

## **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. Complaints alleging discrimination or harassment of employees or other third parties (such as parents, volunteers and visitors) should be addressed through the Board's Employee & Third Party Discrimination and Harassment Complaint Procedure.

### **Definitions**

For purposes of this procedure:

- A. A "Complaint" is defined as an allegation that a student has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, or disability.
- B. "Discrimination or harassment" means discrimination or harassment on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, or disability. "Discrimination" may include 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 class. "Harassment" may include oral, written, graphic, electronic or physical conduct relating to an individual's actual or perceived membership in a protected class that is sufficiently severe, pervasive or persistent so as to interfere with or limit the individual's ability to participate in the school unit's programs or activities by creating a hostile, intimidating or offensive educational environment.
- C. Complaints of bullying not involving the protected classes described above may be pursued under Board Policy JICK – Bullying.

### **How to Make a Complaint**

- A. Any individual who believes that a student has been discriminated against or harassed should report their concern promptly in writing to the building principal. Individuals who are unsure whether discrimination or harassment has occurred, or who need assistance in preparing a written complaint, are encouraged to discuss the situation with the building principal.
- B. School staff are expected to report possible incidents of discrimination or harassment of students to the building principal. Parents and other adults are also encouraged to report any concerns about possible discrimination or harassment of students.
- C. Students and others will not be retaliated against for making a Complaint or participating in an investigation. Retaliation is illegal under state and federal nondiscrimination laws and any retaliation by students or school staff will result in disciplinary measures, up to and including expulsion or dismissal.

- D. Students are encouraged to utilize the school unit's Complaint Procedure. However, students are hereby notified that they also have the right to report Complaints to the Maine Human Rights Commission, State House Station 51, Augusta, ME 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, Regional Director, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02110-1491 (telephone: 617-289-0111).

### **Complaint Handling and Investigation**

- A. The building principal 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 principal may pursue a prompt and equitable informal resolution of the Complaint with the agreement of the parties involved. Any party to the Complaint may decide to end an informal resolution process and pursue the formal process at any point. 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 parties and the school unit in light of the particular circumstances and applicable policies and laws.
- C. The Complaint will be investigated by the building principal, 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 chairperson of the school board, who should consult with legal counsel concerning the handling and investigation of the Complaint.
1. The person who is the subject of the Complaint will be provided with an opportunity to be heard as part of the investigation. The Complainant shall not be required to attend meetings with the subject of the Complaint, but may choose to do so as part of the resolution process.
  2. The Complainant and the subject of the Complaint may suggest witnesses and/or submit materials they believe are relevant to the Complaint.
  3. If the Complaint is against an employee of the school unit, any applicable individual or collective bargaining contract provisions shall be followed.
  4. Privacy rights of all parties to the Complaint shall be maintained in accordance with applicable state and federal laws.
  5. The building principal shall keep a written record of the investigation process.
  6. The building principal may take interim remedial measures to reduce the risk of further discrimination or harassment while the investigation is pending. Examples of interim measures include, but are not limited to, ordering no contact between individuals, changing schedules or classes, etc.
  7. The building principal shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.

8. The investigation shall be completed within 21 business days of receiving the Complaint, if practicable.
- D. If the building principal determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:
1. Determine what remedial action, if any, is needed to end the discrimination or harassment, remedy its effects and prevent recurrence;
  2. Determine what disciplinary action should be taken against the person(s) who engaged in discrimination or harassment, if any; and
  3. Inform the Complainant in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- E. If the Complainant is dissatisfied with the resolution, an appeal may be made in writing to the Superintendent within 14 business 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 provided in writing to the Complainant within 21 business days, if practicable. The Superintendent's decision shall be final.

Legal Reference: Americans with Disabilities Act (28 CFR § 35.107), as amended  
Rehabilitation Act of 1973 (Section 504) (34 CFR § 104.7), as amended  
Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.)  
Title VI of the Civil Rights Act of 1964 (P.L. 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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