the Affirmative Action Officer/Title IX Coordinator will initiate the complaint process or the informal resolution process (if available and appropriate) according to this procedure. When feasible, the decision to initiate an investigation or informal resolution process or dismiss the complaint will be made within ten (10) school days of receipt of the complaint.
6. In certain circumstances, the Affirmative Action Officer/Title IX Coordinator may initiate the investigation process, even when the alleged victim chooses not to, after any or all allegations are withdrawn by the alleged victim, or when an informal resolution process is not initiated or is terminated. To make this fact-specific determination, the Affirmative Action Officer/Title IX Coordinator will consider, at a minimum:
 - a. The complainant's request not to proceed with initiating a complaint;
 - b. The complainant's reasonable safety concerns regarding initiating a complaint;

- c. The risk that additional acts of discrimination or harassment would occur if a complaint is not initiated;
- d. The severity of the alleged discrimination or harassment, including whether the discrimination, if established, would require the removal of a respondent from school or imposition of another disciplinary sanction to end the discrimination or harassment and prevent its recurrence;
- e. The age and relationship of the parties, including whether the respondent is an employee of the school unit;
- f. The scope of the alleged discrimination or harassment, including information suggesting a pattern, ongoing discrimination/harassment, or discrimination/harassment alleged to have impacted multiple individuals;
- g. The availability of evidence to assist a decisionmaker in determining whether discrimination or harassment occurred; and
- h. Whether the school unit could end the alleged discrimination or harassment and prevent its recurrence without initiating the complaint procedure.

If, after considering these and any other factors that may be relevant, the Affirmative Action Officer/Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health or safety of the complainant or other individuals, or that the alleged conduct prevents the school unit from ensuring equal access to its education programs and activities, the Affirmative Action Officer/Title IX Coordinator may initiate a complaint.

- 7. If the Affirmative Action Officer/Title IX Coordinator initiates a complaint, the complainant will receive prior notice, and any reasonable safety concerns will be addressed.
- 8. The Affirmative Action Officer/Title IX Coordinator will confirm the initiation of an investigation or informal resolution process in writing to both parties. The communication will include a) a copy of the complaint procedure; b) sufficient information available at the time to allow the parties to respond to the allegations (including the identities of the parties involved, the conduct alleged to constitute sex discrimination or sexual/sex-based harassment, and the date(s) and location(s) of the alleged incident(s); c) notice that retaliation is prohibited; and d) notice that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.
- 9. Regardless of whether an investigation is initiated, the Affirmative Action Officer/Title IX Coordinator will take appropriate, prompt, and effective steps to ensure that discrimination or harassment does not continue or recur. The Affirmative Action Officer/Title IX Coordinator will also coordinate supportive measures, as appropriate.
- 10. If a complainant or respondent is a student with a disability, the Affirmative Action Officer/Title IX Coordinator will consult with one or more members of the student's IEP team or 504 Team, if any, to determine how to comply with the requirements of the IDEA and Section 504 during the course of the complaint procedure.

11. If the Affirmative Action Officer/Title IX Coordinator decides to investigate additional allegations of discrimination or harassment made by the complainant against the respondent after the parties received notice of the complaint, the Affirmative Action Officer/Title IX Coordinator will notify the parties of the additional allegations in writing.
12. The Affirmative Action Officer/Title IX Coordinator may consolidate complaints of discrimination or harassment against more than one respondent, by more than one complainant against one or more respondents, or by one party against another party when the allegations arise out of the same facts or circumstances.
13. The school unit will presume that the respondent is not responsible for alleged discrimination or harassment until a determination is made at the conclusion of the investigation.
14. The school unit will take reasonable steps to protect the privacy of the parties and witnesses during the complaint procedure and will comply with applicable state and federal privacy laws. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family; confidential employees/resources; or otherwise prepare for and participate in the complaint procedure.

C. Dismissal of Complaints

1. The Affirmative Action Officer/Title IX Coordinator may dismiss a complaint in the following circumstances:
 - a. The school unit is unable to identify a respondent after taking reasonable steps to do so;
 - b. The respondent is not participating in the school unit's education programs and activities, or is not employed by the school unit;
 - c. The complainant voluntarily withdraws any or all allegations in the complaint, the Affirmative Action Officer/Title IX Coordinator declines to initiate a complaint and determines that, without the complainant's withdrawn allegations, the alleged conduct remaining, if any, would not constitute discrimination or harassment even if proven; or
 - d. The Affirmative Action Officer/Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute discrimination or harassment under state/federal laws and regulations.
2. Upon dismissal, the Affirmative Action Officer/Title IX Coordinator will promptly notify the complainant (and the respondent if they had received notice of the complaint allegations) of the basis for the dismissal and provide the opportunity to appeal the dismissal.
3. Dismissals may be appealed on the following bases:
 - a. Procedural irregularity that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the dismissal [or determination in the case] was made; and

- c. The Affirmative Action Officer/Title IX Coordinator, investigator, or decision maker had a conflict or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
- 4. An appeal of a complaint dismissal must be made in writing to the Affirmative Action Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.
- 5. If the dismissal is appealed, the Affirmative Action Officer/Title IX Coordinator shall:
 - a. Notify the respondent of the appeal if they had received notice of the complaint allegations;
 - b. Implement the appeal procedure equally for the parties;
 - c. Ensure that the trained decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 - d. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 - e. Notify the parties in writing of the result of the appeal and the rationale for it within five (5) school days, if feasible.
- 6. When a complaint is dismissed, the Affirmative Action Officer/Title IX Coordinator will, at a minimum:
 - a. Offer supportive measures to the complainant and respondent if appropriate; and
 - b. Take other prompt and effective steps, as appropriate, to ensure that discrimination or harassment does not continue or recur within the school unit's program or activity.
- 7. The Affirmative Action Officer/Title IX Coordinator will document actions taken during the appeal process.

D. Emergency Removal of a Student

The Superintendent may remove a student from education programs and activities on an emergency basis during the complaint procedure, provided:

- 1. There is a determination, following an individualized safety and risk analysis, that a student respondent presents an imminent and serious threat to the health or safety of a complainant, or any students, employees, or other persons arising from the allegations of discrimination or harassment, that justifies emergency removal.
- 2. The respondent and the student's parent/legal guardian will be provided with an immediate opportunity to challenge the decision following the removal, and has the burden of demonstrating that such removal is unreasonable.
- 3. Any such removal shall be made in compliance with any applicable disability laws, including the IDEA, Section 504, and the Americans with Disabilities Act.

4. The Affirmative Action Officer/Title IX Coordinator will document actions taken during the emergency removal process.

[Note: An employee may be placed on administrative leave during a complaint procedure, pursuant to the school unit's customary process regarding administrative leave of employees]

E. Informal Resolution Process

1. Informal resolution is not permitted in cases where a student is the complainant and an employee is the respondent to alleged sex discrimination or harassment.
2. The Action Officer/Title IX Coordinator may, if appropriate, offer the parties the opportunity to resolve the complaint through an informal resolution process at any point prior to an investigation or determination of responsibility. Engaging in an informal resolution process is voluntary on the part of each party. The Affirmative Action Officer/Title IX Coordinator also may decline to pursue an informal resolution despite a party's request (for example, if the alleged conduct presents a future risk of harm to the complainant or others).
3. Both (or all) parties must voluntarily agree in writing to participate in an informal resolution process, and a party may withdraw from the process at any time. The parties will not be required to attend meetings together unless they voluntarily agree to do so.
4. Before initiating an informal resolution process, the Affirmative Action Officer/Title IX Coordinator will ensure that the parties receive notice of: i.) the allegations; ii.) the requirements of the informal resolution process; iii.) the right of any party to withdraw from the process and initiate or resume the investigation process; iv.) that the parties' agreement to an informal resolution would preclude them from initiating or resuming the investigation; v.) potential terms that may be requested or offered in an informal resolution agreement, including notice that an agreement is binding on the parties; and vi.) what information the school unit will maintain regarding the informal resolution process.
5. The facilitator for the informal resolution process must be trained, cannot be the same person as the investigator or decisionmaker in the matter, and must not have a conflict of interest or bias regarding parties to such matters generally or to an individual complainant or respondent.
6. The Superintendent must agree to the terms of any informal resolution reached between the parties, considering whether the resolution is in the best interest of the parties and the school unit in light of the particular circumstances, applicable laws/regulations, and Board policies.
7. If an informal resolution agreement is reached, it will be agreed to in writing by both parties and the Affirmative Action Office/Title IX Coordinator. Any such agreement is final and binding on the parties.

F. Investigation Process

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the Affirmative Action Officer/Title IX Coordinator. The investigator shall not have a conflict of interest or bias against complainants or

respondents generally, or an individual complainant or respondent, and will consult with the Affirmative Action Officer/Title IX Coordinator during the investigation process.

2. Any complaint about an employee who holds a supervisory position will be investigated by a person not subject to that supervisor's authority. Any complaint about the Superintendent will be submitted to the Board Chair, who will consult with legal counsel concerning the handling and investigation of the complaint.
3. The burden is on the school unit, and not the parties, to gather sufficient evidence (through the investigation) in order to determine whether illegal discrimination or harassment occurred.
4. The investigator shall provide an opportunity for the complainant and respondent to be heard as part of the investigation. The parties will not be required to attend meetings together.
5. The parties may suggest witnesses to be interviewed and/or submit materials that they believe are relevant to the allegations and complaint.
6. The investigator will evaluate evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

a. The Title IX regulations define "relevant" as "related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred."

7. The following types of evidence, and questions seeking that evidence, are impermissible:

a. Evidence that is protected under a privilege recognized by federal or state law, or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality in writing.

b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the treatment to the party or witness, unless the school unit obtains that party's or witness's voluntary, written consent for use in the complaint procedure; and

c. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed alleged sexual/sex-based harassment or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sexual/sex-based harassment. The fact of prior sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

8. The investigator will provide each party with the opportunity to review the evidence that is relevant to the allegations of discrimination or harassment (and not otherwise

impermissible), and to respond to it.

9. The Affirmative Action Officer/Title IX Coordinator and investigator will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the complaint procedure. Disclosure of such information and evidence for the purposes of administering administrative proceedings or litigation related to the complaint is authorized.
10. The investigator will conclude the investigation and issue a written report to the Affirmative Action Officer/Title IX Coordinator within forty (40) school days, if feasible.
 - a. If the investigator has been charged with making a determination of responsibility/non-responsibility with respect to each allegation, such determination(s) and the reasons shall be included in the report.
11. Extensions of time may be granted to complete the investigation if approved by the Affirmative Action Officer/Title IX Coordinator for reasonable cause. Notice of any extension and the reasons will be provided to the parties.

G. Determinations of Responsibility

1. The standard used to determine whether illegal discrimination or harassment occurred is the preponderance of the evidence standard ("more likely than not").
2. The decision maker will review the investigation report and the evidence gathered (as appropriate) and will have the discretion to conduct additional interviews of parties and/or witnesses if needed to assess credibility.
3. The decision maker will make a written determination of responsibility/non-responsibility in regard to each allegation and the reasons, which shall be shared with the Affirmative Action Officer/Title IX Coordinator and the parties.
4. In general, the Affirmative Action Officer/Title IX Coordinator will notify the parties of the determination decision(s) within five (5) school days of the determination being reached. Reasonable extensions of time may be approved by the Affirmative Action Officer/Title IX Coordinator for good reason. The notification will include the permissible bases for appeal and the deadline for receipt of appeals.
5. If there is a determination that the respondent is responsible for violations, the appropriate administrator will make decisions as to appropriate disciplinary action and remedies.
6. The Affirmative Action Officer/Title IX Coordinator shall, as appropriate:
 - a. Coordinate the provision and implementation of remedies to a complainant and any other persons if necessary to provide equal access to the school unit's educational programs and activities that had been limited or denied by discrimination or harassment;
 - b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - c. Take other appropriate prompt and effective steps if necessary to ensure discrimination and harassment does not continue or recur.

7. A determination of responsibility becomes final on the date that the Affirmative Action Officer/Title IX Coordinator provides the parties with the written determination of the results of the appeal if an appeal is filed. If an appeal is not filed, the determination of responsibility becomes final on the date on which the appeal would no longer be considered timely.
8. The school unit will not discipline a party, witness, or others participating in the complaint procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination that sex discrimination or sexual/sex-based harassment occurred.

H. Remedies, Discipline, and Other Actions

1. Remedies

Remedies are measures used to ensure that the complainant has equal access to the school unit's education programs and activities following the decision maker's determination(s). Such remedies may include supportive measures and may include other appropriate measures, depending on the determination(s) and the needs of the complainant. The Affirmative Action Officer/Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the complainant.

2. Discipline and Other Actions

Examples of disciplinary and other actions that may be imposed on a student when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include suspension, expulsion, restorative justice, required education or counseling, and other measures.

Examples of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include: written warning, probation, counseling, demotion, suspension without pay, termination.

I. Appeals

1. After the conclusion of the investigation and decision maker determination(s), the complainant or respondent may seek an appeal of the findings based on the following factors:
 - a. Procedural irregularity that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the determination was made; and
 - c. The Affirmative Action Officer/Title IX Coordinator, investigator, or decision maker had a conflict or bias for or against complainants or respondents generally, or the individual complainant or respondent that would change the outcome.

2. The appeal must be made in writing to the Affirmative Action Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.
3. The Superintendent is responsible for making a determination on the appeal. The Superintendent will conduct an impartial review of the appeal, including consideration of the written record in the case, and may consult with legal counsel or other school unit officials in making their decision.
4. The Superintendent will issue the appeal determination in writing within ten (10) school days of receipt of the appeal, if feasible.
5. The Superintendent's decision is final.

Section 3. Recordkeeping

The Affirmative Action Officer/Title IX Coordinator shall maintain a record of documents and action in each case, and records of trainings provided, for a period of seven (7) years.

Cross References:

AC – Nondiscrimination/Equal Opportunity and Affirmative Action

ACAA – Harassment of Students

ACAA-R1 – Student Discrimination and Harassment Complaint Procedure

ACAB – Harassment of Employees

ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure

ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure

JIE - Pregnant Students

Policy Adopted: November 20, 2024

ACAB-R1 - EMPLOYEE DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

ACAB-R1 - EMPLOYEE DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this employee procedure in order to provide prompt and equitable resolution of complaints of unlawful discrimination and harassment based on race; color; religion; ancestry or national origin; age; disability; and genetic information. Complaints of sex discrimination, including sexual/sex-based harassment, are addressed in ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure. In cases where allegations include sex discrimination or sexual/sex-based harassment and one or more other protected categories, ACAB-R2 will be used.

Complaints alleging unlawful discrimination and harassment of an employee are addressed under ACAB-R1 - Employee Discrimination and Harassment Complaint Procedure or ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure.

Any individual who is unsure about whether unlawful discrimination or harassment has occurred, and/or which complaint procedure applies, is encouraged to contact the Affirmative Action Officer/Title IX Coordinator:

Heidi Early

Affirmative Action Officer/Title IX Coordinator

MSAD #35

180 Depot Road, Eliot, ME 03903

207-439-2438

heidi.early@rsu35.org

Section 1. Definitions

For purposes of this complaint procedure, the following definitions will be used.

A. "Discrimination or harassment": Discrimination or harassment on the basis of an individual's membership in a protected category.

B. "Discrimination": Treating individuals differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected category.

C. "Harassment": Oral, written, graphic, electronic, or physical conduct relating to an individual's actual or perceived membership in a protected category that is sufficiently severe or pervasive so as to interfere with or limit that individual's ability to participate in the school unit's education program or activities by creating a hostile, intimidating, or offensive environment.

D. "Complaint" is defined as an allegation that an employee has been discriminated against or harassed on the basis of race, color, religion, ancestry, national origin, age, disability, or genetic information.

Section 2. Complaint Procedure

This procedure should be used to address any report or complaint of unlawful discrimination or harassment based on a protected category which does not involve sex discrimination or sexual/sex-based harassment.

A. How to Make a Complaint

1. An employee who believes they have been unlawfully discriminated against or harassed is encouraged to try to resolve the problem by informing the individual(s) that the behavior is unwelcome or offensive, and requesting that the behavior stop. This will not prevent the employee from making an immediate complaint to the Affirmative Action Officer/Title IX Coordinator.
2. Any employee who believes they have been harassed or discriminated against should report their concern promptly to the Affirmative Action Officer/Title IX Coordinator.
3. The individual making the report must provide basic information concerning the allegation of discrimination or harassment (i.e., date, time, location, individuals involved, nature of the allegation(s)) to the Affirmative Action Officer/Title IX Coordinator. If the report is made orally, the Affirmative Action Officer/Title IX Coordinator will document it.
4. If the individual is unsure as to whether unlawful discrimination or harassment has occurred or needs assistance in preparing a complaint, they are encouraged to discuss the matter with the Affirmative Action Officer/Title IX Coordinator.
5. Individuals will not be retaliated against for reporting suspected discrimination or harassment or for participating in an investigation.

Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary action, up to and including termination.

6. Employees are encouraged to utilize the school unit's complaint procedure. However, employees are hereby notified that they also have the right to report incidents of discrimination or harassment to:

- o Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333; telephone: 207-624-6290; website: <https://www.mhrc.gov/mhrc/>; and/or
- o Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111; website: https://ocrcas.ed.gov/contact-ocr?field_state_value=688).

B. Complaint Handling and Investigation

1. The Affirmative Action Officer/Title IX Coordinator will promptly inform the Superintendent and the person who is the subject of the complaint (respondent) that a complaint has been received.

- a. If the allegations include sex discrimination or sexual/sex-based harassment, ACAB-R2 will be followed instead of this procedure.

2. The Affirmative Action Officer/Title IX Coordinator may pursue an informal resolution of the complaint with the agreement of the parties involved. Any party to the complaint may decide to end the informal resolution process and pursue the formal process at any point. Any informal resolution is subject to the approval of the parties and the Superintendent, who shall consider whether the resolution is in the best interest of the school unit and the parties in light of the particular circumstances and applicable policies and laws.

3. The Affirmative Action Officer/Title IX Coordinator may implement supportive measures for an employee to reduce the risk of further discrimination or harassment of the employee while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals, temporarily moving work locations or changing schedules, etc.

4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the Affirmative Action Officer/Title IX Coordinator. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority.

5. Any complaint about the Superintendent should be submitted to the Board Chair, who should consult with legal counsel concerning the handling and investigation of the complaint.

6. The investigator shall consult with the Affirmative Action Officer/Title IX Coordinator as appropriate during the investigation process.
7. The respondent will be provided with an opportunity to be heard as part of the investigation.
8. The complainant and the respondent may suggest witnesses to be interviewed and/or submit materials they believe are relevant to the complaint.
9. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement will be applied.
10. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
11. The investigation will be completed within forty (40) school days of receiving the complaint, if practicable.
12. The investigator will provide a written report and findings to the Affirmative Action Officer/Title IX Coordinator.

C. Findings and Subsequent Actions

1. The Affirmative Action Officer/Title IX Coordinator shall consult with the Superintendent concerning the investigation and findings.
2. If there is a finding that discrimination or harassment occurred, the Affirmative Action Officer/Title IX Coordinator, in consultation with the Superintendent, shall:
 - a. Determine what remedial action(s), if any, are required to end the discrimination or harassment, remedy its effects, and prevent recurrence; and
 - b. Determine what disciplinary action(s) should be taken against the individual(s) who engaged in discrimination or harassment, if any.
3. Inform the complainant and the respondent in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).

D. Appeals

1. After the conclusion of the investigation, the complainant or respondent may seek an appeal of the findings solely on the basis of either:
 - a. Prejudicial procedural error; or
 - b. The discovery of previously unavailable relevant evidence that could significantly impact the outcome.

2. Appeals must be submitted in writing to the Superintendent within five (5) school days after receiving notice of the resolution.
3. Upon receipt of a valid appeal, the Superintendent shall provide notice to the other party, along with an opportunity to provide a written statement within five (5) school days.
4. The Superintendent shall review the available documentation and may conduct further investigation if deemed appropriate.
5. The Superintendent's decision on the appeal will be provided to the parties within ten (10) school days, if practicable. The Superintendent's decision is final.

E. Records

The Affirmative Action Officer/Title IX Coordinator will keep a written record of the complaint process and actions taken.

Cross References:

AC – Nondiscrimination/Equal Opportunity and Affirmative Action

ACAB – Harassment of Employees

ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure

GBEG – Pregnant Employees

Policy Adopted: November 20, 2024

ACAB-R2 - EMPLOYEE SEX DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

ACAB-R2 - EMPLOYEE SEX DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this employee procedure in order to provide prompt and equitable resolution of reports and complaints of unlawful sex discrimination, including allegations of sexual harassment and other forms of sex-based harassment, as described in Policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAB – Harassment of Employees.

Although the specific provisions under Title IX and Maine law differ somewhat in regard to sex discrimination and sexual/sex-based harassment, the Board has chosen to address all such complaints under this procedure, which meets all Title IX and Maine law requirements.

Complaints alleging unlawful discrimination or harassment of an employee on the basis of other protected categories (race; color; religion; ancestry or national origin; age; disability; and genetic information) are addressed under ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure.

Complaints alleging unlawful discrimination and harassment of an employee are addressed under ACAB-R1 - Employee Discrimination and Harassment Complaint Procedure or ACAB-R2 – Employee Sex Discrimination and Sexual/Sex-Based Harassment Complaint Procedure.

Any individual who is unsure about whether unlawful discrimination or harassment has occurred and/or which complaint procedure applies is encouraged to contact the Affirmative Action Officer/Title IX Coordinator:

Heidi Early

Affirmative Action Officer/Title IX Coordinator

MSAD #35

180 Depot Road, Eliot, ME 03903

207-439-2438

Section 1. Definitions

For purposes of this complaint procedure, the following definitions will be used.

- A. "Complainant" means: (1) the employee victim of alleged sex discrimination (including sexual/sex-based harassment); or (2) other victim of alleged sex discrimination (including sexual/sex-based harassment) who was participating or attempting to participate in the school unit's education programs or activities at the time of the alleged sex discrimination.
- B. "Complaint" under the Title IX regulations: An oral or written request to MSAD 35 to investigate and make a determination about alleged discrimination under Title IX." An oral request for investigation should be documented by the Affirmative Action Officer/Title IX Coordinator.
- C. "Confidential employee" means: (1) an employee of the school unit whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of Title IX, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (2) an employee of the school unit designated as confidential for the purpose of providing services to persons related to sex discrimination (in which case the employee's confidential status applies only to information received about sex discrimination in connection with providing those services).
- D. "Discrimination": Treating individuals differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected category.
- E. "Gender identity": The gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth."
- F. "Parental status": The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: (1) a biological parent; (2) an adoptive parent; (3) a foster parent; (4) a stepparent; (5) a legal custodian or guardian; (6) in loco parentis with respect to such a person; or (7) actively seeking legal custody, guardianship, visitation, or adoption of such a person."
- G. "Party": A complainant or respondent.
- H. "Pregnancy and related conditions" includes "(1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions."
- I. "Respondent": A person who is alleged to have violated the school unit's prohibition on sex discrimination.

J. "Retaliation" under Title IX: Intimidation, threats, coercion, or discrimination against any person by the school unit, an employee, or other person authorized by the recipient to provide aid, benefit, or services under MSAD 35's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX/regulations, or because the person has reported information, made a complaint, testified, assisted, or participating or refused to participate in any manner in an investigation, proceeding, or other action taken by a school unit in regard to allegations of sex discrimination."

K. "Sex-based harassment" under Title IX: Harassment on the basis of sex, including sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions, that meets one of the following:

1. "Quid pro quo" harassment by a school employee, agent, or other person authorized by the school unit to provide aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service on the individual's participation in unwelcome sexual conduct.
2. "Hostile environment" harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive that it limits or denies an individual's ability to participate in or benefit from the school unit's education program or activity (i.e., creates a hostile environment). A school unit is obligated to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity. Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors.
 - i. Factors to consider in regard to the creation of a "hostile environment": "(i) the degree to which the conduct affected the complainant's ability to access the [school unit's] education program or activity; (ii) the type, frequency, and duration of the conduct; (iii) the parties' ages, roles within the [school unit's] education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other sex-based harassment in the [school unit's] education program or activity."
3. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined below.
 - i. "Sexual assault" is an offense classified as a forcible or nonforcible sex offense under the uniform reporting system of the Federal Bureau of Investigation. Such offenses include but are not limited to, rape, sodomy, sexual assault with an object, and fondling.
 - ii. "Dating violence" is violence committed by a person: (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship, (2) the type of relationship; and (3)

the frequency of interaction between the persons involved in the relationship.”

iii. “Domestic violence” is defined in the Title IX regulations as “Felony or misdemeanor crimes committed by a person who: (a) is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situation to a spouse of the victim; (b) is cohabitating, or has cohabitated with the victim as a spouse or intimate partner; (c) shares a child in common with the victim; or (d) commits acts against a youth or adult who is protected from those acts under the family or domestic violence laws of the jurisdiction.”

iv. “Stalking”: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for the person’s safety or the safety of others; or (b) suffer substantial emotional distress.”

L. “Sexual harassment” under Maine law: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an employee’s educational benefits;
2. Submission to or rejection of such conduct by an employee is used as the basis for decisions on educational benefits; or
3. Such conduct has the purpose and effect of substantially interfering with an employee’s academic performance or creates an intimidating, hostile, or offensive environment.

M. “Sexual orientation”: Under Maine law: A person’s “actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression.” Sexual orientation is also covered by Title IX.

Section 2. Complaint Procedure

This procedure should be used to address any report or complaint of sex discrimination or sexual/sex-based harassment of an employee.

A. Reports of Alleged Sex Discrimination or Sexual/Sex-Based Harassment

1. Any school unit employee (except for designated confidential employees) who receives a report or has reason to believe that an employee may have been discriminated against or harassed on the basis of sex is required to make a report to the Affirmative Action Officer/Title IX Coordinator.
2. Confidential employees who receive a report that an employee may have experienced sex discrimination or sexual/sex-based harassment must inform the person making the report that the employee is designated “confidential” and inform them of the circumstances in which the employee is not required to make a report to the Affirmative Action Officer/Title IX Coordinator. The confidential employee will provide the reporter with the Affirmative

Action Officer/Title IX Coordinator's contact information and explain that the Affirmative Action Officer/Title IX Coordinator may be able to offer and coordinate supportive measures, initiate an informal resolution process, or initiate an investigation under this complaint procedure.

3. Employees who believe that they have been discriminated against or harassed on the basis of sex should report their concern promptly to the Affirmative Action Officer/Title IX Coordinator. The report will be documented by the Affirmative Action Officer/Title IX Coordinator.
4. The individual making the report should provide basic, available information orally or in writing concerning the allegation (i.e., individuals involved, date, time, location, and type of allegation). If the information is conveyed orally, the Affirmative Action Officer/Title IX Coordinator will document it.
5. If an individual is unsure as to whether unlawful discrimination or harassment has occurred, they are encouraged to discuss the matter with the Affirmative Action Officer/Title IX Coordinator.
6. Individuals will not be retaliated against for reporting suspected discrimination or harassment or for participating in an investigation. Retaliation is illegal under federal/state nondiscrimination laws and Board policies, and any retaliation will result in disciplinary action, up to and including termination.
7. The Superintendent will be promptly notified of all reports of alleged discrimination or harassment of an employee.
8. An employee who believes they have been discriminated against or harassed on the basis of sex is encouraged to utilize this complaint procedure. However, employees are hereby notified that they also have the right to report incidents of discrimination or harassment to:
 - Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333; telephone: 207-624-6290; website: <https://www.maine.gov/mhrc/>); and/or
 - Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111; website: https://ocrcas.ed.gov/contact-ocr?field_state_value=688).

B. Processing of Complaints

1. The Affirmative Action Officer/Title IX Coordinator will treat complainants and respondents equitably through the complaint procedure.
2. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the Affirmative Action Officer/Title IX Coordinator will meet with the alleged victim to discuss the allegations and supportive measures that may be appropriate in the particular circumstances and to explain the complaint procedure.

If the alleged victim is unknown to the Affirmative Action Officer/Title IX Coordinator, the person who made the report will be notified of the availability of the complaint procedure.

3. Supportive Measures

- a. Supportive measures are individualized measures designed to ensure the employee can continue to access and perform their work (including but not limited to: requiring no contact between individuals, temporarily moving work locations, and changing schedules).
- b. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the school unit's educational environment or to provide support during the complaint procedure or an informal resolution process. The school unit may not impose such measures for punitive or disciplinary reasons.
- c. Supportive measures may be continued even if a complaint or informal resolution process is not initiated, or after the conclusion of such processes, if appropriate under the circumstances.
- d. Complainants and respondents must be provided with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of a decision to provide, deny, modify, or terminate supportive measures applicable to them. This employee must not be the Affirmative Action Officer/Title IX Coordinator and must have the authority to modify or reverse the decision.
- e. Complainants and respondents also have the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change.
- f. The school unit will not disclose information about supportive measures to persons other than the person to whom they apply unless it is necessary to provide a supportive measure or to restore or preserve a party's access to education programs and activities.

4. If the Affirmative Action Officer/Title IX Coordinator reasonably determines that the conduct alleged does not involve illegal discrimination or harassment, the school unit is not obligated to initiate the complaint process and may dismiss the complaint (See Subsection C.1. below). If the alleged conduct potentially violates other laws, Board policies/procedures, or professional expectations (in the case of employees), the matter may be referred to the Superintendent and/or other appropriate administrator(s) to address as deemed appropriate.

- 5. In response to a complaint alleging prohibited sex discrimination or sexual/sex-based harassment, the Affirmative Action Officer/Title IX Coordinator will initiate the complaint process or the informal resolution process (if available and appropriate) according to this procedure. When feasible, the decision to initiate an investigation or informal resolution process or dismiss the complaint will be made within ten (10) school days of receipt of the complaint.
- 6. In certain circumstances, the Affirmative Action Officer/Title IX Coordinator may initiate the investigation process, even when the alleged victim chooses not to, after any or all allegations are withdrawn by the alleged victim, or when an informal resolution process is not initiated or is terminated. To make this fact-specific determination, the Affirmative Action Officer/Title IX Coordinator will consider, at a minimum:

- a. The complainant's request not to proceed with initiating a complaint;
- b. The complainant's reasonable safety concerns regarding initiating a complaint;
- c. The risk that additional acts of discrimination or harassment would occur if a complaint is not initiated;
- d. The severity of the alleged discrimination or harassment, including whether the discrimination, if established, would require the removal of a respondent from school or imposition of another disciplinary sanction to end the discrimination or harassment and prevent its recurrence;
- e. The age and relationship of the parties, including whether the respondent is an employee of the school unit;
- f. The scope of the alleged discrimination or harassment, including information suggesting a pattern, ongoing discrimination/harassment, or discrimination/harassment alleged to have impacted multiple individuals;
- g. The availability of evidence to assist a decisionmaker in determining whether discrimination or harassment occurred; and
- h. Whether the school unit could end the alleged discrimination or harassment and prevent its recurrence without initiating the complaint procedure.

If, after considering these and any other factors that may be relevant, the Affirmative Action Officer/Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health or safety of the complainant or other individuals, or that the alleged conduct prevents the school unit from ensuring equal access to its education programs and activities, the Affirmative Action Officer/Title IX Coordinator may initiate a complaint.

- 7. If the Affirmative Action Officer/Title IX Coordinator initiates a complaint, the complainant will receive prior notice, and any reasonable safety concerns will be addressed.
- 8. The Affirmative Action Officer/Title IX Coordinator will confirm the initiation of an investigation or informal resolution process in writing to both parties. The communication will include: a) a copy of the complaint procedure; b) sufficient information available at the time to allow the parties to respond to the allegations (including the identities of the parties involved, the conduct alleged to constitute sex discrimination or sexual/sex-based harassment, and the date(s) and location(s) of the alleged incident(s); c) notice that retaliation is prohibited; and d) notice that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.
- 9. Regardless of whether an investigation is initiated, the Affirmative Action Officer/Title IX Coordinator will take appropriate, prompt, and effective steps to ensure that discrimination or harassment does not continue or recur. The Affirmative Action Officer/Title IX Coordinator will also coordinate supportive measures, as appropriate.
- 10. If the Affirmative Action Officer/Title IX Coordinator decides to investigate additional allegations of discrimination or harassment made by the complainant against the

respondent after the parties received notice of the complaint, the Affirmative Action Officer/Title IX Coordinator will notify the parties of the additional allegations in writing.

11. The Affirmative Action Officer/Title IX Coordinator may consolidate complaints of discrimination or harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances.
12. The school unit will presume that the respondent is not responsible for alleged discrimination or harassment until a determination is made at the conclusion of the investigation.
13. The school unit will take reasonable steps to protect the privacy of the parties and witnesses during the complaint procedure and will comply with applicable state and federal privacy laws. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; confidential employees/resources; or otherwise prepare for and participate in the complaint procedure.

C. Dismissal of Complaints

1. The Affirmative Action Officer/Title IX Coordinator may dismiss a complaint in the following circumstances:
 - a. The school unit is unable to identify a respondent after taking reasonable steps to do so;
 - b. The respondent is not participating in the school unit's education programs and activities, or is not employed by the school unit;
 - c. The complainant voluntarily withdraws any or all allegations in the complaint, the Affirmative Action Officer/Title IX Coordinator declines to initiate a complaint and determines that, without the complainant's withdrawn allegations, the alleged conduct remaining, if any, would not constitute discrimination or harassment even if proven; or
 - d. The Affirmative Action Officer/Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute discrimination or harassment under state/federal laws and regulations.
2. Upon dismissal, the Affirmative Action Officer/Title IX Coordinator will promptly notify the complainant (and the respondent, if they had received notice of the complaint allegations) of the basis for the dismissal, and provide the opportunity to appeal the dismissal.
3. Dismissals may be appealed on the following bases:
 - a. Procedural irregularity that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the dismissal [or determination in the case] was made; and
 - c. The Affirmative Action Officer/Title IX Coordinator, investigator, or decision maker had a conflict or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

4. An appeal of a complaint dismissal must be made in writing to the Affirmative Action Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.
5. If the dismissal is appealed, the Affirmative Action Officer/Title IX Coordinator shall:
 - a. Notify the respondent of the appeal if they had received notice of the complaint allegations;
 - b. Implement the appeal procedure equally for the parties;
 - c. Ensure that the trained decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 - d. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 - e. Notify the parties in writing of the result of the appeal and the rationale for it within five (5) school days, if feasible.
6. When a complaint is dismissed, the Affirmative Action Officer/Title IX Coordinator will, at a minimum:
 - a. Offer supportive measures to the complainant and respondent if appropriate; and
 - b. Take other prompt and effective steps, as appropriate, to ensure that discrimination or harassment does not continue or recur within the school unit's program or activity.
7. The Affirmative Action Officer/Title IX Coordinator will document actions taken during the appeal process.

D. Administrative Leave

1. The Superintendent may place an employee respondent on administrative leave during the complaint procedure in accordance with any applicable state laws, school policies, and collective bargaining unit provisions.
2. Any decision to place an employee respondent on administrative leave shall be made in compliance with any applicable disability laws, including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.
3. The Affirmative Action Officer/Title IX Coordinator will document actions taken during the administrative leave process.

[Note: The Superintendent may remove a student from education programs and activities on an emergency basis during the complaint procedure in accordance with the procedures set forth in ACAA-R2, Section 2.D]

E. Informal Resolution Process

1. Informal resolution is not permitted in cases where a student is the complainant and an employee is the respondent to alleged sex discrimination or harassment [such cases should be addressed under Procedure ACAA-R2].
2. The Action Officer/Title IX Coordinator may, if appropriate, offer the parties the opportunity to resolve the complaint through an informal resolution process at any point prior to an investigation or determination of responsibility. Engaging in an informal resolution process is voluntary on the part of each party. The Affirmative Action Officer/Title IX Coordinator also may decline to pursue an informal resolution despite a party's request (for example, if the alleged conduct presents a future risk of harm to the complainant or others).
3. Both (or all) parties must voluntarily agree in writing to participate in an informal resolution process, and a party may withdraw from the process at any time. The parties will not be required to attend meetings together unless they voluntarily agree to do so.
4. Before initiating an informal resolution process, the Affirmative Action Officer/Title IX Coordinator will ensure that the parties receive notice of: i.) the allegations; ii.) the requirements of the informal resolution process; iii.) the right of any party to withdraw from the process and initiate or resume the investigation process; iv.) that the parties' agreement to an informal resolution would preclude them from initiating or resuming the investigation; v.) potential terms that may be requested or offered in an informal resolution agreement, including notice that an agreement is binding on the parties; and vi.) what information the school unit will maintain regarding the informal resolution process.

[Note: Informal resolutions can take many forms, depending on the particular case, including but not limited to: restrictions on contact between the parties; facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; disciplinary actions against a respondent or requirements to engage in specific services; or supportive measures.]

5. The facilitator for the informal resolution process must be trained, cannot be the same person as the investigator or decisionmaker in the matter, and must not have a conflict of interest or bias regarding parties to such matters generally or to an individual complainant or respondent.
6. The Superintendent must agree to the terms of any informal resolution reached between the parties, considering whether the resolution is in the best interest of the parties and the school unit in light of the particular circumstances, applicable laws/regulations, and Board policies.
7. If an informal resolution agreement is reached, it will be agreed to in writing by both parties and the Affirmative Action Office/Title IX Coordinator. Any such agreement is final and binding on the parties.

F. Investigation Process

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the Affirmative Action Officer/Title IX Coordinator. The investigator shall not have a conflict of interest or bias against complainants or

respondents generally, or an individual complainant or respondent, and will consult with the Affirmative Action Officer/Title IX Coordinator during the investigation process.

2. Any complaint about an employee who holds a supervisory position will be investigated by a person not subject to that supervisor's authority. Any complaint about the Superintendent will be submitted to the Board Chair, who will consult with legal counsel concerning the handling and investigation of the complaint.
3. If the complaint is against an employee of the school unit, any rights conferred under an applicable bargaining agreement will be applied to the extent they do not conflict with the requirements of Title IX and accompanying regulations.
4. The burden is on the school unit, and not the parties, to gather sufficient evidence (through the investigation) in order to determine whether illegal discrimination or harassment occurred.
5. The investigator shall provide an opportunity for the complainant and respondent to be heard as part of the investigation. The parties will not be required to attend meetings together.
6. The parties may suggest witnesses to be interviewed and/or submit materials that they believe are relevant to the allegations and complaint.
7. The investigator will evaluate evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

a. The Title IX regulations define "relevant" as "related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred."

8. The following types of evidence, and questions seeking that evidence, are impermissible:

a. Evidence that is protected under a privilege recognized by federal or state law, or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality in writing.

b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the treatment to the party or witness, unless the school unit obtains that party's or witness's voluntary, written consent for use in the complaint procedure; and

c. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed alleged sexual/sex-based harassment or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sexual/sex-based harassment. The fact of prior sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

9. The investigator will provide each party with the opportunity to review the evidence that is relevant to the allegations of discrimination or harassment (and not otherwise impermissible), and to respond to it.
10. The Affirmative Action Officer/Title IX Coordinator and investigator will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the complaint procedure. Disclosure of such information and evidence for the purposes of administering administrative proceedings or litigation related to the complaint are authorized.
11. The investigator will conclude the investigation and issue a written report to the Affirmative Action Officer/Title IX Coordinator within forty (40) school days, if feasible.
 - a. If the investigator has been charged with making a determination of responsibility/non-responsibility with respect to each allegation, such determination(s) and the reasons, therefore, shall be included in the report.
12. Extensions of time may be granted to complete the investigation if approved by the Affirmative Action Officer/Title IX Coordinator for reasonable cause. Notice of any extension and the reasons, therefore, will be provided to the parties.

G. Determinations of Responsibility

1. The standard used to determine whether illegal discrimination or harassment occurred is the preponderance of the evidence standard ("more likely than not").
2. The decision maker will review the investigation report, the evidence gathered (as appropriate), and will have the discretion to conduct additional interviews of parties and/or witnesses if needed to assess credibility.
3. The decision maker will make a written determination of responsibility/non-responsibility in regard to each allegation and the reasons, which shall be shared with the Affirmative Action Officer/Title IX Coordinator and the parties.
4. In general, the Affirmative Action Officer/Title IX Coordinator will notify the parties of the determination decision(s) within five (5) school days of the determination being reached. Reasonable extensions of time may be approved by the Affirmative Action Officer/Title IX Coordinator for good reason. The notification will include the permissible bases for appeal and the deadline for receipt of appeals.
5. If there is a determination that the respondent is responsible for violations, the appropriate administrator will make decisions as to appropriate disciplinary action and remedies.
6. The Affirmative Action Officer/Title IX Coordinator shall, as appropriate:
 - a. Coordinate the provision and implementation of remedies to a complainant and any other persons if necessary to provide equal access to the school unit's educational programs and activities that had been limited or denied by discrimination or harassment;
 - b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and

- c. Take other appropriate prompt and effective steps if necessary to ensure discrimination and harassment does not continue or recur.
7. A determination of responsibility becomes final on the date that the Affirmative Action Officer/Title IX Coordinator provides the parties with the written determination of the results of the appeal if an appeal is filed. If an appeal is not filed, the determination of responsibility becomes final on the date on which the appeal would no longer be considered timely.
8. The school unit will not discipline a party, witness, or others participating in the complaint procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination that sex discrimination or sexual/sex-based harassment occurred.

H. Remedies, Discipline, and Other Actions

1. Remedies

Remedies are measures used to ensure that the complainant has equal access to the school unit's education programs and activities following the decision maker's determination(s). Such remedies may include supportive measures and may include other appropriate measures, depending on the determination(s) and the needs of the complainant. The Affirmative Action Officer/Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the complainant.

2. Discipline and Other Actions

Examples of disciplinary and other actions that may be imposed on a student when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include suspension, expulsion, restorative justice, required education or counseling, and other measures.

Examples of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include: written warning, probation, counseling, demotion, suspension without pay, termination.

I. Appeals

1. After the conclusion of the investigation and decision maker determination(s), the complainant or respondent may seek an appeal of the findings based on the following factors:
 - a. Procedural irregularity that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the determination was made; and

c. The Affirmative Action Officer/Title IX Coordinator, investigator, or decision maker had a conflict or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

2. The appeal must be made in writing to the Affirmative Action Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.
3. The Superintendent is responsible for making a determination on the appeal. The Superintendent will conduct an impartial review of the appeal, including consideration of the written record in the case, and may consult with legal counsel or other school unit officials in making their decision.
4. The Superintendent will issue the appeal determination in writing within ten (10) school days of receipt of the appeal, if feasible.
5. The Superintendent's decision is final.

Section 3. Recordkeeping

The Affirmative Action Officer/Title IX Coordinator shall maintain a record of documents and action in each case, and records of training(s) provided, for a period of seven (7) years.

Cross References:

AC – Non Discrimination/Equal Opportunity and Affirmative Action

ACAB – Harassment of Employees

ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure

ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure

GBEG - Pregnant Employees

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