



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

*"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

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**TO:** Candy deCsipkes, Lindsey Furtney, Maddy Vertenten  
**FROM:** Cynthia Alexander  
**DATE:** September 10, 2020  
**RE:** Policy Meeting – September 11, 2020

The Policy Sub-Committee is scheduled to meet on Friday, September 11, 2020 at 8:30 a.m. at the RSU5 Central Office.

**Agenda**

1. Melissa Hewey presentation
2. AC Nondiscrimination/Equal Opportunity and Affirmative Action
  - ACAA Harassment and Sexual Harassment of Students
  - ACAA-R Student Discrimination and Harassment Complaint Procedures
  - ACAB Harassment and Sexual Harassment of School Employees
  - ACAB-R Employee Discrimination and Harassment Complaint Procedures

**NONDISCRIMINATION/EQUAL OPPORTUNITY AND  
AFFIRMATIVE ACTION**

The RSU No. 5 Board is committed to maintaining a workplace and learning environment that is free from illegal discrimination and harassment.

In accordance with applicable Federal and/or State laws and regulations, RSU No. 5 prohibits discrimination against and harassment of employees, candidates for employment, students and others with rights to admission or access to school programs, activities or premises on the basis of race, color, sex, sexual orientation, religion, ancestry or national origin, or disability. For the purpose of this policy, "sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression.

Further, in compliance with Federal law, RSU No. 5 prohibits discrimination against school unit employees and candidates for employment on the basis of age or genetic information.

The Board delegates to the Superintendent the responsibility for implementing this policy. The RSU No. 5 Affirmative Action Plan will include designation of an Affirmative Action Officer who will be responsible for ensuring compliance with all Federal and State requirements related to nondiscrimination. The Affirmative Action Officer will be appointed by the Superintendent and will be a person with direct access to the Superintendent.

The Superintendent/Affirmative Action Officer shall be responsible for ensuring that notice of compliance with Federal and State civil rights laws is provided to all applicants for employment, employees, students, parents and others, as appropriate.

Legal Reference: Equal Employment Opportunities 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.)  
Title VI of the Civil Rights Act of 1964 (P.L. 88-352)  
Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621 et seq.)  
Equal Pay Act of 1963 (29 U.S.C. § 206)  
Vocational Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.)  
Americans with Disabilities Act (42 U.S.C. § 12101 et seq.)  
Pregnancy Discrimination Act of 1978  
Genetic Information Nondiscrimination Act of 2008 (GINA) (42 U.S.C. § 2000ff et seq.)  
5 MRSA § 4551, et seq. (Maine Human Rights Act); 19301-19302

Cross Reference: AC-R – RSU No. 5 Affirmative Action Plan  
ACAA - Harassment and Sexual Harassment of Students  
ACAB - Harassment and Sexual Harassment of School Employees

Adopted: May 27, 2009  
Revised: December 8, 2010; November 20, 2013  
Reviewed: June 12, 2019

## **HARASSMENT AND SEXUAL HARASSMENT OF STUDENTS**

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

### **Harassment**

Harassment includes but is not limited to verbal abuse based on race, color, sex, religion, ancestry or national origin, sexual orientation, or disability. Harassment that rises to the level of physical assault, battery and/or abuse is also addressed in Board policy JICIA-Weapons, Violence and School Safety.

### **Sexual Harassment**

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors or pressure to engage in sexual activity, physical contact of a sexual nature, gestures, comments, or other physical, written or verbal conduct that is gender-based that interferes with a student's education. School employees, fellow students, volunteers and visitors to the school, and other persons with whom students may interact in order to pursue school activities are required to refrain from such conduct.

Harassment/sexual harassment of students by school employees is considered grounds for disciplinary action, up to and including discharge. Harassment/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.

The Superintendent or the employee designated as the Affirmative Action Officer will investigate complaints of harassment in accordance with the Student Harassment Complaint Procedure. School employees, students, and parents shall be informed of this policy/procedure through handbooks and/or other means selected by the school administration.

**Legal Reference:** Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.)  
Title VI of the Civil Rights Act of 1964 (42 USC § 2000(d))  
5 MRSA § 4602; 4681 et seq.  
20 MRSA § 6553

**Cross Reference:** ACAA-R-Student Harassment Complaint Procedure  
AC- Nondiscrimination/Equal Opportunity and Affirmative Action  
ACAD-Hazing  
JICIA-Weapons, Violence and School Safety

**Adopted:** May 27, 2009

**Reviewed:** December 8, 2010; November 20, 2013; June 12, 2019

## **STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE**

This procedure has been adopted by the RSU No. 5 Board of Directors in order to provide a method of prompt and equitable resolution of student complaints of discrimination or discriminatory harassment as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAA – Harassment and Sexual Harassment of Students.

### **Definitions**

For purposes of this procedure:

- A. A “Complaint” is defined as an allegation that a student has been discriminated against or harassed on the basis of race, color, sex, religion, ancestry, national origin, sexual orientation, or disability; and
- B. “Discrimination or harassment” means discrimination or harassment on the basis of race, color, sex, religion, ancestry, national origin, sexual orientation, or disability.

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

- A. Any student who believes he/she has been discriminated against or harassed should report his/her concern promptly to the Administrator and/or Affirmative Action Officer. Students who are unsure whether discrimination or harassment has occurred are encouraged to discuss the situation with the Affirmative Action Officer.
- B. School staff is expected to report possible incidents of discrimination or harassment of students to the building administrator/designee. Parents/guardian and other adults are also encouraged to report any concerns about possible discrimination or harassment of students.
- C. Students and others will not be retaliated against for making a complaint. Any retaliation by students or school staff will result in disciplinary measures, up to and including expulsion or dismissal.
- D. Students are encouraged to utilize the school unit’s complaint procedure. However, students are hereby notified that they also have the right to report complaints to the Maine Human Rights Commission, 51 State House Station, Augusta, ME 04333 (telephone: 207-624-6050) and/or to the U.S. Department of Education, Office for Civil Rights, 5 Post Office Square, Suite 900, Boston, MA 02109-3921 (Telephone: 617-223-9622; TDD 877-521-2172; Fax 617-289-0150).

### **Complaint Handling and Investigation**

- A. Affirmative Action Officer shall promptly inform the Superintendent and the person(s) who is the subject of the complaint that a complaint has been received.
- B. Affirmative Action Officer may pursue an informal resolution of the complaint with the agreement of the parties involved. The informal resolution is subject to the approval of the Superintendent, who shall consider whether the informal resolution is in the best interest of the school unit in light of the particular circumstances and applicable policies and laws.
- C. The complaint will be investigated by Affirmative Action Officer, unless the Superintendent chooses to investigate the complaint or designates another person to investigate it on his/her behalf. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the Chair of the Board of Directors, who should consult with legal counsel concerning the handling and investigation of the complaint.
  - 1. The person who is the subject of the complaint will be provided with an opportunity to be heard as part of the investigation.
  - 2. If the complaint is against an employee of the school unit, any applicable individual or collective bargaining contract provisions shall be followed.
  - 3. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
  - 4. Affirmative Action Officer shall keep a written record of the investigation process.
  - 5. Affirmative Action Officer may take interim remedial measures to reduce the risk of further discrimination or harassment while the investigation is pending.
  - 6. Affirmative Action Officer shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
  - 7. The investigation shall be completed within 21 business days of receiving the complaint, if practicable.
- D. If the Affirmative Action Officer determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:
  - 1. Determine what remedial action is required, if any;

2. Determine what disciplinary action should be taken against the person(s) who engaged in discrimination or harassment, if any; and
  3. Inform the student who made the complaint in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- E. If the student's parents/legal guardians are dissatisfied with the resolution, an appeal may be made in writing to the Superintendent within 14 business days after receiving notice of the resolution. The Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. The Superintendent's decision shall be final.

Legal Reference: Americans with Disabilities Act (28 CFR § 35.07)  
Section 504 of the Vocational Rehabilitation Act (34 CFR § 104.7)  
Title IX of the Education Amendments of 1972 (20 SC § 1681 et seq.)  
Title VI of the Civil Rights Act of 1964 (PL 88-352)  
20 USC § 1232g;  
34 CFR Part 99  
5 MRSA §§ 4571; 4602; 4681 et seq.  
20-A MRSA §§ 6001 et seq.

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

Adopted: May 27, 2009  
Revised: December 8, 2010  
Revised: November 28, 2012  
Revised: November 20, 2013  
Reviewed: June 12, 2019

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

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

### **Harassment**

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

### **Sexual Harassment**

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

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

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

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

### **Notice and Training**

Annually, each employee shall receive a copy of the policy and the School Employee Discrimination and Harassment Complaint Procedure. This may be accomplished by including the policy/procedure with employee paychecks or by using other appropriate means to ensure that each employee receives a copy. All newly hired employees shall be provided training about sexual harassment in accordance with Maine law.

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

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

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

**Adopted:** May 27, 2009  
**Reviewed:** December 8, 2010  
**Reviewed:** November 20, 2013; June 12, 2019



## **EMPLOYEE DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE**

The Board of Directors has adopted this procedure in order to provide a method of prompt and equitable resolution of employee complaints of discrimination and harassment as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAB – Harassment and Sexual Harassment of School Employees.

### **Definitions**

For purposes of this procedure:

- A. “Complaint” is defined as an allegation that an employee has been discriminated against or harassed on the basis of race, color, sex, age, religion, ancestry, national origin, sexual orientation or disability; and
- B. “Discrimination or harassment” means discrimination or harassment on the basis of race, color, sex, age, religion, ancestry, national origin, sexual orientation or disability.

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

- A. Any employee who believes he/she has been harassed or discriminated against is encouraged to try to resolve the problem by informing the individual(s) that the behavior is unwelcome or offensive and by requesting that the behavior stop. This shall not prevent the employee, however, from making an immediate formal complaint.
- B. Any employee who believes he/she has been discriminated against or harassed should report their concern promptly to the Curriculum Director/Affirmative Action Officer. If the employee is uncomfortable reporting concerns to the Affirmative Action Officer, he/she may report the concern to the building principal/assistant principal. The employee may give the initial report verbally but is expected to follow that with a written report.

Employees who are unsure as to whether unlawful discrimination or harassment has occurred are encouraged to discuss their concerns with the Affirmative Action Officer. Employees will not be retaliated against for reporting suspected discrimination or harassment.

- C. Any employee who believes he/she has been discriminated against or harassed is encouraged to utilize the school unit’s complaint procedure. However, employees are hereby notified that they also have the right to report incidents of discrimination or harassment to the Maine Human Rights

Commission, State House Station 51, Augusta, ME 04333 (telephone: 207-624-6050) and/or to the U.S. Department of Education, Office for Civil Rights, 5 Post Office Square, Suite 900, Boston, MA 02109-3921 (telephone: 617-223-9622; TDD 877-521-2172; fax 617-289-0150).

### **Complaint Handling and Investigation**

- A. The Affirmative Action Officer will promptly inform the Superintendent and the person who is the subject of the complaint that a complaint has been received.
- B. The Affirmative Action Officer may pursue an informal resolution of the complaint with the agreement of the complainant and the person against whom the complaint is made. The informal resolution is subject to the approval of the Superintendent, who shall consider whether the informal resolution is in the best interest of the school unit in light of applicable policies and law.
- C. If there is no agreement to pursue informal resolution, the complaint will be investigated by the Affirmative Action Officer, unless the Superintendent chooses to investigate the complaint or designates another person to investigate it on his/her behalf. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the Chair of the Board of Directors, who should consult with legal counsel concerning the handling and investigation of the complaint.
  1. The person who is the subject of the complaint will be provided with an opportunity to be heard as part of the investigation.
  2. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.
  3. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
  4. The Affirmative Action Officer shall keep a written record of the investigation process.
  5. The Affirmative Action Officer and/or the Superintendent may take interim remedial measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further harassment while the investigation is pending.

6. The Affirmative Action Officer shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
  7. The investigation shall be completed within 21 working days of receiving the complaint, if practicable.
- D. If the Affirmative Action Officer determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:
1. Determine what remedial action is required, if any;
  2. Determine what disciplinary action should be taken against the person(s) who engaged in harassment, if any, and
  3. Inform the employee who made the complaint in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- E. If the employee who made the complaint is dissatisfied with the resolution, he/she may appeal to the Superintendent within 14 working days after receiving notice of the resolution. The Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. The Superintendent's decision shall be final.

**Legal Reference:** Americans with Disabilities Act (28 CFR § 35.07)  
Section 504 of the Vocational Rehabilitation Act (34 CFR § 104.7)  
Title IX of the Educational Amendments of 1972  
(34 CFR § 106.8(b))  
Age Discrimination in Employment Act (34 CFR § 110.25)

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

**Adopted:** May 27, 2009  
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