

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

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