

HARASSMENT AND SEXUAL HARASSMENT OF SCHOOL EMPLOYEES

Harassment of school employees because of race, color, sex, sexual orientation, religion, ancestry or national origin, age, genetic information, or disability is prohibited. Such conduct is a violation of Board policy and may constitute illegal discrimination under state and federal laws. The term “sexual orientation” under state law means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression”.

Harassment

Harassment includes but is not limited to verbal abuse, threats, physical assault and/or battery based on race, color, sex, sexual orientation, 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.

Sexual Harassment

Unwelcome sexual advances, suggestive or lewd remarks, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an employee’s work environment or employee benefits;
- B. Submission to or rejection of such conduct by an employee is used as the basis for decisions on employment benefits; and/or
- C. Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.

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

All complaints of harassment will be investigated in accordance with the Employee and Third Party Discrimination and Harassment Complaint Procedure.

Notice and Training

Annually, each employee shall receive a copy of this policy and the Employee and Third Party Discrimination and Harassment Complaint Procedure. This may be accomplished by including the policy/procedure with employee paychecks or by

using other appropriate means to ensure that each employee receives a copy. All newly hired employees shall be provided training about sexual harassment in accordance with Maine law.

The Superintendent is responsible for ensuring that the school unit complies with all legal requirements for posting, notification and training of employees regarding harassment and sexual harassment.

Legal Reference:

Title IX of the Education Amendments of 1972 (20 USC § 1681 et seq.)
Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)
Americans with Disabilities Act (42 USC § 12101 et seq.), as amended
Section 504 of the Vocational Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended
Title VII (42 USC § 2000c-2; 29 CFR § 1604.11)
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
Age Discrimination in Employment Act (29 USC § 623)
5 MRSA §§ 4602; 4681 et seq.
20-A MRSA § 6553
26 MRSA §§ 806-807

Cross Reference: ACAB-R - School Employee Discrimination and Harassment
Complaint Procedure
AC - Nondiscrimination/Equal Opportunity and Affirmative Action
ACAD - Hazing

Eastport School Committee

Adopted 05/22/00

Revised 11/15/17

EMPLOYEE AND THIRD PARTY DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

This procedure has been adopted by the Board in order to provide a method of prompt and equitable resolution of employee complaints of discrimination and harassment as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAB – Harassment and Sexual Harassment of School Employees. This procedure may also be used by other individuals (excluding students), such as parents, volunteers and vendors to the schools who wish to make a complaint of discrimination or harassment. Complaints alleging harassment or discrimination against students based on protected status should be addressed through the Board’s Student Discrimination and Harassment Complaint Procedure (ACAA-R).

Definitions

For purposes of this procedure:

- A. “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, age, religion, ancestry, national origin, genetic information, or disability.
- B. “Discrimination or harassment” means discrimination or harassment on the basis of race, color, sex, sexual orientation, age, religion, ancestry, national origin, genetic information, or disability. “Discrimination” may include treating individuals differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected class. “Harassment” may include oral, written, graphic, electronic or physical conduct relating to an individual’s actual or perceived membership in a protected class that is sufficiently severe, pervasive or persistent so as to interfere with or limit that individual’s ability to participate in the school unit’s programs or activities by creating a hostile, intimidating or offensive environment. The term “sexual orientation” under state law means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression.”
- C. Whenever the term “employee” is used in this procedure it includes other third parties who are making a complaint of discrimination or harassment.

How to Make a Complaint

- A. Any employee who believes he/she has been harassed or discriminated against is encouraged to try to resolve the problem by informing the individual(s) that the behavior is unwelcome or offensive and by requesting

that the behavior stop. This shall not prevent the employee, however, from making an immediate formal complaint.

- B. Any employee who believes he/she has been harassed or discriminated against should report their concern promptly to the principal. If the employee is uncomfortable reporting concerns to the principal, he/she may report the concern to the Superintendent of Schools. Written reports are preferred, but not required.

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 their concerns with the principal. 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 dismissal.

Any employee who believes he/she has 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, ME 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, Regional Director, U S Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02110-1491 (telephone: 617-289-0111).

Complaint Handling and Investigation

- A. The principal will promptly inform the Superintendent and the person who is the subject of the complaint that a complaint has been received.
- B. The principal 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. The informal resolution is subject to the approval of the Superintendent, who shall consider whether the resolution is in the best interest of the school unit and the parties in light of particular circumstances and applicable policies and laws.
- C. The complaint will be investigated by the principal, unless the Superintendent designates another person to investigate it on his/her behalf. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the Chair of the School Board, who should consult with legal counsel concerning the handling and investigation of the complaint.

1. The person who is the subject of the complaint will be provided with an opportunity to be heard as part of the investigation. The complainant shall not be required to attend meeting with the person who is the subject of the complaint, but may choose to do so as a part of the resolution process.
 2. The complainant and the subject of the complaint may suggest witnesses and/or submit materials they believe are relevant to the complaint.
 3. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.
 4. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
 5. The principal shall keep a written record of the investigation process.
 6. The principal may take interim remedial measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further discrimination or harassment while the investigation is pending. An example of a remedial measure is ordering no contact between the individuals involved.
 7. The principal shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
 8. The investigation shall be completed within 21 business days of receiving the complaint, if practicable.
- D. If the principal determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:
1. Determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect and prevent recurrence; and
 2. Determine what disciplinary action should be taken against the person(s) who engaged in discrimination or harassment, if any.
- E. Within five business days, inform the complainant and the subject of the Complaint in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- F. After the conclusion of the investigation, the employee who made the Complaint or the subject of the Complaint 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. Appeals must be submitted in writing to the Superintendent within 14 business days after receiving notice of the resolution. Upon receipt of a valid appeal, the Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. The Superintendent's decision on the appeal shall be provided within 21 business days, if practicable. The Superintendent's decision shall be final.

Legal Reference: Americans with Disabilities Act (42 USC § 12101 et seq., as amended; 28 CFR § 35.107)
Section 504 of the Vocational Rehabilitation Act of 1973 (Section 504) (29 USC § 794 et seq., as amended; 34 CFR § 35.07)
Title IX of the Educational Amendments of 1972 (20 CFR § 1681 et seq.; 34 CFR § 110.25)
Age Discrimination in Employment Act (29 CFR § et seq., 34 CFR § 110.25)
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
Maine Human Rights Act (5 MRSA § 4681 et seq.)
26 MRSA § 806-807

Cross Reference: AC – Nondiscrimination/Equal Opportunity and Affirmative Action
ACAB – Harassment and Sexual Harassment of School Employees

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