

# 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*

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