

**MSAD #13/RSU 83**  
**AFFIRMATIVE ACTION PLAN**

**I. GENERAL POLICY STATEMENT**

**A. Statement of Nondiscrimination**

MSAD 13/RSU 83 does not discriminate on the basis of race, age, color, ancestry or national origin, religion, sex, sexual orientation, gender identity and expression, genetic information, or physical or mental disability in admission to, access to, treatment in or employment in its programs and activities. The School Board has adopted a nondiscrimination policy (see Appendix A).

**B. Compliance with Anti-Discrimination Laws**

MSAD 13/RSU 83 recognizes its obligation to comply with the provisions of the Equal Employment Opportunity Act of 1972 (P.L. 92-261), amending Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.) Title IX of the Education Amendments of 1972, (20 U.S.C. § 1681 et seq. and 34 C.F.R. Part 106); the Maine Human Rights Act of 1972 as amended (5 M.R.S.A. § 4551 et seq.); Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.); the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. § 621 et seq.); the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); the Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.); the Genetic Information Nondiscrimination Act (42 U.S.C. § 2000ff et seq.); 20-A M.R.S.A. §6553 (Prohibition of Hazing) and 20-A M.R.S.A. § 6554 (Prohibition on Bullying in Public Schools).

**C. Contacts for Inquiries or Complaints**

To make an inquiry or file a complaint concerning the above statement, an individual may contact one of the following:

Melissa Lyons-Vitalone  
Affirmative Action Officer  
MSAD 13/RSU 83  
110 Meadow Street, Bingham, ME 04920  
Telephone: 207-672-3300 Ext. 119  
Email: [Melissa.Lyons-Vitalone@sad13.org](mailto:Melissa.Lyons-Vitalone@sad13.org)

Melissa Lyons-Vitalone  
Title IX Coordinator  
MSAD 13/RSU 83  
110 Meadow Street, Bingham, ME 04920  
Telephone: 207-672-3300 Ext. 119  
Email: [Melissa.Lyons-Vitalone@sad13.org](mailto:Melissa.Lyons-Vitalone@sad13.org)

Section 504/ADA Coordinator (regarding disability matters)  
Melissa Lyons-Vitalone  
MSAD 13/RS 83  
110 Meadow Street, Bingham, ME 04920  
Telephone: 207-672-3300 Ext. 119  
Email: [Melissa.Lyons-Vitalone@sad13.org](mailto:Melissa.Lyons-Vitalone@sad13.org)

Office for Civil Rights  
U.S. Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02109-3921  
Telephone: (617) 289-0111; TDD (877) 521-2172  
Email: [ocr.boston@ed.gov](mailto:ocr.boston@ed.gov)

Maine Human Rights Commission  
51 State House Station  
Augusta, ME 04333  
Telephone: (207) 624-6290  
Email: [info@mhrc.maine.gov](mailto:info@mhrc.maine.gov)

#### **D. Complaint Procedure**

Employee and student complaint procedures are available which provide for the prompt and equitable resolution of complaints alleging discrimination and harassment based on race, color, age, ancestry or national origin, religion, sex, sexual orientation, gender identity and expression, physical or mental disability, and genetic information. Copies of these complaint procedures will be made available on the school unit's website and upon request at the Superintendent, Affirmative Action Officer and Title IX Coordinator's offices.

## **2. DISSEMINATION PROCEDURES: NOTICE AND POSTING**

### **A. General Notice and Posting**

Notice of the contents of the Affirmative Action Plan shall be provided to all employees, students and parents at the beginning of each school year by means chosen by the Superintendent and posted on the school unit's website.

Notice of MSAD 13/RSU 83's compliance with non-discrimination laws shall be:

1. Posted in a conspicuous and accessible place in all school buildings of the school unit;
2. Included on job postings, advertisements and application forms which are made available to applicants and on enrollment forms made available to students and their parents;
3. Distributed to all personnel responsible for recruiting and screening applicants, and selecting, hiring and promoting employees;
4. Published on the school unit's website.

**B. Annual Notice of Employee Harassment and Sexual Harassment Policy/Complaint Procedure**

A copy of the Harassment and Sexual Harassment of Employees Policy and Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures in Appendix B shall be distributed annually to all school unit employees at the first in-service day each year.

**C. Postings on Sexual Harassment and Employment Discrimination**

Required federal and state workplace posters on sexual harassment and employment discrimination shall be posted in conspicuous and accessible places in school buildings where notices to employees are customarily posted in each school office and/or staff rooms.

**D. Copies of Affirmative Action Plan Available**

A copy of this Affirmative Action Plan, including all appendices, shall be made available to any interested person upon request at the Superintendent, Affirmative Action Officer and Title IX Coordinator's offices.

**E. Updates of Affirmative Action Plan**

The school unit shall provide any updates to the Affirmative Action Plan to the Maine Commissioner of Education.

**3. TRAINING**

**A. Gender Equity Training**

MSAD 13/RSU 83 is responsible for developing plans for in-service training programs on gender equity for teachers, administrators and the School Board.

**B. Sexual Harassment Training**

MSAD 13/RSU 83 shall conduct education and training programs on sexual harassment as required under Maine law: (1) for all new employees within one year of commencement of employment, and (2) for supervisory and managerial employees within one year of commencement of supervisory or managerial employment status.

The school unit shall also conduct all training required under Title IX sexual harassment regulations for individuals involved in addressing such reports and complaints.

**4. RESPONSIBILITY FOR IMPLEMENTATION**

**A.** The Superintendent of Schools holds ultimate responsibility for the operation, oversight and success of MSAD 13/RSU 83's Affirmative Action Plan and nondiscrimination policies. These responsibilities will be delegated in whole or in part to an Affirmative Action Officer and Title IX Coordinator who are appointed by and reports directly to the Superintendent.

**B. Responsibilities of Affirmative Action Officer**

- Day-to-day responsibility for implementing and managing the school unit's Affirmative Action Plan, and compliance with state and federal nondiscrimination laws and regulations.
- Close consultation with the Title IX Coordinator, who is responsible for implementing and managing the school unit's compliance with Title IX in regard to sex-based discrimination and harassment.
- Disseminate required notices, policies, and information regarding federal and state nondiscrimination laws to employees, applicants, parents and others as applicable, including postings on the school unit's website.
- Assess discrimination, harassment and other related complaints received by the school unit to ensure the appropriate policies and procedures are followed, consulting with the Title IX Coordinator, Superintendent, and others as appropriate.
- Coordinate and implement appropriate training for school unit employees on nondiscrimination and harassment laws, policies, procedures, and duty to report.
- Ensure that School Board members and employees receive gender equity training.
- Compile data and reports for the Superintendent and School Board members as requested.
- Advise the Superintendent of any needed revisions to the Affirmative Action Plan or related policies/procedures.
- Comply with all recordkeeping requirements.
- Any other duties related to the Affirmative Action Plan assigned by the Superintendent.

**C. Responsibilities of Title IX Coordinator**

- Day-to-day responsibility for implementing and managing the school unit's compliance with all aspects of state and federal sex/gender-based discrimination and harassment laws and regulations, including Title IX.
- Close consultation with the Affirmative Action Officer, who is responsible for implementing and managing the school unit's compliance with other nondiscrimination and harassment laws and regulations.
- Ensure that required notices, policies and information regarding federal and state sex and gender-based discrimination/harassment laws and regulations are disseminated to employees, applicants, parents, unions, and others as applicable, including postings on the school unit's website.
- Assess discrimination, harassment and other related complaints received by the school unit to ensure the appropriate policies and procedures are followed, consulting with the Affirmative Action Officer, Superintendent, and others as appropriate.
- Receive and process all reports and formal complaints of sex or gender-based discrimination, including sexual harassment complaints.
- Provide support for parties when sexual harassment is reported, and throughout the complaint investigation and resolution process.
- Coordinate and/or conduct investigations of sex discrimination/harassment complaints as appropriate.
- Facilitate or coordinate informal resolutions of sexual harassment formal complaints as appropriate.

- Overall responsibility for ensuring that sex and gender-based discrimination and harassment complaint procedures are followed.
- Implement any remedies after findings of responsibility for sexual harassment.
- Coordinate and implement appropriate training for school unit employees on sexual harassment laws, policies, procedures, and duty to report.
- Ensure compliance with all other aspects of state and federal sex/gender-based discrimination and harassment laws and regulations, including Title IX requirements pertaining to education, athletics, and other school programs.
- Compile data and reports for the Superintendent and School Board members as requested.
- Advise the Superintendent of any needed revisions to discrimination/harassment policies/procedures.
- Comply with all recordkeeping requirements
- Any other duties related to sex and gender-based discrimination/harassment laws and regulations assigned by the Superintendent.

**5. ASSESSMENT OF CURRENT WORKFORCE**

MSAD 13/RSU 83 shall periodically assess the numbers of minorities, women and persons with disabilities in its workforce, and determine where there are fewer employees from these groups than one would reasonably expect given availability in the job market where the school unit can reasonably expect to recruit new employees.

In conducting this analysis, the school unit shall consider relevant local workforce statistics, the school unit’s workforce profile, its job classifications, and recruiting practices.

**6. GOALS, PROCEDURES AND TIMETABLES**

If an assessment determines that imbalances exist in MSAD/RSU 83 workforce with respect to numbers of minorities, women and persons with disabilities, the school unit will develop realistic goals for necessary action and related procedures and timetables for correcting such imbalances.

The following goals, procedures and timetables have been adopted to increase the representation of minorities, women and disabled at all levels and in all segments of MSAD 13/RSU 83’s workforce where imbalances exist:

**A. Recruitment**

It is the intent of MSAD 13/RSU 83 to ensure equal access to all employment opportunities.

Goal/Objective: MSAD 13/RSU 83 will make continued efforts to recruit all segments of the population in the State of Maine, including women, minorities, and individuals with disabilities.

Responsibility: Affirmative Action Officer

Timetable: Ongoing

**B. Job Descriptions**

It is the intent of MSAD 13/RSU 83 that job descriptions will accurately reflect the needed qualifications, training, experience, and duties.

Goal/Objective: MSAD 13/RSU 83 will review and update job descriptions periodically and as vacancies occur.

Responsibility: Affirmative Action Officer

Timetable: Ongoing.

**C. Selection**

Hiring of personnel is done through established policies and procedures, with interviews being monitored by the Affirmative Action Officer for compliance with the Affirmative Action Plan.

Goal/Objective: When vacancies arise in job classifications where women, minorities or the disabled are underrepresented, the Affirmative Action Officer will review interview questions prior to contacting candidates to ensure that the school unit presents and equal employment opportunity.

Responsibility: Affirmative Action Officer

Timetable: Ongoing

**D. Wage and Salary Standards**

Job classifications and wage and salary standards are based solely upon the knowledge, skills, and abilities required by the position.

Goal/Objective: Wages and salaries for particular positions or job categories will be discussed with the Affirmative Action Officer prior to implementation.

Responsibility: Superintendent

Timetable: Ongoing

**E. Complaint Procedure**

Internal and external complaints of discrimination will be treated seriously and promptly by MSAD 13/RSU 83

Goal/Objective: All discrimination complaints shall be processed in accordance with established complaint procedures.

Responsibility: Affirmative Action Officer

Timetable: Ongoing

**F. Reasonable Accommodation for Applicants and Employees with Disabilities**

It is MSAD 13/RSU 83 intent to provide reasonable accommodation to applicants and employees with disabilities consistent with the requirements of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Maine Human Rights Act.

Goal/Objective: Periodically review and assess hiring procedures and implementation of employee policies for compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Maine Human Rights Act.

Responsibility: Affirmative Action Officer and Superintendent

Timetable: Ongoing

**7. RECRUITING AND HIRING OF ADMINISTRATIVE STAFF PROCEDURE**

The School Board has adopted a policy and procedure concerning the recruitment and hiring of administrative staff. The procedures are based upon the “Model Administrative Hiring Procedure” published by the Maine Department of Education in its “Final Report of the Equity Board,” April 1991 (see Appendix F).

**NOTE: INCLUDE THE FOLLOWING POLICIES/PROCEDURES IN APPENDICES**

- A – Nondiscrimination/Equal Opportunity and Affirmative Action (AC)
- B – Harassment and Sexual Harassment of School Employees Policy/Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures (ACAA and ACAA-R)
- C – Harassment and Sexual Harassment of Students Policy/Student Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures (ACAB and ACAB-R)
- D - Hazing (ACAD)
- E – Bullying and Cyberbullying Prevention in Schools Policy/Bullying and Cyberbullying Administrative Procedure ( JICK/JICK-R)
- F- Recruiting and Hiring of Administrative Staff Policy/Procedure (GCFB and GCFB-R)

**Board Approval: 5/11/10**

**Amended: 10/11/2022**

**NONDISCRIMINATION/EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION**

The school unit does not discriminate on the basis of sex or other protected categories in its education programs and activities, as required by federal and state laws/regulations.

Discrimination against and harassment of school employees because of actual or perceived race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, age, familial status, disability, or genetic information are prohibited.

Discrimination against and harassment of students because of actual or perceived race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, or disability are prohibited.

For the purpose of this policy, “race” includes traits associated with race, including hair texture, Afro hairstyles, and protective hairstyles, including braids, twists, and locs.

The Board directs the school administration to implement a continuing program designed to prevent discrimination against all applicants, employees, students and other individuals having access rights to school premises and activities.

The school unit has designated and authorized an Affirmative Action Officer/Title IX Coordinator who is responsible for ensuring compliance with all federal and state requirements relating to nondiscrimination, including sexual harassment. The Affirmative Action Officer/Title IX Coordinator is a person with direct access to the Superintendent.

The school unit has implemented complaint procedures for resolving complaints of discrimination/harassment and sexual harassment under this policy. The school unit provides required notices of these complaint procedures and how they can be accessed, as well as the school unit’s compliance with federal and state civil rights laws and regulations to all applicants for employment, employees, students, parents and other interested parties.

Legal Reference: Equal Employment Opportunity Act of 1972 (P.L. 92-261),  
amending Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000 (e) et seq.)  
Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); 34 C.F.R.  
Part 106 (Title IX regulations)  
Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)  
Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621 et seq.)  
Equal Pay Act of 1963 (29 U.S.C. § 206)  
Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.),  
as amended  
Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), as amended  
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)  
Maine Human Rights Act (5 MRSA § 4551 et seq.), as amended.

Cross Reference: MSAD 13/RSU 83 Affirmative Action Plan  
ACAA – Harassment and Sexual Harassment of Students  
ACAA-R – Student Discrimination/Harassment and Title IX Sexual Harassment  
Complaint Procedures  
ACAB – Harassment and Sexual Harassment of School Employees  
ACAB-R – Employee Discrimination/Harassment and Title IX Sexual Harassment  
Complaint Procedures

Adopted: 8/2/2000  
Revised: 4/10/2012  
Revised: 1/12/2021  
Revised: 1/10/2023

## HARASSMENT AND SEXUAL HARASSMENT OF STUDENTS

Harassment of students because of race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, or disability is prohibited. Such conduct is a violation of Board policy and may constitute illegal discrimination under state and federal laws.

School employees, fellow students, volunteers, visitors to the schools, and other persons with whom students may interact in order to pursue or engage in education programs and activities, are required to refrain from such conduct.

Harassment and sexual harassment of students by school employees is considered grounds for disciplinary action, up to and including discharge. Harassment and sexual harassment of students by other students is considered grounds for disciplinary action, up to and including expulsion. The Superintendent will determine appropriate sanctions for harassment of students by persons other than school employees and students.

### A. Harassment

Harassment includes, but is not limited to, verbal abuse and other offensive conduct based on race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, or disability. 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 Harassment

Sexual harassment is addressed under federal and state laws/regulations. The scope and definitions of sexual harassment under these laws differ, as described below.

#### 1. TITLE IX SEXUAL HARASSMENT

Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit's education programs and activities:

- a. "Quid pro quo" sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a better grade or a college recommendation) on an individual's participation in unwelcome sexual conduct;
- b. "Hostile environment" sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual's equal access to the school unit's education programs and activities; or
- c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.

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 or Sexual Harassment

All school employees are required to report possible incidents of harassment or sexual harassment involving students to the Affirmative Action Officer/Title IX Coordinator. Failure to report such incidents may result in disciplinary action.

Students, parents/legal guardians and other individuals are strongly encouraged to report possible incidents of harassment or sexual harassment involving students 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 or sexual harassment has occurred.

All reports and complaints of harassment or sexual harassment against students shall be addressed through the Student Discrimination/Harassment and Title IX Sexual Harassment Procedures (ACAA-R).

Legal Reference: Americans with Disabilities Act (42 U.S.C. §12101 et seq., as amended; 28 C.F.R. § 35.107)  
 Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq., as amended; 34 C.F.R. § 104.7)  
 Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.); 34 C.F.R. Part 106  
 Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)  
 Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)  
 Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)  
 Maine Human Rights Act, 5 MRSA § 4551 et seq.  
 20-A MRSA § 6553  
 MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

Cross Reference: ACAA-R – Student Discrimination/Harassment and Title IX Sexual Harassment  
Complaint Procedures  
AC – Nondiscrimination/Equal Opportunity and Affirmative Action  
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

Adopted: 8/22/00  
Revised: 4/10/12  
Revised: 1/12/21

## **Student Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures**

The Board has adopted these student procedures in order to provide prompt and equitable resolution of reports and complaints of unlawful discrimination and harassment of students, including sexual harassment, as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAA – Harassment and Sexual Harassment of Students.

Complaints alleging unlawful harassment or discrimination against employees based on a protected category should be addressed through the Board’s Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures (ACAB-R).

Any individual who is unsure about whether unlawful discrimination or harassment has occurred and/or or which complaint procedure applies is encouraged to contact the Affirmative Action Officer/Title IX Coordinator.

**Melissa Lyons-Vitalone, Special Services Director**  
**110 Meadow Street, Bingham, ME 04920**  
**207-672-3300**  
**Melissa.Lyons-Vitalone@sad13.org**

### **Section 1. Definitions**

For purposes of these complaint procedures, the following definitions will be used. The Affirmative Action Officer/Title IX Coordinator shall assess all reports and complaints to ensure that they are addressed under the appropriate policy and complaint procedure.

#### **A. Discrimination/Harassment Complaint Procedure Definitions**

1. “Discrimination or harassment”: Discrimination or harassment on the basis of an individual’s membership in a protected category, which, for students, includes race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locs), color, sex, sexual orientation, gender identity, religion, ancestry, national origin or disability.
2. “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.
3. “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, pervasive or persistent so as to interfere with or limit that individual’s ability to participate in the school unit’s programs or activities by creating a hostile, intimidating or offensive environment.
4. “Sexual harassment”: Under Maine law, this means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:
  - d. Submission to such conduct is made either explicitly or implicitly a term or condition of a student’s educational benefits;

- e. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or
  - f. Such conduct has the purpose and effect of substantially interfering with a student's academic performance or creating an intimidating, hostile or offensive environment.
5. "Sexual orientation": Under Maine law, this means a person's "actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression."
  6. "Gender identity": Under Maine law, this means "the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's sex at birth."
  7. "Complaint" is defined as an allegation that a student has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, gender identity, religion, ancestry, national origin or disability (and not otherwise addressed in the Title IX regulations and Section 3 of ACAA-R).
  8. Complaints of bullying not involving the protected categories or definitions described above may be addressed under Board Policy JICK – Bullying and Cyberbullying of Students.

### **B. Title IX Sexual Harassment Complaint Procedure Definitions**

1. "Sexual Harassment": Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit's education programs and activities:
  - d. "Quid pro quo" sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a better grade or a college recommendation) on an individual's participation in unwelcome sexual conduct;
  - e. "Hostile environment" sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies an individual's equal access to the school unit's education programs and activities; or
  - f. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.
2. "Report": Under the Title IX regulations, any individual may make a report of sexual harassment involving a student, whether the individual is the alleged victim or not. School employees are required to report possible incidents of sexual harassment involving a student. A report must be made to the Affirmative Action Officer/Title IX Coordinator. A report triggers certain actions by the AAO/Title IX Coordinator for the alleged victim of sexual harassment, but an investigation is not conducted unless a "Formal Complaint" is filed.
3. "Formal Complaint": Under the Title IX regulations, the alleged victim of sexual harassment can file a written complaint that triggers the complaint procedure in Section 3 of ACAA-R. Only a student and/or their parent/legal guardian (and in certain circumstances, the AAO/Title IX Coordinator) may file a formal complaint.

4. “Student”: For the purposes of this procedure, a student is an individual who is enrolled or participating in the school unit’s education programs and activities or is attempting to enroll or participate.

## **Section 2. Discrimination/Harassment Complaint Procedure**

This procedure should be used for any complaint of unlawful harassment or discrimination complaint based on a protected category which does not involve Title IX sexual harassment (which is addressed in Section 3).

### **A. How to Make A Complaint**

1. School employees are required to promptly make a report to the AAO/Title IX Coordinator if they have reason to believe that a student has been discriminated against or harassed.
2. Students (and others) who believe that they, or another student has been harassed or discriminated against should report their concern promptly to the AAO/Title IX Coordinator.
3. The individual making the report must provide basic information in writing concerning the allegation of harassment or discrimination (i.e., date, time, location, individual(s) who allegedly engaged in harassment or discrimination, description of allegation) to the AAO/Title IX Coordinator.
4. If an individual is unsure as to whether unlawful discrimination or harassment has occurred, or who needs assistance in preparing a written complaint, they are encouraged to discuss the matter with the AAO/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 discharge for employees, and expulsion for students.
6. Individuals are encouraged to utilize the school unit’s complaint procedure. However, individuals are hereby notified that they also have the right to report incidents of discrimination or harassment to the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

### **B. Complaint Handling and Investigation**

1. The AAO/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.

2. The AAO/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 AAO/Title IX Coordinator may implement supportive measures to a student to reduce the risk of further discrimination or harassment to a student while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals involved or changing classes.
4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the AAO/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. Any complaint about the Superintendent should be submitted to the Chair of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.
5. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.
6. The respondent 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 respondent, but may choose to do so as part of an informal resolution process.
7. The complainant and the respondent may suggest witnesses to be interviewed and/or submit materials they believe are relevant to the complaint.
8. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.
9. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
10. The investigation shall be completed within 40 business days of receiving the complaint, if practicable. Reasonable extensions of time for good reason shall be allowed.
11. The investigator shall provide a written report and findings to the AAO/Title IX Coordinator.

### **C. Findings and Subsequent Actions**

1. The AAO/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 AAO/Title IX Coordinator, in consultation with the Superintendent shall:
  - a. Determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect and prevent recurrence; and
  - b. Determine what disciplinary action 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 business 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 business 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 shall be provided to the parties within 10 business days, if practicable. The Superintendent's decision shall be final.

#### **E. Records**

The AAO/Title IX Coordinator shall keep a written record of the complaint process.

#### **Section 3. Title IX Sexual Harassment Complaint Procedure**

This section should be used only for complaints of Title IX sexual harassment as defined in Section 1.B.1.

#### **A. How to Make A Report**

1. School employees who have reason to believe that a student has been subjected to sexual harassment are required to promptly make a report to the AAO/Title IX Coordinator.
2. Students, parents/legal guardians or other individuals who believe a student has been sexually harassed are encouraged to make a report to the AAO/Title IX Coordinator.

3. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the AAO/Title IX Coordinator will meet with the alleged victim to discuss supportive measures that may be appropriate in the particular circumstances and explain the process for filing a formal complaint.
  - a. Supportive measures are individualized measures designed to ensure the student can continue to access educational programs and activities (such as requiring no contact between individuals or changing classes).
  - b. Supportive measures may be continued even if the alleged victim chooses not to file a formal complaint, if appropriate under the particular circumstances.
4. The school unit cannot provide an informal resolution process for resolving a report unless a formal complaint is filed.
5. Individuals will not be retaliated against for reporting sexual harassment, or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary actions, up to and including discharge for employees, or expulsion for students.
6. Any student (or their parent/legal guardian) who believes they have been the victim of sexual harassment is encouraged to utilize the school unit's complaint procedure. However, students (and their parents/legal guardians) are hereby notified that they also have the right to report sexual harassment to the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).
7. The Superintendent shall be informed of all reports and formal complaints of sexual harassment.

## **B. How to Make A Formal Complaint**

1. An alleged student victim and/or their parent/legal guardian may file a formal written complaint requesting investigation of alleged Title IX sexual harassment. The written complaint must include basic information concerning the allegation of sexual harassment (i.e., date, time, location, individual(s) who allegedly engaged in sexual harassment, description of allegation).

Students who need assistance in preparing a formal written complaint are encouraged to consult with the AAO/Title IX Coordinator.

2. In certain circumstances, the AAO/Title IX Coordinator may file a formal complaint even when the alleged victim chooses not to. Examples include if the respondent (person alleged to have engaged in sexual harassment) has been found responsible for previous sexual harassment or there is a safety threat within the school unit). In such cases, the alleged victim is not a party to the case but will receive notices as required by the Title IX regulations at specific points in the complaint process.

3. In accordance with the Title IX regulations, the AAO/Title IX Coordinator must dismiss a formal complaint under this Title IX procedure if: a) the conduct alleged in the formal complaint does not constitute sexual harassment under the Title IX regulations and this policy; or b) if the conduct alleged did not occur within the scope of the school unit's education programs and activities, or c) did not occur in the United States.
4. In accordance with the Title IX regulations, the AAO/Title IX Coordinator may dismiss a formal complaint under this Title IX procedure if: a) a complainant withdraws the formal complaint, or withdraws particular allegations within the complaint; b) the respondent is no longer employed by or enrolled in the school unit; or c) there are specific circumstances that prevent the school unit from gathering evidence sufficient to reach a determination regarding the formal complaint. However, if the conduct potentially violates other policies or laws, it may be addressed through the applicable Board policy/procedure.
5. If a formal complaint is dismissed under this Title IX procedure, the AAO/Title IX Coordinator will promptly and simultaneously send written notices to the parties explaining the reasons. Parties have the opportunity to appeal dismissals in accordance with subsection I below.
6. If the conduct alleged in a formal complaint potentially violates other laws, Board policies and/or professional expectations, the school unit may address the conduct under Section 2 or another applicable Board policy/procedure.

### **C. Emergency Removal or Administrative Leave**

1. The Superintendent may remove a student respondent from education programs and activities on an emergency basis during the complaint procedure:
  - a. If there is a determination (following an individualized safety and risk analysis) that there is an immediate threat to the physical health or safety of an individual arising from the allegations of sexual harassment. Examples of such circumstances might include, but are not limited to, a continued threat of violence against a complainant by a respondent, or a respondent's threat of self-harm due to the allegations.
  - b. The respondent (and their parent/legal guardian) will be provided notice of the emergency removal and will be provided an opportunity to challenge the decision following the removal (this is an opportunity to be heard, not a hearing). The respondent has the burden to demonstrate why the emergency removal was unreasonable.
2. The Superintendent may place an employee respondent on administrative leave during the complaint procedure in accordance with any applicable State laws, school policies and collective bargaining agreement provisions.
3. Any decision to remove a respondent from education programs and activities on an emergency basis or place an employee on administrative leave shall be made in compliance with any applicable disability laws, including the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

**D. Notice to Parties of Formal Complaint**

1. The Title IX Coordinator will provide to the parties written notice of the formal complaint and allegations of sexual harassment potentially constituting prohibited conduct under the Title IX regulations and this procedure. The notice shall include:
  - Notice regarding the complaint procedure and the availability of an informal resolution process;
  - Sufficient details known at the time (including identities of parties, if known; the conduct alleged that potentially violates Title IX; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (not less than five business days).
  - As required by the Title IX regulations, a statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the complaint; and that the parties may inspect and review evidence;
  - Notice that the parties may each have an advisor of their choice (who may be an attorney);
  - Notice that knowingly making false statements or submitting false information during the complaint process is prohibited and may result in disciplinary action;
  - Notice of the name of the investigator, with sufficient time (no less than three business days to raise concerns of conflict of interest or bias).
2. If additional allegations become known at a later time, notice of the additional allegations will be provided to the parties.
3. The AAO/Title IX Coordinator will discuss supportive measures with each party and implement such measures as appropriate.

**E. Informal Resolution Process**

After a formal complaint has been filed, and if the AAO/Title IX Coordinator believes the circumstances are appropriate, the AAO/Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and determination process. Informal resolutions cannot be used to resolve a formal complaint where a student is the complainant, and the respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; disciplinary actions against a respondent or a requirement to engage in specific services; or supportive measures. Both parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time. The Superintendent must agree to the terms of any informal resolution reached between the parties. If an informal resolution agreement is reached, it must be signed by both parties and the school unit. Any such signed agreement is final and binding according to its terms.

If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the subsequent investigation or determination.

**F. Investigation**

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and AAO/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. Any complaint about the Superintendent should be submitted to the Chair of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.
2. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.
3. If the complaint is against an employee of the school unit, rights conferred under an applicable collective bargaining agreement shall be applied, to the extent they do not conflict with the Title IX regulatory requirements.
4. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
5. The investigator will:
  - a. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.
  - b. Allow parties to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process.
  - c. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.
  - d. Interview witnesses and conduct such other activities that will assist in ascertaining facts (site visits, review of documents, etc.).
  - e. Consider evidence that is relevant and directly related to the allegations in the formal complaint.
  - f. During the course of the investigation, provide both parties with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint (including evidence which the school unit does not intend to rely upon in reaching a determination of responsibility), and favorable and unfavorable evidence.
  - g. Prior to completion of the investigation report, provide each party and advisor (if any) the evidence subject to inspection and review, and provide the parties with ten business days to submit a written response.
  - h. Consider the parties' written responses to the evidence prior to completing the investigation report.

- i. Create an investigative report that fairly summarizes relevant evidence and send the report to the parties and advisors (if any), for their review and written responses within ten business days of receipt.
  - j. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned decision maker.
6. The investigation shall be concluded within 40 business days if practicable. A reasonable extension of time for good reason shall be allowed.

**G. Determination of Responsibility**

1. The decision maker shall provide the parties with the opportunity to submit written, relevant questions that the party wants asked of another party or witness within five business days of when the decision maker received the investigation report and party responses.
  - a. The decision maker shall explain to a party proposing questions if the decision maker excludes a question as not relevant.
2. Each party shall be provided the opportunity to review the responses of another party and/or witness, and to ask limited written follow-up questions within five business days of receiving the answers.
3. Each party will receive a copy of the responses to any follow-up questions.
4. The decision maker shall review the investigation report, the parties' responses and other relevant materials, applying the preponderance of the evidence standard ("more likely than not").
5. The decision maker shall issue a written determination, which shall include the following:
  - a. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy;
  - b. A description of the procedural steps taken from receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and meetings held;
  - c. A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;
  - d. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school unit imposes on the respondent, and whether remedies designed to restore or preserve equal access to the school unit's programs and activities will be provided to the complainant;
  - e. The school unit's appeal procedure and permissible bases for the parties to appeal the determination.

6. The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that the school unit provides the parties with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

## **H. Remedies, Discipline and Other Actions**

### **1. Remedies**

Remedies are measures used to ensure that the complainant has equal access to the school unit's education programs and activities following the decision maker's determination. Such remedies may include supportive measures, and may include other appropriate measures, depending upon the determination and the needs of the complainant. The Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the Complainant.

### **2. Discipline and Other Actions - Students**

The following are of the types of discipline and other actions that may be imposed on a student when there is a determination that they are responsible for one or more violations involving sexual harassment:

- In or out of school suspension.
- Expulsion.
- Restorative justice.
- Requirement to engage in education or counseling program.

### **3. Discipline and Other Actions – Employees**

The following are examples of the types of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations involving sexual harassment:

- Written warning.
- Probation.
- Demotion.
- Suspension without pay.
- Discharge.

The following are examples of other types of actions that may be imposed on an employee when there is a determination of responsibility:

- Performance improvement plan.
- Counseling.
- Training.
- Loss of leadership/stipend position.

**I. Appeals**

The parties have the opportunity to appeal a determination regarding responsibility, and from dismissals of formal complaints. Under the Title IX regulations, appeals are allowed on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the formal complaint was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent that affected the outcome of the matter.

An appeal must be filed in writing within five business days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

1. Appeals must be filed with the Superintendent, who will consider the appeal.
2. The Superintendent shall notify the other party in writing of the appeal and will allow both parties to submit a written statement in support of or challenging, the determination of the decision maker.
3. The Superintendent shall conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with legal counsel or other school unit officials in making their decision.
4. The Superintendent shall issue a written decision describing the result of the appeal and rationale for the result and provide the written decision simultaneously to the parties. The decision will either deny the appeal; grant the appeal and remand to the decision maker for further consideration; or grant the appeal by revising the disciplinary or other action(s).

**J. Records**

Records in connection with sexual harassment reports and the complaint process shall be maintained for a minimum of seven years.

Legal Reference: Americans with Disabilities Act (42 U.S.C. §12101 et seq., as amended; 28 C.F.R. § 35.107)  
 Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq., as amended; 34 C.F.R. § 104.7)  
 Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.); 34 C.F.R. Part 106  
 Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)  
 Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)  
 Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)  
 Maine Human Rights Act, 5 MRSA § 4551 et seq.  
 20-A MRSA § 6553  
 MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

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

Adopted: 8/22/00  
 Revised: 5/11/10  
 Revised: 1/12/21  
 Revised: 1/10/2023

## HARASSMENT AND SEXUAL HARASSMENT OF SCHOOL EMPLOYEES

Harassment of school employees because of race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, age, familial status, genetic information, or disability is prohibited. Such conduct is a violation of Board policy and may constitute illegal discrimination under state and federal laws.

For the purpose of this policy, “race” includes traits associated with race, including hair texture, Afro hairstyles, and protective hairstyles, including braids, twists, and locs.

Any employee who engages in harassment or sexual harassment shall be subject to disciplinary action, up to and including discharge.

### A. Harassment

Harassment includes, but is not limited to, verbal abuse, threats, physical assault and/or battery based on race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, age, genetic information or disability. Under the Maine Civil Rights Act, violence or threats of violence against a person or their property based on their sexual orientation are also illegal.

### B. Sexual Harassment

Sexual harassment is addressed under federal and state laws and regulations. The scope and definitions of sexual harassment under these laws differ, as described below.

### C. Title IX Sexual Harassment

Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit’s education programs and activities:

- a. “Quid pro quo” sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a promotion or favorable evaluation) on an individual’s participation in unwelcome sexual conduct;
- b. “Hostile environment” sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual’s equal access to the school unit’s education programs and activities; or
- c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.

#### D. Sexual Harassment Under Title VII and Maine Law

Under another federal law, Title VII, and under Maine law/regulations, sexual harassment is defined differently. Maine Human Rights Commission regulations define sexual harassment as conduct on the basis of sex which satisfies one or more of the following:

- 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 or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

#### E. Reports and Complaints of Harassment or Sexual Harassment

Any employee who believes they have been harassed or sexually harassed is 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 or sexual harassment has occurred.

All reports and complaints regarding harassment or sexual harassment of employees shall be addressed through the Employee & Third-Party Unlawful Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures (ACAB-R).

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|------------------|--|
| Legal References | <p>Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); 34 C.F.R. Part 106</p> <p>Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)</p> <p>Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v)-definition of sexual assault; 34 U.S.C. § 12291(a)(10)-dating violence; 34 U.S.C. §12291(a)(3)-definition of stalking; 34 U.S.C. §12291(a)(8)-definition of domestic violence)</p> <p>Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)</p> <p>Americans with Disabilities Act (42 U.S.C § 12101 et seq.), as amended</p> <p>Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended</p> <p>Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, et.seq.; 29 C.F.R. § 1604.11)</p> <p>Age Discrimination in Employment Act (29 U.S.C. § 623 et seq.)</p> <p>Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. §2000ff et seq.)</p> <p>5 MRSa § 4551 et seq.</p> <p>MHRC Rule Chapter 94-348, ch. 3</p> <p>26 MRSa §§ 806-807</p> |
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Cross Reference      ACAB-R- Employee Discrimination/Harassment and Title IX Sexual Harassment  
Complaint Procedure  
AC - Nondiscrimination/Equal Opportunity and Affirmative Action  
ACAD – Hazing

Adopted:    8/22/2000  
Revised:    5/11/2010  
Revised:    1/12/2021  
Revised:    1/10/2023

## **EMPLOYEE DISCRIMINATION/HARASSMENT AND TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES**

The Board has adopted these employee procedures in order to provide prompt and equitable resolution of employee complaints of discrimination and harassment, including sexual harassment, as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAB – Harassment and Sexual Harassment of School Employees.

The complaint procedure in Section 2 may also be used, to the extent applicable, by visitors, including parents, volunteers and others having lawful access to the schools who wish to make a complaint of discrimination or harassment.

Complaints alleging harassment or discrimination against students based on a protected category should be addressed through the Board’s Student Discrimination/ Harassment and Title IX Sexual Harassment Complaint Procedures (ACAA-R).

Any individual who is unsure about whether discrimination or harassment has occurred and/or or which complaint procedure applies is encouraged to contact the Affirmative Action Officer/Title IX Coordinator.

**Melissa Lyons-Vitalone, Special Services Director**  
**110 Meadow Street, Bingham, ME 04920**  
**207-672-3300**  
**Melissa.Lyons-Vitalone@sad13.org**

### **Section 1. Definitions**

For purposes of these complaint procedures, the following definitions will be used. The Affirmative Action Officer/Title IX Coordinator shall assess all reports and complaints to ensure that they are addressed under the appropriate policy and complaint procedure.

#### **C. Discrimination/Harassment Complaint Procedure Definitions**

1. “Discrimination or harassment”: Discrimination or harassment on the basis of an individual’s membership in a protected category, which, for employees, includes race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locs), color, sex, sexual orientation, gender identity, age, familial status, religion, ancestry, national origin, genetic information or disability.
2. “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.
3. “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, pervasive or persistent so as to interfere with or limit that individual’s ability to participate in the school unit’s programs or activities by creating a hostile, intimidating or offensive environment.

4. Under Title VII and under Maine law/regulations, sexual harassment is defined differently than under Title IX. Maine Human Rights Commission regulations define sexual harassment as conduct on the basis of sex which satisfies one or more of the following:
  - 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 or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
  
5. "Sexual orientation": Under Maine law, this means a person's "actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression."
  
6. "Gender identity": Under Maine law, this means "the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's sex at birth."
  
7. "Complaint" is defined as an allegation that an employee or other third party has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, gender identity, age, familial status, religion, ancestry, national origin, genetic information or disability (and in regard to sex, conduct not otherwise addressed in the Title IX regulations and Section 3 of ACAB-R).
  
8. "Employee": Whenever the term "employee" is used in Section 2, it includes visitors or others who have a lawful basis to make a complaint of discrimination or harassment.
  
9. "Familial status": Under Maine law, this means a family unit that contains:
  - a. One or more individuals who have not attained 18 years of age and are living with a parent or another person having legal custody of the individual or individuals or the designee of the parent or other person having custody with the written permission of the parent or other person; or
  - b. One or more individuals 18 years of age or older who lack the ability to meet essential requirements for physical health, safety or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions.

#### **D. Title IX Sexual Harassment Complaint Procedure Definitions**

1. "Title IX sexual harassment": Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit's education programs and activities:
  - a. "Quid pro quo" sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a promotion or favorable evaluation) on an individual's participation in unwelcome sexual conduct;

- b. “Hostile environment” sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual’s equal access to the school unit’s education programs and activities; or
  - c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.
2. “Report”: Under the Title IX regulations, any individual may make a report of sexual harassment involving an employee, whether the individual is the alleged victim or not. A report must be made to the Affirmative Action Officer/Title IX Coordinator. A report triggers certain actions by the AAO/Title IX Coordinator for the alleged victim of sexual harassment, but an investigation is not conducted unless a “Formal Complaint” is filed.
3. “Formal Complaint”: Under Title IX, the alleged victim of sexual harassment can file a written complaint that triggers the complaint procedure in Section 3 of ACAB-R. Only a school employee (and in certain circumstances, the AAO/Title IX Coordinator) may file a formal complaint.
4. “Employee”: For the purpose of this procedure, “employee” means an applicant for employment or a current employee of the school unit.

This procedure should be used for any complaint of unlawful harassment or discrimination based on a protected category which does not involve Title IX sexual harassment.

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

1. An employee who believes they have been unlawfully harassed or discriminated against (as such terms are defined in Section 1.A.1-3) 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 shall not prevent the employee from making an immediate complaint to the AAO/Title IX Coordinator.
2. Any employee who believes they have been harassed or discriminated against should report their concern promptly to the AAO/Title IX Coordinator. A written complaint must include basic information concerning the allegation of harassment or discrimination (i.e., date, time, location, individual(s) who alleged engaged in harassment or discrimination, description of allegation).
3. Employees who are unsure as to whether unlawful discrimination or harassment has occurred, or who need assistance in preparing a written complaint, are encouraged to discuss the matter with the AAO/Title IX Coordinator.
4. Employees 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 measures, up to and including discharge.

5. Any employee who believes they have been discriminated against or harassed is 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 the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

#### **F. Complaint Handling and Investigation**

1. The AAO/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.
2. The AAO/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 AAO/Title IX Coordinator may implement supportive measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further discrimination or harassment while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals involved, changing a work location or changing a work schedule.
4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the AAO/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. Any complaint about the Superintendent should be submitted to the Chair of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.
5. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.
6. The respondent 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 respondent but may choose to do so as part of an informal resolution process.
7. The complainant and the respondent may suggest witnesses and/or submit materials they believe are relevant to the complaint.
8. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.
9. The privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

10. The investigation shall be completed within 40 business days of receiving the complaint, if practicable. Reasonable extensions of time for good reason shall be allowed.
11. The investigator shall provide a written report and findings to the AAO/Title IX Coordinator.

#### **G. Findings and Subsequent Actions**

1. The AAO/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 AAO/Title IX Coordinator, in consultation with the Superintendent:
  - a. Shall determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect and prevent recurrence; and
  - b. Determine what disciplinary action 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).

#### **H. 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 business 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 business 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 shall be provided to the parties within 10 business days, if practicable. The Superintendent's decision shall be final.

#### **I. Records**

The AAO/Title IX Coordinator shall keep a written record of the complaint process.

#### **J. Section 3. Title IX Sexual Harassment Complaint Procedure**

This section should be used only for complaints of Title IX sexual harassment as defined in Section 1.B.1.

**K. How to Make a Report**

1. Any individual who believes an employee has been sexually harassed (as this term is defined in Section 1.B.1) may make a report to the AAO/Title IX Coordinator.
2. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the AAO/Title IX Coordinator will meet with the alleged victim to discuss supportive measures that may be appropriate in the particular circumstances and explain the process for filing a formal complaint.
  - a. Supportive measures are individualized measures designed to ensure the employee can continue to access and perform their work (such as requiring no contact between individuals, temporarily moving work locations, or changing schedules, etc.).
  - b. Supportive measures may be continued even if the alleged victim chooses not to file a formal complaint, if appropriate under the particular circumstances.
3. The school unit cannot provide an informal resolution process for resolving a report until a formal complaint is filed.
4. Employees will not be retaliated against for reporting sexual harassment, or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary actions, up to and including discharge.
5. Any employee who believes they have been the victim of sexual harassment is encouraged to utilize the school unit's complaint procedures. However, employees are hereby notified that they also have the right to report sexual harassment to the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).
6. The Superintendent shall be informed of all reports and formal complaints of sexual harassment.

**L. How to Make a Formal Complaint**

1. An alleged victim may file a formal written complaint requesting investigation of alleged Title IX sexual harassment. The written complaint must include basic information concerning the allegation of sexual harassment (i.e., date, time, location, individual(s) who alleged engaged in sexual harassment, description of allegation).
2. Employees who need assistance in preparing a formal written complaint, are encouraged to consult with the AAO/Title IX Coordinator.
3. In certain circumstances, the AAO/Title IX Coordinator may file a formal complaint even when the alleged victim chooses not to. Examples include if the respondent (person alleged to have engaged in sexual harassment) has been found responsible for previous sexual harassment or there is a safety threat within the school unit). In such cases, the alleged victim is not a party to the case, but will receive notice as required by the Title IX regulations at specific points in the complaint process.

4. In accordance with the Title IX regulations, the AAO/Title IX Coordinator must dismiss a formal complaint under this Title IX procedure if: a) the conduct alleged in the formal complaint does not constitute sexual harassment under the Title IX regulations and this policy; b) if the conduct alleged did not occur within the scope of the school unit's education programs and activities, or c) did not occur in the United States.
5. In accordance with the Title IX regulations, the AAO/Title IX Coordinator may dismiss a formal complaint under this Title IX procedure if: a) a complainant withdraws the formal complaint, or withdraws particular allegations within the complaint; b) the respondent is no longer employed by the school unit; or c) there are specific circumstances that prevent the school unit from gathering evidence sufficient to reach a determination regarding the formal complaint.
6. If a formal complaint is dismissed under this Title IX procedure, the AAO/Title IX Coordinator will promptly and simultaneously send written notices to the parties explaining the reasons. Parties have the opportunity to appeal dismissals in accordance with subsection I below.
7. If the conduct alleged potentially violates other laws, Board policies and/or professional expectations, the school unit may address the conduct under Section 2 or another applicable policy/procedure.

#### **M. Administrative Leave**

1. The Superintendent may place an employee respondent on administrative leave during the complaint procedure in accordance with any applicable State laws, school policies and collective bargaining agreement provisions.
2. Any decision to place an employee respondent on administrative leave shall be made in compliance with any applicable disability laws, including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

#### **N. Notice to Parties of Formal Complaint**

1. The Title IX Coordinator will provide to the parties written notice of the formal complaint and allegations of sexual harassment potentially constituting prohibited conduct under the Title IX regulations and this procedure. The notice will include:
  - Notice regarding the complaint procedure and the availability of an informal resolution process;
  - Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (not less than five business days);
  - As required by the Title IX regulations, a statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the complaint); and that the parties may inspect and review evidence;
  - Notice that the parties may each have an advisor of their choice (who may be an attorney);

- Notice that knowingly making false statements or submitting false information during the complaint procedure is prohibited and may result in disciplinary action; and
  - Notice of the name of the investigator, with sufficient time (no less than three business days to raise concerns of conflict of interest or bias.
2. If additional allegations become known at a later time, notice of the additional allegations will be provided to the parties.
  3. The AAO/Title IX Coordinator will discuss supportive measures with each party and implement such measures as appropriate.

#### **O. Informal Resolution Process**

After a formal complaint has been filed, and if the AAO/Title IX Coordinator believes the circumstances are appropriate, the AAO/Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and determination process. Informal resolutions cannot be used to resolve a formal complaint where a student is the complainant, and the respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; disciplinary actions against a respondent or a requirement to engage in specific services; or supportive measures. Both parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time. The Superintendent must agree to the terms of any informal resolution reached between the parties. If an informal resolution agreement is reached, it must be signed by both parties and the school unit. Any such signed agreement is final and binding according to its terms.

If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the subsequent investigation or determination.

#### **P. Investigation**

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and AAO/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. Any complaint about the Superintendent should be submitted to the Chair of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.
2. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.
3. If the complaint is against an employee of the school unit, rights conferred under an applicable collective bargaining agreement shall be applied, to the extent they do not conflict with the Title IX regulatory requirements.
4. The privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

5. The investigator will:
  - a. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.
  - b. Allow parties to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process.
  - c. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.
  - d. Interview witnesses and conduct such other activities that will assist in ascertaining facts (site visits, review of documents, etc.).
  - e. Consider evidence that is relevant and directly related to the allegations in the formal complaint.
  - f. During the course of the investigation, provide both parties with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint (including evidence which the school unit does not intend to rely upon in reaching a determination of responsibility), and favorable and unfavorable evidence.
  - g. Prior to completion of the investigation report, provide each party and advisor (if any) the evidence subject to inspection and review, and provide the parties with ten business days to submit a written response.
  - h. Consider the parties' written responses to the evidence prior to completing the investigation report.
  - i. Create an investigative report that fairly summarizes relevant evidence and send the report to the parties and advisors (if any), for their review and written responses within ten business days of receipt.
  - j. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned decision maker.
6. The investigation shall be concluded within 40 business days if practicable. Reasonable extension of time for good reason shall be allowed.

**Q. Determination of Responsibility**

1. The decision maker shall provide the parties with the opportunity to submit written, relevant questions that the party wants asked of another party or witness within five business days of when the decision maker received the investigation report and party responses.
  - a. The decision maker shall explain to a party proposing questions if the decision maker excludes a question as not relevant.

2. Each party shall be provided the opportunity to review the responses of another party and/or witness, and to ask limited written follow-up questions within five business days of receiving the answers.
3. Each party will receive a copy of the responses to any follow-up questions.
4. The decision maker shall review the investigation report, the parties' responses and other relevant materials, applying the preponderance of the evidence standard ("more likely than not").
5. The decision maker shall issue a written determination, which shall include the following:
  - f. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy;
  - g. A description of the procedural steps taken from receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and meetings held;
  - h. A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;
  - i. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school unit imposes on the respondent, and whether remedies designed to restore or preserve equal access to the school unit's programs and activities will be provided to the complainant;
  - j. The school unit's appeal procedure and permissible bases for the parties to appeal the determination.
6. The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that the school unit provides the parties with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

## **R. Remedies, Discipline and Other Actions**

### **1. Remedies**

Remedies are measures used to ensure that the complainant has equal access to the school unit's education programs and activities following the decision maker's determination. Such remedies may include supportive measures, and may include other appropriate measures, depending upon the determination and the needs of the complainant. The Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the Complainant.

## 2. Discipline and Other Actions

The following are examples of the types of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations involving sexual harassment:

- Written warning.
- Probation.
- Demotion.
- Suspension without pay.
- Discharge.

The following are examples of other types of actions that may be imposed on an employee when there is a determination of responsibility:

- Performance improvement plan.
- Counseling.
- Training.
- Loss of leadership/stipend position.

## S. Appeals

The parties have the opportunity to appeal a determination regarding responsibility, and from dismissals of formal complaints. Under the Title IX regulations, appeals are allowed on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the formal complaint was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent that affected the outcome of the matter.

An appeal must be filed in writing within five business days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

- a. Appeals must be filed with the Superintendent, who will consider the appeal.
- b. The Superintendent shall conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with legal counsel or other school unit officials in making their decision.

- c. The Superintendent shall issue a written decision describing the result of the appeal and rationale for the result, and provide the written decision simultaneously to the parties. The decision will either deny the appeal; grant the appeal and remand to the decision maker for further consideration; or grant the appeal by revising the disciplinary action(s).

## T. Records

Records in connection with sexual harassment reports and the complaint process shall be maintained for a minimum of seven years.

- Legal References: Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); 34 C.F.R. Part 106  
 Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)  
 Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)  
 Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)  
 Americans with Disabilities Act (42 U.S.C § 12101 et seq.), as amended  
 Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended  
 Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, et. seq.; 29 C.F.R. § 1604.11)  
 Age Discrimination in Employment Act (29 U.S.C. § 623 et seq.)  
 Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
- Cross Reference: AC – Nondiscrimination/Equal Opportunity and Affirmative Action  
 ACAB – Harassment and Sexual Harassment of School Employees  
 GBGB – Workplace Bullying

Adopted: 8/22/00  
 Revised: 5/11/10  
 Revised: 1/12/21  
 Revised: 1/10/2023

## HAZING

Maine law defines injurious hazing as any action or situation, including harassing behavior that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in a public school.

Injurious hazing also includes any activity expected of a student as a condition of joining or maintaining membership in a group that humiliates, degrades, abuses or endangers a student, regardless of the student's willingness to participate in the activity.

Injurious hazing activities of any type, either on or off school property, by any student, staff member, group or organization affiliated with this school unit, are inconsistent with the educational process and shall be prohibited at all times.

“Harassing behavior” includes acts of intimidation and any other conduct that recklessly or intentionally endangers the mental or physical health of a student or staff member.

“Acts of intimidation” include extortion, menacing, direct or indirect threats of violence, incidents of violence, bullying, statements or taunting of a malicious and/or derogatory nature that recklessly or intentionally endanger the mental or physical health of another person, and property damage or theft.

No administrator, faculty member, or other employee of the school unit shall encourage, permit, condone, or tolerate injurious hazing activities. No student, including leaders of any student organizations or school-sponsored teams, shall plan, encourage, or engage in injurious hazing activities.

Students who violate this policy may be subject to disciplinary action which may include suspension, expulsion, or other appropriate measures. Administrators, professional staff, and all other employees who violate this policy may be subject to disciplinary action up to and including dismissal.

In the case of an organization affiliated with this school unit that authorizes hazing, penalties may include rescission of permission for that organization to operate on school property or to receive any other benefit of affiliation with the school unit.

Persons not associated with this school unit who fail to abide by this policy may be subject to ejection from school property and/or other measures as may be available under the law.

These penalties shall be in addition to any civil or criminal penalties to which the violator or organization may be subject.

The Superintendent/designee shall be responsible for administering this policy. In the event that an individual or organization disagrees with an action—or lack of action—on the part of the Superintendent/designee as he/she carries out the provisions of this policy, that individual or organization may appeal to the Board. The ruling of the Board with respect to the provisions of this policy shall be final.

This right to appeal does not apply to student suspensions of 10 days or less or to matters submitted to grievance procedures under applicable collective bargaining agreements.

A copy of this policy shall be included in all school, parent, and employee handbooks or otherwise distributed to all school employees and students.

Legal Reference: 20-A MRSA § 6553

Cross Reference: ACAA - Harassment and Sexual Harassment of Students  
ACAB - Harassment and Sexual Harassment of Employees  
JICIA - Weapons, Violence and School Safety

Adopted: 8/22/00

Revised: 6/10/03

Revised: 12/8/20

## BULLYING

The Board believes that bullying, including cyberbullying, is detrimental to student well-being and to student learning and achievement. It interferes with the mission of the schools to educate their students and disrupts the operations of the schools. Bullying affects not only students who are targets but also those who participate in and witness such behavior.

### **Bullying Prohibited**

Bullying, including “cyberbullying,” harassment and sexual harassment are not acceptable conduct in **MSAD 13/RSU 83** and are prohibited.

Retaliation for the reporting of incidents of such behavior is also prohibited.

In adopting this policy, it is not the Board’s intent to prohibit students from expressing their ideas, including religious, political and philosophical views that may offend the sensibilities of others, or from engaging in civil debate. However, the Board does not condone and will take action in response to conduct that directly interferes with students’ rights at school under applicable laws or with the educational mission, operations, discipline or general welfare of the schools.

### **Definitions**

“Bullying” and “cyberbullying” have the same meaning in this policy as in Maine law:

### **Bullying**

“Bullying” includes, but is not limited to a written, oral or electronic expression or a physical act or gesture or any combination thereof directed at a student or students that:

1. Has, or a reasonable person would expect it to have, the effect of:
2. Physically harming a student or damaging a student’s property; or
3. Placing a student in reasonable fear of physical harm or damage to his/her property;
4. Interferes with the rights of a student by:
  - a. Creating an intimidating or hostile educational environment for the student; or
  - b. Interfering with the student’s academic performance or ability to participate in or benefit from the services, activities or privileges provided by the school; or

5. Is based on:

- a. A student’s actual or perceived characteristics identified in 5 MRSA § 4602 or 4684-A (including race; color; ancestry; national origin; sex; sexual orientation; gender identity or expression; religion; physical or mental disability) or other distinguishing personal characteristics (such as socioeconomic status; age; physical appearance; weight; or family status); or
- b. A student’s association with a person with one or more of these actual or perceived characteristics or any other distinguishing characteristics;
- c. and that has the effect described in subparagraph A. or B. above.

6. Under Maine law:

“Sexual orientation” means a person’s actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression.

“Gender identity” means gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, regardless of the individual’s assigned sex at birth.

### **Cyberbullying**

“Cyberbullying” means bullying through the use of technology or any electronic communication, including but not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted by the use of any electronic device including, but not limited to, a computer, telephone, cellular telephone, text messaging device or personal digital assistant.

### **Retaliation**

Retaliation means an act or gesture against a student for asserting or alleging an act of bullying. Retaliation also includes reporting that is not made in good faith on an act of bullying.

### **Application of Policy**

This policy applies to bullying that:

Takes place at school or on school grounds, at any school-sponsored or school-related activity or event or while students are being transported to or from school or school-sponsored activities or events; or

Takes place elsewhere or through the use of technology, but only if the bullying also infringes on the rights of the student at school as set forth in the definition of “bullying.”

## **Consequences for Policy Violations**

### **Students**

Students who violate this policy may be subject to disciplinary action which may include suspension, expulsion or a series of graduated consequences including alternative discipline or other behavioral interventions.

The Board retains the right to impose disciplinary consequences for bullying and other conduct that occurs at any time or place that substantially disrupts the instructional program, operations of the schools or welfare of students.

Any student violating this policy may also be subject to civil or criminal penalties.

### **School Employees and Others**

Administrators, professional staff and all other employees who violate this policy may be subject to disciplinary action up to and including dismissal, and in accordance with any applicable collective bargaining agreements.

Volunteers, contractors, and visitors who violate this policy will be excluded from school property until the Superintendent is satisfied that the person will comply with Maine's bullying law and this policy.

Any person violating this policy may also be subject to civil or criminal penalties.

Any school-affiliated organization that authorizes or engages in bullying or retaliation is subject to forfeiture of Board approval/sanctioning and/or suspension or revocation of its permission to operate on school grounds.

### **Staff Training**

**MSAD 13/RSU 83** will provide professional development and staff training in bullying prevention and response.

### **Delegation of Responsibility**

The Superintendent/designee will be responsible for developing and implementing procedures in accordance with applicable law to implement this policy.

The Superintendent will designate the school principal and/or other school personnel to be responsible for implementation/enforcement of this policy and associated procedures on the school level.

A student or his/her parent/guardian who is dissatisfied with a decision of the Superintendent or designee related to the taking or not taking of disciplinary action in the course of implementing this policy may appeal, in writing, to the Superintendent within 14 business days of notice of the decision.

The Superintendent's decision shall be final.

**Dissemination of Policy**

The Superintendent will be responsible for providing this policy, any associated administrative procedures, and the names of the person(s) responsible for implementing the policy/procedure at the school level in writing to students, parents, school employees and volunteers in handbooks, on the school unit's website and by such other means (if any) as may be determined by the Superintendent.

Legal Reference: 20-A M.R.S.A. § 1001(15), 6554

Cross Reference: AC - Nondiscrimination, Equal Opportunity  
 ACAA – Harassment and Sexual Harassment of Students  
 ACAD – Hazing  
 AD – Educational Philosophy/Mission  
 ADAA – School System Commitment to Standards for Ethical and Responsible Behavior  
 ADF - School District Commitment to Learning Results  
 CHCAA - Student Handbooks  
 GCI – Professional Staff Development  
 IJNDB-R - Student Computer and Internet Use and Internet Safety  
 JI - Student Rights and Responsibilities  
 JIC - Student Code of Conduct  
 JICC - Student Conduct on Buses  
 JICIA - Weapons, Violence and School Safety  
 JK - Student Discipline  
 JKD - Suspension of Students  
 JKE - Expulsion of Students  
 KLG - Relations with Law Enforcement Authorities

Adopted: 4/9/2013

Revised: 2/9/2021

## **BULLYING – ADMINISTRATIVE PROCEDURE**

This procedure is intended as guidance for school administrators in carrying out their responsibilities when bullying is alleged to have occurred. It provides important definitions as well as steps for reporting, investigating and responding to allegations of bullying.

Bullying behavior alleged to be based on race, color, ancestry, national origin, sex, sexual orientation, gender identity or expression, religion or disability should be addressed under the procedures set forth in the Student Harassment and Sexual Harassment procedure, ACAA-R, rather than under this procedure.

### **Bullying Reports**

#### **Students and Parents/Guardians**

Students who believe they have been bullied, or who have witnessed or learned about an act of bullying should report this behavior to the building principal.

Parents/guardians may report bullying on behalf of their children or when they have witnessed or are aware of the occurrence of bullying.

Reports of bullying may be made anonymously, but no disciplinary action shall be taken against a student solely on the basis of an anonymous report.

Any student who has been determined to have made a false report of bullying will be subject to disciplinary consequences.

#### **School Employees**

For the purposes of this procedure, “school employees” includes coaches, advisors for cocurricular or extracurricular activities and volunteers.

All school employees are expected to intervene when they see acts of bullying in progress and are required to report incidents of bullying they have witnessed or become aware of to the building principal as soon as practicable.

School employees who fail to report bullying or who have made a false report of bullying will be subject to disciplinary consequences up to and including termination, in accordance with any applicable collective bargaining agreement.

#### **Others**

Contractors, service providers, visitors or community members who have witnessed or become aware of bullying are encouraged to report such incidents to the building principal.

**Form of Reports**

Complaints or reports of bullying may be made orally or in writing, but all reports will be documented in writing by school personnel authorized to receive complaints or reports, using the school unit's reporting form (JICK-E1).

School employees are required to make reports of bullying to the principal in writing. Although students, parents and others, as identified above, may make bullying reports anonymously, all persons reporting incidents of bullying are encouraged to identify themselves.

Bullying reports may be made anonymously, but in no instance will action be taken against any person or organization affiliated with the schools solely on the basis of an anonymous report.

The building principal will forward a copy of the report to the Superintendent by the end of the next school day.

**Interim Safety Measures**

The building principal may take such interim measures as he/she deems appropriate to ensure the safety of the targeted student and prevent further bullying and will inform the parents of the targeted student of measures taken.

**Investigation**

The principal will ensure that all reports of bullying and retaliation are investigated promptly and that documentation of the investigation, including the substance of the complaint or report and the outcome of the investigation is prepared and forwarded to the Superintendent within a reasonable period of time.

The determination of whether particular conduct constitutes bullying requires reasonable consideration of the circumstances, which include the frequency of the behavior at issue, the location in which the behavior occurs, the ages and maturity of the students involved, the activity or context in which the conduct occurs, and the nature and severity of the conduct.

**Response to Bullying by Students**

If bullying has been substantiated, the building principal or designee as appropriate under the circumstances will determine the appropriate disciplinary consequences, which may include detention, suspension or expulsion; alternative discipline; remediation; and/or other intervention.

Alternative discipline includes but is not limited to:

- A. Meeting with the student and the student's parents;
- B. Reflective activities, such as requiring the student to write an essay about the student's misbehavior;

- C. Mediation when there is mutual conflict between peers, rather than one-way negative behavior, and when both parties freely choose to meet;
- D. Counseling;
- E. Anger management;
- F. Health counseling or intervention;
- G. Mental health counseling;
- H. Participation in skills building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
- I. Community service; and
- J. In-school detention or suspension, which may take place during lunchtime, after school or on weekends.

In order to remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, the principal may refer the targeted student/victim, perpetrator or other involved persons to counseling or other appropriate services.

If the bullying behavior appears to be a criminal violation, the building principal will notify local law enforcement authorities.

If bullying has been substantiated, the building principal will provide written notification to:

- A. The parents/guardians of the targeted student, including the measures being taken to ensure the student's safety; and to
- B. The parents/guardians of the student found to have engaged in bullying, including the process for appeal.

All communications to parents must respect the confidentiality of student and employee information as provided by federal and Maine law and regulations.

### **Appeals**

Any appeal of the building principal's decisions in regard to consequences for bullying must be submitted, in writing, within 14 business days of the parental notification. The Superintendent will review the investigation report and actions taken and decide whether to sustain or deny the appeal. The Superintendent's decision shall be final.

Cross Reference:     ACAA-R – Student Harassment and Sexual Harassment Procedure  
                          JICK – Bullying  
                          JRA-R – Student Education Records and Student Information

Adopted: 4/9/2013

Revised: 2/9/2021

**RECRUITING AND HIRING OF ADMINISTRATIVE STAFF**

The Board affirms its commitment to the strict prohibition of discrimination in employment on the basis of race, color, sex, sexual orientation, religion, ancestry or national origin, disability, age, pregnancy, or genetic information, and to the principle of affirmative action to obtain wide and representative candidate pools.

For the purpose of this policy, “race” includes traits associated with race, including hair texture, Afro hairstyles, and protective hairstyles, including braids, twists, and locs.

In accordance with 20-A MRSA, § 1001(13), the Superintendent shall prepare a procedure designed to ensure nondiscriminatory practice in recruitment and hiring for all positions requiring administrator certification, as well as to result in selection of the most qualified candidates. This procedure shall be attached hereto as GCFB-R, and shall be reviewed periodically.

Moreover, upon each occasion of administrative vacancy, the Superintendent shall review the procedure and make appropriate adaptations as may be warranted by special circumstances. In the case of a vacancy in the Superintendency, the School Committee shall review the procedure, adapting as appropriate.

In accordance with 20-A MRSA, § 4502 (4-A), the school unit’s Affirmative Action Plan shall include a description of the status of the unit’s nondiscriminatory administrator hiring practice and plans for in-service training programs on gender equity for teachers, administrators and the School Committee.

Legal Reference: 5 MRSA § 4576 (Maine Human Rights Act)  
20-A MRSA §§ 1001(13), 4502(4-A), 13011(6)

Cross Reference: AC - Nondiscrimination/Equal Opportunity and Affirmative Action  
GCFB-R - Recruiting and Hiring of Administrative Staff Administrative Procedure

Adopted: 1/8/02  
Revised: 2/9/21  
Revised: 1/10/2023