

**REGULAR MEETING OF RSU NO. 5 BOARD OF DIRECTORS  
WEDNESDAY– OCTOBER 14, 2020  
FREEPORT HIGH SCHOOL - CAFETERIA  
6:30 P.M. REGULAR SESSION  
AGENDA**

1. Call to Order:  
The meeting was called to order at \_\_\_\_\_ p.m. by Chair Michelle Ritcheson
2. Attendance:

___ Jeremy Clough	___ Elisabeth Munsen
___ Candace deCsipkes	___ Maura Pillsbury
___ Dwight Ely	___ Michelle Ritcheson
___ Lindsey Furtney	___ Valeria Steverlynck
___ Jennifer Galletta	___ Madelyn Vertenten
___ Susana Hancock	___ Liam Hornschild-Bear – Student Representative
	___ Brady Grogan – Student Representative
3. Pledge of Allegiance:
4. Consideration of Minutes:  
A. Consideration and approval of the Minutes of September 23, 2020 as presented barring any errors or omissions.  
  
Motion: \_\_\_\_\_ 2<sup>nd</sup>: \_\_\_\_\_ Vote: \_\_\_\_\_
5. Adjustments to the Agenda:
6. Good News & Recognition:  
A. Report from Board's Student Representative (10 Minutes)  
B. Good News from Mast Landing School – Emily Grimm (10 Minutes)
7. Public Comments: (10 Minutes)  
*Public comment will be taken in person and via Zoom (connection information below)*  
<https://networkmaine.zoom.us/j/85699098334>  
Webinar ID: 856 9909 8334  
Join by telephone: 1 301 715 8592
8. Reports from Superintendent: (10 Minutes)  
NA
9. Administrator Reports:  
A. Mast Landing School Goal Review - Emily Grimm (20 Minutes)
10. Board Comments and Committee Reports:  
NA
11. Policy Review: (5 Minutes)  
A. Consideration and approval of 2<sup>nd</sup> Read of the following Policies.
  1. AC Nondiscrimination/Equal Opportunity and Affirmative Action
  2. ACAAA Harassment and Sexual Harassment of Students

3. ACAA-R Student Discrimination and Harassment Complaint Procedure
4. ACAB Harassment and Sexual Harassment of School Employees
5. ACAB-R Employee Discrimination and Harassment Complaint Procedure

Motion: \_\_\_\_\_ 2<sup>nd</sup>: \_\_\_\_\_ Vote: \_\_\_\_\_

12. Unfinished Business:
  - A. Discussion on Opening Schools in the Green Level (30 Minutes)
  - B. MSMA Fall Conference (10 Minutes)
  - C. Discussion of the MSBA 2020 Proposed Resolutions (20 Minutes)
  - D. Consideration and approval of a delegate and alternate to the Maine School Boards Association Annual Delegate Assembly at the Annual Fall Conference. (5 Minutes)

Motion: \_\_\_\_\_ 2<sup>nd</sup>: \_\_\_\_\_ Vote: \_\_\_\_\_

13. New Business:

14. Personnel:

15. Public Comments: (10 Minutes)  
*Public comment will be taken in person and via Zoom (connection information below)*  
<https://networkmaine.zoom.us/j/85699098334>  
Webinar ID: 856 9909 8334  
Join by telephone: 1 301 715 8592

16. Adjournment:

Motion: \_\_\_\_\_ 2<sup>nd</sup>: \_\_\_\_\_ Vote: \_\_\_\_\_ Time: \_\_\_\_\_

Item # 4

**RSU No. 5 Board of Directors Meeting  
Wednesday, September 23, 2020 – 6:30 p.m.  
Morse Street School - Cafeteria  
Meeting Minutes**

(NOTE: These Minutes are not official until approved by the Board of Directors. Such action, either to approve or amend and approve, is anticipated at the October 14, 2020 meeting).

**1. CALLED TO ORDER:**

Chair Michelle Ritcheson called the meeting to order at 6:40 p.m.

**2. MEMBERS PRESENT:** Jeremy Clough, Candace deCsipkes, Dwight Ely, Lindsey Furtney, Jennifer Galletta, Susana Hancock, Elisbeth Munsen, Maura Pillsbury, Michelle Ritcheson, Valeria Steverlynck, Madelyn Vertenten, Liam Hornschild-Bear, Student Representative

**MEMBERS ABSENT:**

**3. PLEDGE OF ALLEGIANCE:**

**4. CONSIDERATION OF MINUTES:**

**A. VOTED:** To approve the Minutes of September 9, 2020. (Steverlynck - Galletta) (11 – 0) The student representative voted with the majority.

**5. ADJUSTMENTS TO THE AGENDA:**

Table Item 13. B. and move Item 12. A. after Item 7.

**6. GOOD NEWS AND RECOGNITION:**

A. Report from Board's Student Representative - Liam Hornschild-Bear

B. Good News from Morse Street School – Julie Nickerson

**7. PUBLIC COMMENT:**

Sarah Tracy, Freeport

**Item 12.A. taken out of order**

**12. UNFINISHED BUSINESS:**

A. Extra-Curricular Activities - Update

**8. REPORTS FROM SUPERINTENDENT:**

A. Items for Information

1. District Happenings
2. Resignations/Summer Professional Hires
3. September 2020 School Enrollments
4. MSMA Fall Conference

**9. ADMINISTRATOR REPORTS:**

A. Finance - Rick Kusturin

B. Morse Street School Goal Review - Julie Nickerson

C. Freeport High School Goal Review - Jen Gulko

**10. BOARD COMMENTS AND COMMITTEE REPORTS:**

**A. Board Information Exchange and Agenda Requests**

Maddy Vertenten - Requested Superintendent Foley inform the superintendent group that the Board is writing a letter regarding music.

**B. Finance Committee**

**C. Policy Committee**

**11. POLICY REVIEW:**

**A. VOTED:** To approve the 1<sup>st</sup> Read of the following policies:

(Munsen - Steverlynck) (10 - 1 Vertenten)

1. AC Nondiscrimination/Equal Opportunity and Affirmative Action
2. ACAA Harassment and Sexual Harassment of Students
3. ACAA-R Student Discrimination and Harassment Complaint Procedure
4. ACAB Harassment and Sexual Harassment of School Employees
5. ACAB-R Employee Discrimination and Harassment Complaint Procedure

**12. UNFINISHED BUSINESS:**

**B.** A motion was made by Hancock, seconded by deCsipkes to approve participation in fall sports following the CDC/DOE guidelines.

An amendment was made by Steverlynck, seconded by Vertenten to add "except for moderate risk sports." at the end of the sentence. (1 – 10 Clough, deCsipkes, Ely, Furtney, Galletta, Hancock, Munsen, Pillsbury, Ritcheson, Vertenten) Amendment Fails

**VOTE ON MAIN MOTION:** 10 - 1 Steverlynck

**VOTED:** To continue the meeting after 10:00 p.m. (Vertenten - Steverlynck) (11 – 0)

**13. NEW BUSINESS:**

**A.** Consideration and approval of a delegate and alternate to the Maine School Boards Association Annual Delegate Assembly at the Annual Fall Conference. **This item was tabled.**

**B.** Discussion of the MSBA 2020 Proposed Resolutions. **This item was tabled.**

**C. VOTED:** To approve the charge of the Diversity, Equity, and Inclusion Advisory Committee. (Vertenten – Pillsbury) (11 – 0).

**14. PERSONNEL:**

**A. VOTED:** To employ Lana O'Shea as a .5 ESL Teacher for the 2020-2021 school year. (Munsen – Steverlynck) (11 – 0).

**15. PUBLIC COMMENT:**

None

**16. ADJOURNMENT:**

**VOTED:** To adjourn at 10:40 p.m. (Galletta– Vertenten) (11 – 0)



Becky J. Foley, Superintendent of Schools

**2019-2020 Goals - SUMMARY****School: Mast Landing School****District Goal: Focus on Student Achievement through Improved Student-Centered Teaching and Learning**

Goal	Strategies and Action Steps ( <i>Responsibility</i> )	Timeline	Evidence of Effectiveness
<p>RSU5 Strategic Goal: All RSU 5 students regularly engage in meaningful student centered learning.</p> <p><u>Grade 3: Reading</u> Baseline: BAS: 61.2% met grade-level benchmark (spring 2nd) Goal: 65%</p> <p>Baseline MEA: 53.0% (2018) Goal: 60%</p> <p>Baseline NWEA % Meeting Growth Target: 53% (2018) Goal: 60%</p> <p><u>Grade 4: Math</u> Baseline NWEA % Meeting Growth Target: 51.9% Goal: 60%</p> <p>Baseline MEA: 55.1% (2018) Goal: 60%</p> <p><u>Grade 5: Math</u> Baseline NWEA % Meeting Growth Target: 66.3% Baseline MEA: 57.8% (2018) Goal: 60%</p>	<p><b>Collaboratively unpack units (reading, writing, and math) to prioritize unit objectives to inform instructional planning</b></p> <ul style="list-style-type: none"> <li>• Create ongoing opportunities for protocol-guided unit unpacking in PLC teams (<i>Emily Grimm</i>)</li> <li>• Engage in meaningful and ongoing opportunities for unit unpacking to prioritize unit objectives, narrow the focus of responsive instruction, and deepen content area knowledge (<i>grade-level teachers</i>)</li> <li>• Utilize unit unpacking to inform planning for purposeful student discourse (<i>math teachers</i>)</li> </ul>	<p>September 2019-June 2020 <b>Ongoing</b></p>	<p><u>Grade 3: Reading</u> Baseline: BAS: 61.2% met grade-level benchmark (spring 2nd) Goal: 65% <b>Fall 2020: 58.6% (Fall 4th)</b></p> <p>Baseline: MEA: 53.0% (2018) Goal: 60% <b>Spring 2019: 63.4%</b> <b>Spring 2020: NA</b></p>
	<p><b>Deepen content area knowledge to inform instructional planning</b></p> <ul style="list-style-type: none"> <li>• Complete an item analysis of MEA released items in math grades 3-5 to identify areas for learning (<i>Talya Edlund, Emily Grimm, grade-level teachers</i>)</li> <li>• Continue to deepen text-band analytical and interpretative comprehension knowledge through participation in professional learning days facilitated by literacy strategist and Teachers College coach (<i>3rd grade teachers, Susan Dee</i>)</li> <li>• Utilize deepened understanding of analytical and interpretative comprehension to plan for and implement interactive read aloud (<i>3rd grade teachers</i>)</li> </ul>	<p>December 2019 <b>Incomplete (started, but not finished)</b></p> <p>September 2019-June 2020 <b>Completed</b></p> <p>September 2019-June 2020 <b>Completed</b></p>	<p>Baseline NWEA % Meeting Growth Target: 53% (2018) Goal: 60% <b>Fall 2020: TBD</b></p> <p><u>Grade 4: Math</u> Baseline NWEA % Meeting Growth Target: 51.9% (2018) Goal: 60% <b>Fall 2020: TBD</b></p> <p>Baseline MEA: 55.1% (2018) Goal: 60% <b>Spring 2019: 54.7%</b> <b>Spring 2020: NA</b></p>

	<p><b>Strengthen Tier I instruction through development and implementation of targeted, responsive small-group instruction</b></p> <ul style="list-style-type: none"> <li>• Triangulate data sources (F&amp;P, unit pre- and post-assessments, etc.) to deepen understanding of students' skills and instructional next steps (<i>grade-level teachers, strategists</i>)</li> <li>• Engage in student-centered coaching cycles with literacy and math strategists to target areas of student learning need (<i>grade-level teachers</i>)</li> <li>• Participate in professional learning facilitated by UChicago coach to deepen understanding of EverydayMath resources for responsive small-group instruction (<i>math teachers, Talya Edlund</i>)</li> <li>• Utilize learning progressions to inform instructional next steps with particular attention to students at and above grade level (<i>grade-level teachers</i>)</li> <li>• Continue implementation of 80-minute weekly Lift block in grade 3 to target academic needs to lift all learners (<i>3rd grade teachers</i>)</li> </ul>	<p>September 2019-June 2020 <b>Completed</b></p> <p><b>Ongoing</b></p> <p><b>Completed</b></p> <p><b>Ongoing</b></p> <p><b>Completed (paused for 2020)</b></p>	<p><u><b>Grade 5: Math</b></u>  <b>Baseline NWEA % Meeting Growth Target: 66.3%</b>  <b>Baseline MEA: 57.8% (2018)</b>  <b>Goal: 60%</b>  <b>Fall 2020: TBD</b></p>
<p><b>RSU5 Strategic Goal: All RSU 5 students experience a joyful learning climate that is safe, nurturing, and fosters curiosity.</b></p> <p><b>MLS Goal 1:</b>  100% of students identified for Tier II RTI B support will have a positive behavior support plan with articulated behavior goals</p> <p><b>MLS Goal 2:</b>  100% of students identified for Tier II RTB support will demonstrate a year</p>	<p><b>Strengthen Tier I classroom practices to support all students in meeting the behavioral expectations of the school setting</b></p> <ul style="list-style-type: none"> <li>• Increase use of reinforcing language in classrooms and school common areas to proactively support students (<i>all staff</i>)</li> <li>• Create pathways to more consistently teach into school-wide expectations (<i>leadership team, all staff</i>)</li> </ul> <p><b>Refine RTI B systems and processes to ensure clear and responsive support</b></p> <ul style="list-style-type: none"> <li>• Utilize universal screener (Student Risk Screening Scale, SRSS) twice annually</li> </ul>	<p>September 2019-June 2020  <b>Completed and continuing</b></p> <p>October 2019, May 2020  <b>Piloted fall 2019, but did not</b></p>	<p><b>MLS Goal 1:</b>  100% of students identified for Tier II RTI B support will have a positive behavior support plan with articulated behavior goals  <b>EOY Data: 100% of students identified for Tier II supports had a PBSP and articulated goals</b></p> <p><b>MLS Goal 2:</b>  100% of students identified</p>

of academic <i>growth</i> on at least one measure (F&P, NWEA)	<p>(October and May) to identify students for intervention (<i>Natasha Huber, Chris Gray, Cindy Kivler, teachers</i>)</p> <ul style="list-style-type: none"> <li>● Establish SAT B bi-weekly meetings to review identified students and develop Student Intervention Plans (SIPs)</li> <li>● Refine existing pathways for pull out and push in executive functioning and emotional regulation support (RTI B team: <i>Cindy Kivler, Gayle Wolotsky, Julia Schwarz, Emily Grimm, Natasha Huber, Chris Gray</i>)</li> <li>● Create sensory space and train staff in the use of this space for identified students (<i>Anna Brown, teachers, ed techs</i>)</li> </ul>	<p><b>complete spring 2020 due to COVID</b> August 2019 <b>Completed</b></p> <p>October 2019, May 2020 <b>Completed</b></p> <p>September 2019 <b>Completed</b></p>	for Tier II RTB support will demonstrate a year of academic <i>growth</i> on at least one measure (F&P, NWEA) <b>Fall 2020:</b> <b>F&amp;P: Not yet available</b> <b>NWEA: Not available</b>
	<p><b>Progress monitor students identified for Tier II interventions to ensure responsive support</b></p> <ul style="list-style-type: none"> <li>● Collect student data relevant to identified goals (as defined on the Student Intervention Plan) (<i>teachers, RTI B team, Julia Schwarz</i>)</li> <li>● Engage in 8-week progress monitoring cycles for identified students (<i>RTI B team</i>).</li> <li>● Refine Positive Behavior Support Plans (PBSPs) in response to student progress (<i>RTI B team</i>)</li> </ul>	<p>October 2019, May 2020 <b>Ongoing</b></p>	

## 2020-2021 Goals

**School: Mast Landing School**

**District Goal: Focus on Student Achievement through Improved Student-Centered Teaching and Learning**

Goal	Strategies and Action Steps ( <i>Responsibility</i> )	Timeline	Evidence of Effectiveness
<p>RSU5 Strategic Goal: All RSU 5 students regularly engage in meaningful student centered learning.</p> <p><b>Reading (BAS):</b> Goal: 65% students meet grade-level benchmark</p> <p>BAS % Meeting Grade-Level Benchmark Baseline: 47.4% (Fall 2020)</p> <p><b>Reading (NWEA) - % Students Meeting Growth Target:</b> Goal: 60% of students will meet annual growth target</p> <p>Baseline: 60.4% (Spring 2019)</p> <p><b>Math (NWEA) - % Students Meeting Growth Target:</b> Goal: 60% of students will</p>	<p><b>Collaboratively unpack units (reading, writing, and math) to prioritize unit objectives to inform instructional planning</b></p> <ul style="list-style-type: none"> <li>• Create ongoing opportunities for protocol-guided unit unpacking in PLC teams (<i>Emily Grimm</i>)</li> <li>• Engage in meaningful and ongoing opportunities for unit unpacking to prioritize unit objectives, narrow the focus of responsive instruction, and deepen content area knowledge (<i>grade-level teachers</i>)</li> <li>• Utilize unit unpacking as a process for prioritizing instructional objectives and student practice given changes in instructional models (green, yellow, red) (<i>grade-level teachers</i>)</li> </ul> <p><b>Deepen content area knowledge to inform instructional planning</b></p> <ul style="list-style-type: none"> <li>• Deepen understanding of writing progression (with unit and across grade) through professional learning days facilitated by literacy strategist and Teachers College coach (<i>grade-level teachers, special education teachers, Susan Dee</i>)</li> <li>• Grow understanding of the teaching and learning reciprocity between reading and writing to</li> </ul>	<p>Sept. 2020 - June 2021</p> <p>Sept. 2020 - June 2021</p> <p>Sept. 2020 - June 2021</p> <p>Sept. 2020 - June 2021</p> <p>Sept. 2020 - June 2021</p> <p>Sept. 2020 - June 2021</p>	<p>BAS Data (3rd-5th)</p> <p>NWEA Growth Data (3rd-5th)</p>



<p>meet annual growth target</p> <p>Baseline: 54.3% (Spring 2019)</p>	<p>strengthen literacy instruction (<i>grade-level teachers, special education teachers, Susan Dee</i>)</p>		
	<p><b>Strengthen Tier I instruction through development and implementation of targeted, responsive small-group instruction</b></p> <ul style="list-style-type: none"> <li>Continue to schedule regular opportunities for PLC teams to engage in student case study analysis (<i>Emily Grimm</i>)</li> <li>Utilize developed student case study protocol to engage in collaborative inquiry and responsive instruction for identified students (<i>all teachers</i>)</li> <li>Engage in team-based student-centered coaching cycles with literacy and math strategists to target areas of student learning need (<i>PLC teams</i>)</li> <li>Utilize increased 0.2 FTE of literacy specialist to support implementation of short-cycle Tier I classroom interventions (<i>Susan Martling</i>)</li> </ul>	<p>September 2020</p> <p>Sept. 2020 - June 2021</p> <p>Oct. 2020 - June 2021</p> <p>Oct. 2020 - June 2021</p>	
<p>RSU5 Strategic Goal: All RSU 5 students experience a joyful learning climate that is safe, nurturing, and fosters curiosity.</p> <p>MLS Goal 1: 100% of students identified for Tier II RTI B support will have a positive behavior support plan with articulated behavior goals</p> <p>MLS Goal 2: 100% of students identified for Tier II RTB support will demonstrate a year of</p>	<p><b>Strengthen Tier I classroom practices to support all students in meeting the behavioral expectations of the school setting</b></p> <ul style="list-style-type: none"> <li>Create explicit pathways for teaching into and celebrating examples of our schoolwide values (<i>leadership team, all staff</i>)</li> <li>Plan for and provide comprehensive school counseling curriculum to ensure all students have access to social and emotional skill building (<i>Susan Albertini</i>)</li> </ul>	<p>Sept. 2020 - June 2021</p> <p>Sept. 2020 - June 2021</p>	<p>Examples of schoolwide values in school setting (visual, verbal)</p> <p>School counseling curriculum</p>
	<p><b>Refine RTI B systems and processes to ensure clear and responsive support</b></p> <ul style="list-style-type: none"> <li>Utilize universal screener (Student Risk Screening Scale, SRSS) twice annually (October and May) to identify students for intervention (<i>Susan Albertini, Cindy Kivler, teachers</i>)</li> </ul>	<p>Oct. 2020, May 2021</p>	<p>SRSS Screener Data</p> <p>Student Intervention Plans</p>

<p>academic <i>growth</i> on at least one measure (F&amp;P, NWEA)</p>	<ul style="list-style-type: none"> <li>● Continue SAT B bi-weekly meetings to review identified students and develop Student Intervention Plans (SIPs)</li> <li>● Provide responsive social work support (with clearly identified goals) to students who access Tier I intensive supports regularly (<i>Cindy Kivler</i>)</li> </ul>	<p>Sept. 2020 - June 2021</p> <p>Sept. 2020 - June 2021</p>	
	<p><b>Progress monitor students identified for Tier II interventions to ensure responsive support</b></p> <ul style="list-style-type: none"> <li>● Collect student data relevant to identified goals (as defined on the Student Intervention Plan) (<i>teachers, RTI B team</i>)</li> <li>● Engage in 8-week progress monitoring cycles for identified students (<i>RTI B team</i>)</li> <li>● Refine Positive Behavior Support Plans (PBSPs) in response to student progress (<i>RTI B team</i>)</li> </ul>	<p>Sept. 2020 - June 2021</p>	<p>Progress monitoring data of student goals</p>
<p>RSU5 Strategic Goal: All RSU 5 students experience a joyful learning climate that is safe, nurturing, and fosters curiosity.</p> <p>Goal: Identify a pathway of sustainable practice for diversity, equity and inclusion</p>	<p><b>Deepen understanding of practices that support diversity, inclusion, and equity within the school setting.</b></p> <ul style="list-style-type: none"> <li>● Partner with MSS to form a team to spearhead this work across both schools (<i>DEI team members: Emily Grimm, Talya Edlund, Susan Albertini, Gayle Wolotsky, Heather Zachau, Jule Whelan</i>)</li> <li>● Participate in Maine's Cultural Competence Institute (<i>Emily Grimm</i>)</li> <li>● Develop an action plan based on the findings of the district audit (<i>DEI team members</i>)</li> <li>● Continue work on classroom libraries to ensure books are relevant, engaging and reflect diversity (<i>grade-level teachers, Susan Dee</i>)</li> <li>● Deepen knowledge of social justice through the partnership with Teacher's College and Center for Responsive Schools (<i>all staff</i>)</li> </ul>	<p>Sept. 2020</p> <p>Sept. 2020 - June 2021</p> <p>January 2021 - June 2021</p> <p>Sept. 2020 - June 2021</p>	<p>Diversity, equity and inclusion action plan</p>



**Regional School Unit 5**  
**Durham • Freeport • Pownal**

Item # 11.A.

*"To inspire and support every learner by challenging minds, building character, sparking creativity, and nurturing passions."*

Becky Foley, Ph.D., Superintendent of Schools  
Rick Kusturin, Director of Finance & Human Resources

Cynthia Alexander, Assistant Superintendent of Schools  
Bonnie Violette, Ph.D., Director of Instructional Support

TO: Jeremy Clough, Candace deCsipkes, Dwight Ely, Lindsey Furtney, Jennifer Galletta, Susana Hancock, Elisabeth Munsen, Maura Pillsbury, Michelle Ritcheson, Valeria Steverlynck, Madelyn Vertenten, Liam Hornschild-Bear, Brady Grogan

CC: Julie Nickerson, Lisa Demick, Kelli Rogers, Ray Grogan, Erin Dow, Dennis Ouellette, Will Pidden, Craig Sickels, Jim Grant, Peter Wagner, Jen Gulko, Bonnie Violette, Emily Grimm, Conor Walsh, Charlie Mellon, Rick Kusturin, Anne-Marie Spizzuoco, Beth Daniels, Deanna Coro, Pauline Gillis, Shawn McBean, Dorothy Curtis, Hank Ogilby, Lisa Blier, Jennifer Winkler, Nancy Drolet, Nancy Dyer, Nancy Decker, Alicia DeRoche

FROM: Cynthia Alexander, Assistant Superintendent of Curriculum, Instruction, and Assessment

DATE: October 7, 2020

RE: Review/Update of Policies

At the October 14, 2020 Board of Directors Meeting, the following policies will be on the agenda for 2<sup>nd</sup> Read. The policies are attached.

2<sup>nd</sup> Read Policies

AC Nondiscrimination/Equal Opportunity and Affirmative Action  
ACAA Harassment and Sexual Harassment of Students  
ACAA-R Student Discrimination and Harassment Complaint Procedure  
ACAB Harassment and Sexual Harassment of School Employees  
ACAB-R Employee Discrimination and Harassment Complaint Procedure

## **NONDISCRIMINATION/EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION**

**RSU No. 5 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 race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, age, disability or genetic information are prohibited.**

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

**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.**

**RSU No. 5 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.**

**RSU No. 5 has implemented complaint procedures for resolving complaints of discrimination/harassment and sexual harassment under this policy. RSU No. 5 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:**

RSU5 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

## **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 RSU No. 5 employees are required to report possible incidents of harassment or sexual harassment involving students to the Affirmative Action Officer/Title IX Coordinator or. 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

GBBEB – Staff Conduct with Students

JICIA – Weapons, Violence and School Safety

JICK - Bullying



## **NEPN/NSBA CODE: ACAA-R**

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

The RSU No. 5 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.

**Cynthia Alexander, AAO/Title IX Coordinator**  
**17 West Street**  
**Freeport, ME 04032**  
**207 852-2024**  
**[alexanderc@rsu5.org](mailto:alexanderc@rsu5.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, 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 RSU No. 5'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:
  - 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.
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 assigned 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 RSU No. 5’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 RSU No. 5’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 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 RSU No. 5’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 need 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 RSU No. 5'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 RSU No. 5 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 RSU No. 5, 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. RSU No. 5 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 RSU No. 5'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 RSU No. 5. 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 RSU No. 5'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 RSU No. 5; or c) there are specific circumstances that prevent RSU No. 5 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, RSU No. 5 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:

- a. Notice regarding the complaint procedure and the availability of an informal resolution process;
- b. 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);
- c. 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;
- d. Notice that the parties may each have an advisor of their choice (who may be an attorney), and that the parties may inspect and review evidence;
- e. Notice that knowingly making false statements or submitting false information during the complaint process is prohibited and may result in disciplinary action;
- f. 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 RSU No. 5. 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 RSU No. 5, 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 RSU No. 5 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.

#### **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 RSU No. 5 imposes on the respondent, and whether remedies designed to restore or preserve equal access to the RSU No. 5 programs and activities will be provided to the complainant;**
  - e. RSU No. 5'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 RSU No. 5 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 RSU No. 5'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 an 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 otherRSU No. 5 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**  
**GBBEB – Staff Conduct with Students**  
**JICIA – Weapons, Violence and School Safety**  
**JICK - Bullying**

## **HARASSMENT AND SEXUAL HARASSMENT OF SCHOOL EMPLOYEES**

Harassment of RSU No. 5 employees because of race, color, sex, sexual orientation, gender identity, 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.

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.

#### **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 RSU No. 5'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 RSU No. 5'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 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.

## **C. 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).

## **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.)  
5 MRSA § 4551 et seq.  
MHRC Rule Chapter 94-348, ch. 3  
26 MRSA §§ 806-807

**Cross Reference:**

ACAB-R- Employee Discrimination/Harassment and Title IX Sexual Harassment  
Complaint Procedure  
AC - Nondiscrimination/Equal Opportunity and Affirmative Action  
ACAD - Hazing

**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.

**Cynthia Alexander, AAO/Title IX Coordinator  
17 West Street  
Freeport, ME 04032  
207 852-2024  
[alexanderc@rsu5.org](mailto:alexanderc@rsu5.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 employees, includes race, color, sex, sexual orientation, gender identity, age, 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 RSU No. 5'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 assigned 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, 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.

## **B. 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 RSU No. 5'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 RSU No. 5'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 RSU No. 5.

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



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.

#### **A. 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 RSU No. 5'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).

## **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 RSU No. 5 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 RSU No. 5, 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:
  - 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).

### **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. 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. RSU No. 5 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 RSU No. 5'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.

## **B. 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).

Employees 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 RSU No. 5). 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; b) if the conduct alleged did not occur within the scope of RSU No. 5'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 RSU No. 5; or c) there are specific circumstances that prevent RSU No. 5 from gathering evidence sufficient to reach a determination regarding the formal complaint.

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 potentially violates other laws, Board policies and/or professional expectations, RSU No. 5's may address the conduct under Section 2 or another applicable policy/procedure.

### **C. 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.

#### **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 will include:

- a. Notice regarding the complaint procedure and the availability of an informal resolution process;
- b. 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);
- c. 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;
- d. Notice that the parties may each have an advisor of their choice (who may be an attorney), and that the parties may inspect and review evidence;
- e. Notice that knowingly making false statements or submitting false information during the complaint procedure is prohibited and may result in disciplinary action; and
- f. 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 RSU No. 5. 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 RSU No. 5, 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 RSU No. 5 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.

#### **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 RSU No. 5 imposes on the respondent, and whether remedies designed to restore or preserve equal access to RSU No. 5's programs and activities will be provided to the complainant;
  - e. RSU No. 5'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 RSU No. 5 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 RSU No. 5'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.

## **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 conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with legal counsel or other RSU No. 5 officials in making their decision.
3. 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).

## **J. 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**

**MSBA  
Proposed Resolutions  
October 2020**

**Development of Distance-Learning Plan**

The coronavirus pandemic upended classroom instruction in school districts and revealed both positives and shortcomings in our ability to do distance learning. What was implemented by necessity should now be improved by design. Distance learning should not just be the fallback in a crisis, but rather used to provide equitable learning opportunities to all Maine students regardless of their location. The Maine School Boards Association calls for a plan that addresses professional development for teachers; assessment of devices; high-quality connectivity in all parts of the state; development of online curriculum appropriate to age groups; and, intentional use of online learning to enhance curriculum and expand learning opportunities for all students. Funding for online learning should be part of the school funding formula. MSBA will actively participate in the development and implementation of such a plan.

**Rationale**

Our experience with distance learning when schools were required to shut down because of COVID and what we will learn as we reopen schools under hybrid models could help us make better use of technology to support instruction and broaden curriculum options for all students. Distance learning can supplement in-person instruction and also support subject areas where there is a teacher shortage. That coupled with increased broadband access is key to educational equity for Maine students.

**Building Stronger Family Support for Education**

The Maine School Boards Association believes greater involvement by parents or guardians in their child's education is essential to assure better outcomes for students. Parents or guardians who are not engaged in their child's early learning at home are less likely to be engaged when their child goes to school. Outreach to and support of those who care for children in the home are essential first steps in creating a successful partnership between caregivers and schools. The ultimate goal is to identify the needs of both adults and children in the household and connect them to appropriate services and learning opportunities.

**Rationale**

There is no question parental involvement improves educational outcomes for students, but not all parents know how to reach out or feel comfortable doing it. Many working parents and caregivers also have schedules that don't make school visits or teacher contacts easy. School Boards working with their administrators should facilitate that engagement, which supports better outcomes for children and adults and opens up opportunities for both.

**Equity in Education**

All students, regardless of their race, color, sex, sexual orientation, gender identity, religion, ancestry, national origin or disability deserve equitable opportunities and support to learn in Maine's public schools. The Maine School Boards Association believes all district leaders should facilitate a self-examination and discussion around recognizing bias and stereotyping and adopt policies and practices that eliminate them.

**Rationale**

Bias exists sometimes in overt actions in our schools. There should be high aspirations for all students. There is a growing awareness that bias is often not recognized or acknowledged in our public schools. It will require an intentional process to change practices that lead to stereotypical behavior and help assure that all students have equal opportunity to succeed.

**Board Meeting Remote Participation**

The Maine School Boards Association believes what we have learned about remote participation in board meetings during the coronavirus pandemic supports a law change allowing such participation absent a health emergency. The technology is available to allow robust discussion on issues and real-time face-to-face deliberations not only with fellow board members, but with the public. MSBA supports introducing legislation in the 130<sup>th</sup> Legislature that would allow such meetings under the public records law, if the local School Board votes to adopt the practice.

**Rationale**

People's experience with remote participation in meetings during the pandemic has increased the public's comfort level with programs like Zoom and Google Meet. While we are not advocating that all meetings be remote, the option gives School Boards greater flexibility. If the legislation is successful, the decision to use this option should be a local one.





Item# 12.D.

Ginny McManus <mcmanusg@rsu5.org>

## Local Delegate to MSBA Annual Delegate Assembly

1 message

MSBA <msba@msmaweb.com>  
Reply-To: msma@msmaweb.com  
To: mcmanusg@rsu5.org

Fri, Sep 11, 2020 at 5:56 PM



MSMAWEB.COM

(800) 660-8484

WEB VERSION

UNSUBSCRIBE

September 11, 2020

## Local Delegate to MSBA Annual Delegate Assembly

The Constitution of the Maine School Boards Association provides that each Active Regular Member Board of MSBA and each Career and Technical Regional Board Associate Member is entitled to elect a voting delegate to participate in the Association's Annual Delegate Assembly. Below is a copy of the Purpose of the MSBA Delegate Assembly. Since the Delegate Assembly is responsible for proposed Constitution and Bylaws changes and considers resolutions of the Association, your election of a local delegate is strongly encouraged. **This year's Delegate Assembly is scheduled virtually for 2:30 p.m., Friday, October 30, the first day of the MSMA Annual Fall Conference.**

Please elect your delegate as well as an alternate should your Board's delegate be unable to attend. **Return the form listing the delegate and alternate to MSMA by October 23, 2020. Submission of your delegate's name does not automatically register them for the Fall Conference. Therefore, please be sure to register your delegate for the Fall Conference through your superintendent's office on the appropriate form. (Registration materials coming soon.)**

Confirmation of registered delegates will be emailed to Superintendents and Delegates by October 26, 2020.

Superintendents with more than one school board are asked to reproduce the attached form for each of their boards. Thank you!

Certification of School Board Representative Form

Purpose of the MSBA Delegate Assembly



49 Community Drive, Augusta ME 04330 • Telephone: (207) 622-3473 • Toll Free: (800) 660-8484 • Fax: (207) 626-2968



## Purpose of the MSBA Delegate Assembly

Governance and policy decisions affecting MSBA are dealt with at the Delegate Assembly. The importance of each School Board being represented at the Delegate Assembly cannot be overstated. The following information about the Delegate Assembly is to inform your School Board of the importance of electing a delegate.

According to Article VIII of the Constitution, the Delegate Assembly is the policy making body of the Association. The Delegate Assembly has four specific powers.

1. It adopts resolutions that express the beliefs and purposes of the Association.
2. It transacts such other business as presented to it prior to the opening of the Delegate Assembly by any delegation or the Executive Board of Directors.
3. It elects the Officers and Executive Board of Directors.
4. It may adopt amendments to the Constitution.

According to Article V of the Constitution, the Association is governed by the Executive Board of Directors. The Board is comprised of Regional Directors and At-Large Directors.

The Delegate Assembly consists of one voting delegate for each member district. In order to be an official delegate the member School Board must report the name of the elected delegate and alternate prior to the Assembly. (See Delegate Form for actual date.)

The resolutions adopted at the Delegate Assembly are an expression of the Assembly's views regarding various issues and define the Association's position on legislative proposals.

As the Officers and Board of Directors approach any legislative session, it is crucial that they represent the Association's members. Make your local Board's voice heard and send a delegate to the MSBA Delegate Assembly held virtually this year, during the MSMA Annual Fall Conference on October 30, 2020.