

## STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

~~This procedure has been adopted by the Board in order to provide a method of prompt and equitable resolution of student complaints of discrimination or discriminatory harassment as described in policies AC—Nondiscrimination/Equal Opportunity and Affirmative Action and ACAA—Harassment and Sexual Harassment of Students.~~

This procedure implements the Board’s policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAA – Harassment and Sexual Harassment of Students. It summarizes the steps to be taken when a student or staff member believes that discrimination or harassment of a student has occurred.

### Definitions

For purposes of this procedure:

- A. “Complaint” is defined as an allegation tht a student has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, **gender identity or expression**, religion, ancestry or national origin, or disability, as defined in Policies AC and ACAA; and
- B. “Discrimination or harassment” means discrimination or harassment on the basis of race, color, sex, sexual orientation, **gender identity or expression**, religion, ancestry or national origin, or disability.
- C. “Sexual harassment” includes but is not limited to unwelcome sexual advances; requests for sexual favors or pressure to engage in sexual activity; physical contact of a sexual nature, **including all forms of sexual violence**; and gestures, comments, or other physical, written, or verbal conduct that is gender-based ~~that~~ **and** interferes with a student’s education.
- D. “School administrator” means the school principal or assistant principal.
- E. “Confidential employee” means a staff member who operates under a State license or professional certification that includes an obligation of confidentiality.

## How to Make a Complaint

- A. Any student who believes they **or another student** have been discriminated against, harassed, **or sexually harassed, even if they are unsure whether discrimination, harassment, or sexual harassment has occurred,** should report their concern promptly to any staff member. ~~Students who are unsure whether discrimination or harassment has occurred are encouraged to discuss the situation with a building administrator.~~
- B. **Students, including alleged victims and bystanders, who report, in good faith, potential violations of Policies AC and ACAA, will be granted immunity from disciplinary measures for conduct violations (e.g., underage drinking and drug use).**
- C. ~~School~~ Staff are expected to report ~~possible incidents~~ **these alleged incidents** of discrimination, harassment, **or sexual harassment, or any possible incidents they have observed on their own** to a ~~building~~ school administrator, **the Affirmative Action Officer, or the Title IX Coordinator.**
1. **Confidential employees may protect the confidentiality of information gathered during a counseling relation with a student-client to the extent required by their applicable license or certification, except as may be required by law, specifically: a) to comply with state mandatory reporting obligations and policies JLF or JLFA; and/or b) to ensure that the school can meet its obligation to provide a safe environment for all students, in which case information should be shared with a school administrator, the Title IX Coordinator, and/or the Superintendent, but only in such a way as to protect the alleged victim's desire for confidentiality.**
  2. **Parents and other adults are also encouraged to report any concerns about possible discrimination, harassment, or sexual harassment of students.**
- D. Students and others will not be retaliated against for making a complaint. Any retaliation by students or staff will result in disciplinary measures, up to and including expulsion or dismissal.
- E. Students are encouraged to utilize the ~~school unit's~~ complaint procedure **described herein.** However, students are hereby notified that they also have the right to report complaints to the Maine Human Rights Commission, 51 State House Station, Augusta, ME 04330 (telephone: 207-624-6290) or to the federal Office for Civil Rights, U.S. Department of

Education, 8th Floor, 5 Post Office Square, Boston, MA 02109 (telephone: 617-289-0111).

### Complaint Handling and Investigation

- A. ~~A building~~ The school administrator, Affirmative Action Officer, or Title IX Coordinator shall promptly inform the Superintendent and the person(s) who is the subject of the complaint that a complaint has been received.
- B. The ~~building~~ school administrator, Affirmative Action Officer, or Title IX Coordinator may pursue an informal resolution of the complaint with the agreement of all parties involved. The informal resolution is subject to the approval of the Superintendent, who shall consider whether the informal resolution is in the best interest of the school ~~unit~~ department in light of the particular circumstances and applicable policies and laws.
- C. The complaint will be investigated by a ~~building~~ school administrator, the Affirmative Action Officer, or the Title IX Coordinator ~~unless the Superintendent chooses to investigate the complaint or designates another person to investigate it on his/her behalf.~~ 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 Chair of the School Board, who should consult with legal counsel concerning the handling and investigation of the complaint.
  - a. The person who is the subject of the complaint will be provided with an opportunity to be heard as part of the investigation.
  - b. If the complaint is against an employee of the ~~school unit~~ Cape Elizabeth School Department, any applicable individual or collective bargaining contract provisions shall be followed.
  - c. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
  - d. The ~~building~~ school administrator, Affirmative Action Officer, or Title IX Coordinator shall keep a written record of the investigation process.

- e. The ~~building~~ school administrator, Affirmative Action Officer, or Title IX Coordinator may take interim remedial measures to reduce the risk of further discrimination, harassment, or sexual harassment while the investigation is pending.
  - f. The ~~building~~ school administrator, Affirmative Action Officer, or Title IX Coordinator shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
  - g. The investigation shall be completed within 21 calendar days of receiving the complaint, if practicable.
- D. If the ~~building~~ school administrator, Affirmative Action Officer, or Title IX Coordinator determines that discrimination, harassment, or sexual harassment occurred, they shall, in consultation with the Superintendent:
- a. Determine what remedial action is required, if any;
  - b. Determine what disciplinary action should be taken against the person(s) who engaged in discrimination, harassment, or sexual harassment, if any; and
  - c. Inform the student who made the complaint in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- E. If the student or student's parents/guardians are dissatisfied with the resolution, an appeal may be made in writing to the Superintendent within 14 calendar days after receiving notice of the resolution. The Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. The Superintendent's decision shall be final.

Legal Reference: Americans with Disabilities Act (28 CFR § 35.07)  
Section 504 of the Vocational Rehabilitation Act (34 CFR § 104.7)  
Title IX of the Education Amendments of 1972 (34 CFR § 106.8(b)  
seq.)  
Title VI of the Civil Rights Act of 1964 (PL 88-352)  
20 USC § 1232g

34 CFR Part 99  
5 MRSA §§ 4571; 4602; 4681 et seq.  
20-A MRSA §§ 6001 et seq.

Cross Reference: AC - Nondiscrimination/Equal Opportunity and Affirmative Action  
ACAA - Harassment and Sexual Harassment of Students

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