

# 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

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## **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://ocras.ed.gov/contact-ocr?field\\_state\\_value=688](https://ocras.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

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