Regional School Unit 5
Durham · Freeport · Pownal

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

Jean Skorapa, Superintendent of Schools
Kelly Wentworth, Director of Finance & Human Resources
Cynthia Alexander, Assistant Superintendent of Schools
Elisha Morris, Director of Instructional Support

TO: Colin Cheney, Candy deCsipkes, Kara Kaikini, Danielle George

CC: Trevor Bean

FROM: Cynthia Alexander

DATE: September 25, 2024

RE: Policy Meeting – October 4, 2024

The Policy Committee is scheduled to meet on October 4, 2024 at 8:45 a.m. via Zoom at the following link: https://networkmaine.zoom.us/j/88179232220 Meeting ID: 881 7923 2220 or join by telephone at 1-646-876-9923

Agenda:

1. Policy Review Cycle:
   None

2. At Board/Superintendent Request:
   None

3. Required Changes Based on Law:
   - ACAA - Harassment and Sexual Harassment of Students
   - ACAA-R - Student Discrimination and Harassment Complaint Procedure (Revise into two new procedures ACAA-R1 and ACAA-R2)
   - JIE - Pregnant Students (New)

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

e. 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

Adopted: May 27, 2009
Reviewed: December 8, 2010; November 20, 2013; June 12, 2019
Revised: October 14, 2020

NEPN/NSBA CODE: ACAA

HARASSMENT OF STUDENTS

The school unit prohibits harassment of students on the basis of:

- Race (including traits associated with race involving hair texture, Afro hairstyles, and protective hairstyles such as braids, twists, and locks);
- Sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions;
- Parental, family, or marital status;
- Color;
- Religion;
- Ancestry or national origin; and
- Disability.

Such conduct is a violation of Board policy and may constitute illegal discrimination under state and/or federal laws.

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

A. Harassment

Harassment includes but is not limited to, verbal abuse and other unwelcome, offensive conduct based on the protected categories listed above. 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/Sex-Based Harassment

Sexual Harassment and other forms of Sex-Based Harassment are addressed under federal and state laws/regulations. The scope and definitions of sexual/sex-based harassment under these laws differ, as described below.

1. Sex-Based Harassment Under Title IX

Under the federal Title IX law and its accompanying regulations, sex-based harassment includes harassment on the basis of sex, including sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions, that is:

a. "Quid pro quo" harassment by a school employee, agent, or other person authorized by the school unit to provide aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service (such as a better grade or college recommendation) on the individual's participation in unwelcome sexual conduct.
b. "Hostile environment" harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offense, and is so severe or pervasive that it limits or denies an individual's ability to participate in or benefit from the school unit's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors (identified in *ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure*).
c. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined in applicable federal laws/regulations.

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

All employees (except employees designated by the school unit as "confidential employees" in regard to sexual/sex-based harassment complaints) are required to report possible incidents of harassment involving students to the Affirmative Action Officer/Title IX Coordinator. Failure to report such incidents may result in disciplinary action.

Students, parents/guardians, and other individuals are strongly encouraged to report possible incidents of harassment involving students to the Affirmative Action Officer/Title IX Coordinator so that they can be appropriately addressed.

The Affirmative Action Officer/Title IX Coordinator is also available to answer questions and provide assistance to any individual who is unsure whether harassment has occurred. Reports of discrimination and harassment of students shall be addressed through *ACAA-R1 – Discrimination and Harassment of Students Complaint Procedure*. Reports of sex discrimination, including sexual/sex-based harassment, are addressed in *ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure*.

Legal References:
Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, as amended by 28 C.F.R. § 35.107.
Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, as amended by 34 C.F.R. § 104.7.
Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, as amended by 34 C.F.R. § 106.
Title IV of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c to 2000c-9.
Maine Human Rights Act, 5 M.R.S.A. §§ 4551-4634 (2023).
20-A M.R.S.A § 6553 (2019).
MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4.

Cross Reference:
ACAA-R1 – Student Discrimination and Harassment Complaint Procedure
ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure
AC – Nondiscrimination/Equal Opportunity and Affirmative Action
ACAB – Harassment of Employees
ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure
ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure
ACAD – Hazing
GBEBB – Staff Conduct with Students
JICIA – Weapons, Violence and School Safety
JICK – Bullying
JIE – Pregnant Students

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
207-865-0928
alexandere@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, 8th 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, 8th 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 other RSU 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

Adopted: May 27, 2009
Revised: December 8, 2010; November 28, 2012; November 20, 2013
Reviewed: June 12, 2019
Revised: October 14, 2020

NEPN/NSBA CODE: ACAA-R1

STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this student procedure in order to provide prompt and equitable resolution of complaints of unlawful discrimination and harassment based on race; color; religion; ancestry or national origin; and disability. Complaints of sex discrimination, including sexual/sex-based harassment, are addressed in *ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure*. In cases where allegations include sex discrimination or sexual/sex-based harassment and one or more other protected categories, ACAA-R2 will be used.

Complaints alleging unlawful discrimination and harassment of an employee are addressed under *ACAB-R1 - Employee Discrimination and Harassment Complaint Procedure* or *ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure*.

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

AAO/TITLE IX COORDINATORS' INFORMATION:

Cynthia Alexander, Assistant Superintendent
17 West Street
Freeport, ME 04032
207-865-0928
alexanderc@rsu5.org

Charlie Mellon, Assistant Principal, FHS
30 Holbrook Rd.
Freeport, ME 04032
207-865-4706
mellonc@rsu5.org

Section 1. Definitions

For purposes of this complaint procedure, the following definitions will be used.

A. "Discrimination or harassment": Discrimination or harassment on the basis of an individual's membership in a protected category.

B. "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.

C. "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 or pervasive so as to interfere with or limit that individual's ability to participate in the school unit's education program or activities by creating a hostile, intimidating, or offensive environment.

D. "Complaint" is defined as an allegation that a student has been discriminated against or harassed on the basis of race, color, religion, ancestry, national origin, or disability.

Section 2. Complaint Procedure

This procedure should be used to address any report or complaint of unlawful discrimination or harassment based on a protected category which does not involve sex discrimination or sexual/sex-based harassment.

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 concerning the allegation of discrimination or harassment (i.e., date, time, location, individuals involved, nature of the allegation(s)) to the AAO/Title IX Coordinator. If the report is made orally, the AAO/Title IX Coordinator will document it.

4. If the individual is unsure as to whether unlawful discrimination or harassment has occurred or needs assistance in preparing a 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 termination for employees and expulsion for students.

6. Individuals are encouraged to utilize the school unit's complaint procedure. However, individuals are hereby notified that they also have the right to report incidents of discrimination or harassment to:

    - Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333; telephone: 207-624-6290; website: https:///www.mhrc.gov/mhrc/; and/or
    - Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111; website: https://ocrcas.ed.gov/contact-ocr?field_state_value=688.

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.

    a. If the allegations include sex discrimination or sexual/sex-based harassment, *ACAA-R2* will be followed instead of this procedure.

2. The AAO/Title IX Coordinator may pursue an informal resolution of the complaint with the agreement of the parties involved. Any party to the complaint may decide to end the informal resolution process and pursue the formal process at any point. Any informal resolution is subject to the approval of the parties and the Superintendent, who shall consider whether the resolution is in the best interest of the school unit and the parties in light of the particular circumstances and applicable policies and laws.

3. The AAO/Title IX Coordinator may implement supportive measures for a student to reduce the risk of further discrimination or harassment of the student while an investigation is pending. Examples of supportive measures include but are not limited to, ordering no contact between the individuals involved, changing class schedules, or other steps.

4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and one of the AAO/Title IX Coordinators. 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 Board Chair, 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 appropriate during the investigation process.

6. The respondent will be provided with an opportunity to be heard as part of the investigation.

7. The complainant and the respondent may suggest witnesses to be interviewed and/or submit materials they believe are relevant to the complaint.

8. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement will 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 will be completed within forty (40) school days of receiving the complaint, if practicable.

11. The investigator will 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(s), if any, are required to end the discrimination or harassment, remedy its effect, and prevent recurrence; and
    b. Determine what disciplinary action(s) 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 (5) school 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 (5) school 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 will be provided to the parties within ten (10) school days, if practicable. The Superintendent's decision is final.

E. Records

The AAO/Title IX Coordinator will keep a written record of the complaint process and actions taken.

Cross References: AC – Nondiscrimination/Equal Opportunity and Affirmative Action
ACAA – Harassment of Students
ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure
JIE - Pregnant Students

NEPN/NSBA CODE: ACAA-R2

STUDENT SEX DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this student procedure in order to provide prompt and equitable resolution of reports and complaints of unlawful sex discrimination, including allegations of sexual harassment and other forms of sex-based harassment, as described in Policies *AC – Nondiscrimination/Equal Opportunity and Affirmative Action* and *ACAA – Harassment of Students.*

Although the specific provisions under Title IX and Maine law differ somewhat in regard to sex discrimination and sexual/sex-based harassment, the Board has chosen to address all such complaints under this procedure, which meets all Title IX and Maine law requirements.

Complaints alleging unlawful discrimination or harassment of a student on the basis of other protected categories (race; color; religion; ancestry or national origin; and disability) are addressed under *ACAA-R1 – Student Discrimination and Harassment Complaint Procedure.*

Complaints alleging unlawful discrimination and harassment of an employee are addressed under *ACAB-R1 - Employee Discrimination and Harassment Complaint Procedure* or *ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure.*

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

AAO/TITLE IX COORDINATORS' INFORMATION:

Cynthia Alexander, ***Assistant Superintendent*** ***17 West Street*** ***Freeport, ME 04032*** ***207-865-0928*** ***alexanderc@rsu5.org***	***Charlie Mellon,*** ***Assistant Principal, FHS*** ***30 Holbrook Rd.*** ***Freeport, ME 04032*** ***207-865-4706*** ***mellonc@rsu5.org***

INFORMATION FOR ONE CONFIDENTIAL EMPLOYEE PER SCHOOL:

Lexi Triggiani, DCS ***School Counselor*** ***654 Hallowell Rd.*** ***Durham, ME 04222*** ***207-353-9333*** ***triggianil@rsu5.org***	***Kelley Ryder-Herzog, MSS*** ***School Counselor*** ***21 Morse St.*** ***Freeport, ME 04032*** ***207-865-6361*** ***herzogk@rsu5.org***	***Susan Albertini, MLS*** ***School Counselor*** ***20 Mollyhauk Lane*** ***Freeport, ME 04032*** ***207-865-4561*** ***albertinis@rsu5.org***

Phyllis Latham, FMS	***Rachel Lira, FHS***	***Cathryn Bigley, PES***
School Counselor	***Social Worker***	***School Counselor***
19 Kendall Lane	***30 Holbrook Rd.***	***587 Elmwood Rd.***
Freeport, ME 04032	***Freeport, ME 04032***	***Pownal, ME 04069***
207-865-6051	***207-865-4706***	***207-688-4832***
lathamp@rsu5.org	***lirar@rsu5.org***	***bigleyc@rsu5.org***

Section 1. Definitions

For purposes of this complaint procedure, the following definitions will be used.

A. "Complainant" means (1) the student victim of alleged sex discrimination (including sexual/sex-based harassment); or (2) other victim of alleged sex discrimination (including sexual/sex-based harassment) who was participating or attempting to participate in the school unit's education programs or activities at the time of the alleged sex discrimination.

B. "Complaint" under the Title IX regulations: An oral or written request to the [school unit] to investigate and make a determination about alleged discrimination under Title IX." An oral request for investigation should be documented by the Affirmative Action Officer/Title IX Coordinator.

C. "Confidential employee" means (1) an employee of the school unit whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of Title IX, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (2) an employee of the school unit designated as confidential for the purpose of providing services to persons related to sex discrimination (in which case the employee's confidential status applies only to information received about sex discrimination in connection with providing those services).

D. "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.

E. "Gender identity": The gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth."

F. "Parental status": The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a

physical or mental disability, is: (1) a biological parent; (2) an adoptive parent; (3) a foster parent; (4) a stepparent; (5) a legal custodian or guardian; (6) in loco parentis with respect to such a person; or (7) actively seeking legal custody, guardianship, visitation, or adoption of such a person."

G. "Party": A complainant or respondent.

H. "Pregnancy and related conditions" includes "(1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions."

I. "Respondent": A person who is alleged to have violated the school unit's prohibition on sex discrimination.

J. "Retaliation" under Title IX: Intimidation, threats, coercion, or discrimination against any person by the school unit, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or services under the [school unit's] education program or activity, for the purpose of interfering with any right or privilege secured by Title IX/regulations, or because the person has reported information, made a complaint, testified, assisted, or participating or refused to participate in any manner in an investigation, proceeding, or other action taken by a school unit in regard to allegations of sex discrimination."

K. "Sex-based harassment" under Title IX: Harassment on the basis of sex, including sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions, that meets one of the following:

1. "Quid pro quo" harassment by a school employee, agent, or other person authorized by the school unit to provide aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service on the individual's participation in unwelcome sexual conduct.

2. "Hostile environment" harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies an individual's ability to participate in or benefit from the school unit's education program or activity (i.e., creates a hostile environment). A school unit is obligated to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity. Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors.

a. Factors to consider in regard to the creation of a "hostile environment": "(i) the degree to which the conduct affected the complainant's ability to access the [school unit's] education program or activity; (ii) the type, frequency, and duration of the conduct; (iii) the parties' ages, roles within the [school unit's] education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other sex-based harassment in the [school unit's education program or activity."

3. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined below or in the Title IX regulations.

   a. "Sexual assault" is an offense classified as a forcible or nonforcible sex offense under the uniform reporting system of the Federal Bureau of Investigation. Such offenses include but are not limited to rape, sodomy, sexual assault with an object, and fondling.
   b. "Dating violence" is violence committed by a person: (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship, (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship."
   c. "Stalking": Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for the person's safety or the safety of others; or (b) suffer substantial emotional distress."

L. "Sexual harassment" under Maine law: 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.

M. "Sexual orientation": Under Maine law: A person's "actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression." Sexual orientation is also covered by Title IX.

N. "Student": A person enrolled in the school unit.

Section 2. Complaint Procedure

This procedure should be used to address any report or complaint of sex discrimination or sexual/sex-based harassment of a student.

A. Reports of Alleged Sex Discrimination or Sexual/Sex-Based Harassment

1. Any school unit employee (except for designated confidential employees) who receives a report or has reason to believe that a student may have been discriminated against or harassed on the basis of sex is required to promptly notify the Affirmative Action Officer/Title IX Coordinator.

2. Confidential employees who receive a report that a student may have experienced sex discrimination or sexual/sex-based harassment must inform the person making the report that the employee is designated "confidential" and inform them of the circumstances in which the employee is not required to make a report to the Affirmative Action Officer/Title IX Coordinator. The confidential employee will provide the reporter with the Affirmative Action Officer/Title IX Coordinator's contact information and explain that the Affirmative Action Officer/Title IX Coordinator may be able to offer and coordinate supportive measures, initiate an informal resolution process, or initiate an investigation under this complaint procedure.

3. Students (and others) who believe that they or another student has been discriminated against or harassed on the basis of sex should report their concern promptly to the Affirmative Action Officer/Title IX Coordinator. The report will be documented by the Affirmative Action Officer/Title IX Coordinator.

4. The individual making the report should provide basic, available information orally or in writing concerning the allegation (i.e., individuals involved, date, time, location, and type of allegation). If the information is conveyed orally, the Affirmative Action Officer/Title IX Coordinator will document it.

5. If an individual is unsure as to whether unlawful discrimination or harassment has occurred, they are encouraged to discuss the matter with the Affirmative Action Officer/Title IX Coordinator.

6. Individuals will not be retaliated against for reporting suspected discrimination or harassment or for participating in an investigation. Retaliation is illegal under federal/state nondiscrimination laws and Board policies, and any retaliation will result in disciplinary action, up to and including termination for employees and expulsion for students.

7. The Superintendent will be promptly notified of all reports of alleged discrimination or harassment of a student.

8. Students and others are encouraged to utilize this complaint procedure. However, individuals are hereby notified that they also have the right to report incidents of discrimination or harassment to:

    - Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333; telephone: 207-624-6290; website: https://www.maine.gov/mhrc/); and/or
    - Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111; website: https://ocrcas.ed.gov/contact-ocr?field_state_value=688).

B. Processing of Complaints

1. The Affirmative Action Officer/Title IX Coordinator will treat complainants and respondents equitably through the complaint procedure.

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 Affirmative Action Officer/Title IX Coordinator will meet with the alleged victim to discuss the allegations and supportive measures that may be appropriate in the particular circumstances and to explain the complaint procedure.

    If the alleged victim is unknown to the Affirmative Action Officer/Title IX Coordinator, the person who made the report will be notified of the availability of the complaint procedure.

3. Supportive Measures

    a. Supportive measures are individualized measures designed to ensure the student can continue to access educational programs and activities (including but not limited to requiring no contact between individuals, changing schedules, classes, extracurricular activities, etc.).
    b. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the school unit's educational environment or to provide support during the complaint procedure or an informal resolution process. The school unit may not impose such measures for punitive or disciplinary reasons.
    c. Supportive measures may be continued even if a complaint or informal resolution process is not initiated, or after the conclusion of such processes, if appropriate under the circumstances.

d. Complainants and respondents must be provided with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of a decision to provide, deny, modify, or terminate supportive measures applicable to them. This employee must not be the Affirmative Action Officer/Title IX Coordinator and must have the authority to modify or reverse the decision.
e. Complainants and respondents also have the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change.
f. The school unit will not disclose information about supportive measures to persons other than the person to whom they apply unless it is necessary to provide a supportive measure or to restore or preserve a party's access to education programs and activities.
g. If a complainant or respondent is a student with a disability, the Affirmative Action Officer/Title IX Coordinator will consult with one or more members of the student's IEP team or Section 504 Team, if any, to determine how to comply with the requirements of the IDEA and Section 504 in implementing supportive measures.

4. If the Affirmative Action Officer/Title IX Coordinator reasonably determines that the conduct alleged does not involve illegal discrimination or harassment, the school unit is not obligated to initiate the complaint process and may dismiss the complaint (See Subsection C.1. below). If the alleged conduct potentially violates other laws, Board policies/procedures, or professional expectations (in the case of employees), the matter may be referred to the Superintendent and/or other appropriate administrator(s) to address as deemed appropriate.

5. In response to a complaint alleging prohibited sex discrimination or sexual/sex-based harassment, the Affirmative Action Officer/Title IX Coordinator will initiate the complaint process or the informal resolution process (if available and appropriate) according to this procedure. When feasible, the decision to initiate an investigation or informal resolution process or dismiss the complaint will be made within ten (10) school days of receipt of the complaint.

6. In certain circumstances, the Affirmative Action Officer/Title IX Coordinator may initiate the investigation process, even when the alleged victim chooses not to, after any or all allegations are withdrawn by the alleged victim, or when an informal resolution process is not initiated or is terminated. To make this fact-specific determination, the Affirmative Action Officer/Title IX Coordinator will consider, at a minimum:

   a. The complainant's request not to proceed with initiating a complaint;
   b. The complainant's reasonable safety concerns regarding initiating a complaint;

c. The risk that additional acts of discrimination or harassment would occur if a complaint is not initiated;
d. The severity of the alleged discrimination or harassment, including whether the discrimination, if established, would require the removal of a respondent from school or imposition of another disciplinary sanction to end the discrimination or harassment and prevent its recurrence;
e. The age and relationship of the parties, including whether the respondent is an employee of the school unit;
f. The scope of the alleged discrimination or harassment, including information suggesting a pattern, ongoing discrimination/harassment, or discrimination/harassment alleged to have impacted multiple individuals;
g. The availability of evidence to assist a decisionmaker in determining whether discrimination or harassment occurred; and
h. Whether the school unit could end the alleged discrimination or harassment and prevent its recurrence without initiating the complaint procedure.

If, after considering these and any other factors that may be relevant, the Affirmative Action Officer/Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health or safety of the complainant or other individuals, or that the alleged conduct prevents the school unit from ensuring equal access to its education programs and activities, the Affirmative Action Officer/Title IX Coordinator may initiate a complaint.

7. If the Affirmative Action Officer/Title IX Coordinator initiates a complaint, the complainant will receive prior notice, and any reasonable safety concerns will be addressed.

8. The Affirmative Action Officer/Title IX Coordinator will confirm the initiation of an investigation or informal resolution process in writing to both parties. The communication will include a) a copy of the complaint procedure; b) sufficient information available at the time to allow the parties to respond to the allegations (including the identities of the parties involved, the conduct alleged to constitute sex discrimination or sexual/sex-based harassment, and the date(s) and location(s) of the alleged incident(s); c) notice that retaliation is prohibited; and d) notice that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.

9. Regardless of whether an investigation is initiated, the Affirmative Action Officer/Title IX Coordinator will take appropriate, prompt, and effective steps to ensure that discrimination or harassment does not continue or recur. The Affirmative Action Officer/Title IX Coordinator will also coordinate supportive measures, as appropriate.

10. If a complainant or respondent is a student with a disability, the Affirmative Action Officer/Title IX Coordinator will consult with one or more members of the student's IEP team or 504 Team, if any, to determine how to comply with the requirements of the IDEA and Section 504 during the course of the complaint procedure.

11. If the Affirmative Action Officer/Title IX Coordinator decides to investigate additional allegations of discrimination or harassment made by the complainant against the respondent after the parties received notice of the complaint, the Affirmative Action Officer/Title IX Coordinator will notify the parties of the additional allegations in writing.

12. The Affirmative Action Officer/Title IX Coordinator may consolidate complaints of discrimination or harassment against more than one respondent, by more than one complainant against one or more respondents, or by one party against another party when the allegations arise out of the same facts or circumstances.

13. The school unit will presume that the respondent is not responsible for alleged discrimination or harassment until a determination is made at the conclusion of the investigation.

14. The school unit will take reasonable steps to protect the privacy of the parties and witnesses during the complaint procedure and will comply with applicable state and federal privacy laws. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family; confidential employees/resources; or otherwise prepare for and participate in the complaint procedure.

C. Dismissal of Complaints

1. The Affirmative Action Officer/Title IX Coordinator may dismiss a complaint in the following circumstances:

    a. The school unit is unable to identify a respondent after taking reasonable steps to do so;
    b. The respondent is not participating in the school unit's education programs and activities, or is not employed by the school unit;
    c. The complainant voluntarily withdraws any or all allegations in the complaint, the Affirmative Action Officer/Title IX Coordinator declines to initiate a complaint and determines that, without the complainant's withdrawn allegations, the alleged conduct remaining, if any, would not constitute discrimination or harassment even if proven; or
    d. The Affirmative Action Officer/Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute discrimination or harassment under state/federal laws and regulations.

2. Upon dismissal, the Affirmative Action Officer/Title IX Coordinator will promptly notify the complainant (and the respondent if they had received notice of the complaint allegations) of the basis for the dismissal and provide the opportunity to appeal the dismissal.

3. Dismissals may be appealed on the following bases:

    a. Procedural irregularity that would change the outcome;
    b. New evidence that would change the outcome and that was not reasonably available when the dismissal [or determination in the case] was made; and
    c. The Affirmative Action Officer/Title IX Coordinator, investigator, or decisionmaker had a conflict or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

4. An appeal of a complaint dismissal must be made in writing to the Affirmative Action Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.

5. If the dismissal is appealed, the Affirmative Action Officer/Title IX Coordinator shall:

    a. Notify the respondent of the appeal if they had received notice of the complaint allegations;
    b. Implement the appeal procedure equally for the parties;
    c. Ensure that the trained decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
    d. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
    e. Notify the parties in writing of the result of the appeal and the rationale for it within five (5) school days, if feasible.

6. When a complaint is dismissed, the Affirmative Action Officer/Title IX Coordinator will, at a minimum:

    a. Offer supportive measures to the complainant and respondent if appropriate; and
    b. Take other prompt and effective steps, as appropriate, to ensure that discrimination or harassment does not continue or recur within the school unit's program or activity.

7. The Affirmative Action Officer/Title IX Coordinator will document actions taken during the appeal process.

D. **Emergency Removal of a Student**

The Superintendent may remove a student from education programs and activities on an emergency basis during the complaint procedure, provided:

A. There is a determination, following an individualized safety and risk analysis, that a student respondent presents an imminent and serious threat to the health or safety of a complainant, or any students, employees, or other persons arising from the allegations of discrimination or harassment, that justifies emergency removal.

B. The respondent and the student's parent/legal guardian will be provided with an immediate opportunity to challenge the decision following the removal, and has the burden of demonstrating that such removal is unreasonable.

C. Any such removal shall be made in compliance with any applicable disability laws, including the IDEA, Section 504, and the Americans with Disabilities Act.

D. The Affirmative Action Officer/Title IX Coordinator will document actions taken during the emergency removal process.

[Note: An employee may be placed on administrative leave during a complaint procedure, pursuant to the school unit's customary process regarding administrative leave of employees]

E. Informal Resolution Process

1. Informal resolution is not permitted in cases where a student is the complainant and an employee is the respondent to alleged sex discrimination or harassment.

2. The Action Officer/Title IX Coordinator may, if appropriate, offer the parties the opportunity to resolve the complaint through an informal resolution process at any point prior to an investigation or determination of responsibility. Engaging in an informal resolution process is voluntary on the part of each party. The Affirmative Action Officer/Title IX Coordinator also may decline to pursue an informal resolution despite a party's request (for example, if the alleged conduct presents a future risk of harm to the complainant or others).

3. Both (or all) parties must voluntarily agree in writing to participate in an informal resolution process, and a party may withdraw from the process at any time. The parties will not be required to attend meetings together unless they voluntarily agree to do so.

4. Before initiating an informal resolution process, the Affirmative Action Officer/Title IX Coordinator will ensure that the parties receive notice of: i.) the allegations; ii.)

the requirements of the informal resolution process; ii.) the right of any party to withdraw from the process and initiate or resume the investigation process; iv.) that the parties' agreement to an informal resolution would preclude them from initiating or resuming the investigation; v.) potential terms that may be requested or offered in an informal resolution agreement, including notice that an agreement is binding on the parties; and vi.) what information the school unit will maintain regarding the informal resolution process.

[Note: Informal resolutions can take many forms, depending on the particular case, including but not limited to: restrictions on contact between the parties; facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; restrictions on attendance or participation in programs and activities; disciplinary actions or requirements to engage in specific services; or supportive measures.]

5. The facilitator for the informal resolution process must be trained, cannot be the same person as the investigator or decisionmaker in the matter, and must not have a conflict of interest or bias regarding parties to such matters generally or to an individual complainant or respondent.

6. The Superintendent must agree to the terms of any informal resolution reached between the parties, considering whether the resolution is in the best interest of the parties and the school unit in light of the particular circumstances, applicable laws/regulations, and Board policies.

7. If an informal resolution agreement is reached, it will be agreed to in writing by both parties and the Affirmative Action Office/Title IX Coordinator. Any such agreement is final and binding on the parties.

F. Investigation Process

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the Affirmative Action Officer/Title IX Coordinator. The investigator shall not have a conflict of interest or bias against complainants or respondents generally, or an individual complainant or respondent, and will consult with the Affirmative Action Officer/Title IX Coordinator during the investigation process.

2. Any complaint about an employee who holds a supervisory position will be investigated by a person not subject to that supervisor's authority. Any complaint about the Superintendent will be submitted to the Board Chair, who will consult with legal counsel concerning the handling and investigation of the complaint.

3. The burden is on the school unit, and not the parties, to gather sufficient evidence (through the investigation) in order to determine whether illegal discrimination or harassment occurred.

4. The investigator shall provide an opportunity for the complainant and respondent to be heard as part of the investigation. The parties will not be required to attend meetings together.

5. The parties may suggest witnesses to be interviewed and/or submit materials that they believe are relevant to the allegations and complaint.

6. The investigator will evaluate evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

    a. The Title IX regulations define "relevant" as "related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred."

7. The following types of evidence, and questions seeking that evidence, are impermissible:

    a. Evidence that is protected under a privilege recognized by federal or state law, or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality in writing.
    b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the treatment to the party or witness, unless the school unit obtains that party's or witness's voluntary, written consent for use in the complaint procedure; and
    a. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed alleged sexual/sex-based harassment or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sexual/sex-based harassment. The fact of prior sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

8. The investigator will provide each party with the opportunity to review the evidence that is relevant to the allegations of discrimination or harassment (and not otherwise impermissible), and to respond to it.

9. The Affirmative Action Officer/Title IX Coordinator and investigator will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the complaint procedure. Disclosure of such information and evidence for the purposes of administering administrative proceedings or litigation related to the complaint is authorized.

10. The investigator will conclude the investigation and issue a written report to the Affirmative Action Officer/Title IX Coordinator within forty (40) school days, if feasible.

    a. If the investigator has been charged with making a determination of responsibility/non-responsibility with respect to each allegation, such determination(s) and the reasons shall be included in the report.

11. Extensions of time may be granted to complete the investigation if approved by the Affirmative Action Officer/Title IX Coordinator for reasonable cause. Notice of any extension and the reasons will be provided to the parties.

G. Determinations of Responsibility

1. The standard used to determine whether illegal discrimination or harassment occurred is the preponderance of the evidence standard ("more likely than not").

2. The decisionmaker will review the investigation report and the evidence gathered (as appropriate) and will have the discretion to conduct additional interviews of parties and/or witnesses if needed to assess credibility.

3. The decisionmaker will make a written determination of responsibility/non-responsibility in regard to each allegation and the reasons, which shall be shared with the Affirmative Action Officer/Title IX Coordinator and the parties.

4. In general, the Affirmative Action Officer/Title IX Coordinator will notify the parties of the determination decision(s) within five (5) school days of the determination being reached. Reasonable extensions of time may be approved by the Affirmative Action Officer/Title IX Coordinator for good reason. The notification will include the permissible bases for appeal and the deadline for receipt of appeals.

5. If there is a determination that the respondent is responsible for violations, the appropriate administrator will make decisions as to appropriate disciplinary action and remedies.

6. The Affirmative Action Officer/Title IX Coordinator shall, as appropriate:

    a. Coordinate the provision and implementation of remedies to a complainant and any other persons if necessary to provide equal access to the school unit's educational programs and activities that had been limited or denied by discrimination or harassment;
    b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
    c. Take other appropriate prompt and effective steps if necessary to ensure discrimination and harassment does not continue or recur.

7. A determination of responsibility becomes final on the date that the Affirmative Action Officer/Title IX Coordinator provides the parties with the written determination of the results of the appeal if an appeal is filed. If an appeal is not filed, the determination of responsibility becomes final on the date on which the appeal would no longer be considered timely.

8. The school unit will not discipline a party, witness, or others participating in the complaint procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination that sex discrimination or sexual/sex-based harassment occurred.

H. Remedies, Discipline, and Other Actions

1. Remedies

Remedies are measures used to ensure that the complainant has equal access to the school unit's education programs and activities following the decisionmaker's determination(s). Such remedies may include supportive measures and may include other appropriate measures, depending on the determination(s) and the needs of the complainant. The Affirmative Action Officer/Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the complainant.

2. Discipline and Other Actions

Examples of disciplinary and other actions that may be imposed on a student when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include suspension, expulsion, restorative justice, required education or counseling, and other measures.

Examples of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include: written warning, probation, counseling, demotion, suspension without pay, termination.

I. Appeals

1. After the conclusion of the investigation and decision maker determination(s), the complainant or respondent may seek an appeal of the findings based on the following factors:

    a. Procedural irregularity that would change the outcome;
    b. New evidence that would change the outcome and that was not reasonably available when the determination was made; and
    c. The Affirmative Action Officer/Title IX Coordinator, investigator, or decision maker had a conflict or bias for or against complainants or respondents generally, or the individual complainant or respondent that would change the outcome.

2. The appeal must be made in writing to the Affirmative Action Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.

3. The Superintendent is responsible for making a determination on the appeal. The Superintendent will conduct an impartial review of the appeal, including consideration of the written record in the case, and may consult with legal counsel or other school unit officials in making their decision.

4. The Superintendent will issue the appeal determination in writing within ten (10) school days of receipt of the appeal, if feasible.

5. The Superintendent's decision is final.

Section 3. Recordkeeping

The Affirmative Action Officer/Title IX Coordinator shall maintain a record of documents and action in each case, and records of trainings provided, for a period of seven (7) years.

Cross References: AC – Nondiscrimination/Equal Opportunity and Affirmative Action
ACAA – Harassment of Students
ACAA-R1 – Student Discrimination and Harassment Complaint Procedure
ACAB – Harassment of Employees
ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure

ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure
JIE - Pregnant Students

NEPN/NSBA CODE: JIE

PREGNANT STUDENTS

The Board has adopted this policy to comply with its obligations not to discriminate in its education programs and activities against students based on a student's current, potential, or past pregnancy or related conditions. The Title IX Coordinator is responsible for implementing this procedure in consultation with the Superintendent, Affirmative Action Officer, and others as appropriate.

For the purposes of this policy, pregnancy or related conditions includes:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

A. Notifications

When a student or their parent/guardian informs any school unit employee of a student's pregnancy or related condition(s), the employee must promptly provide the student or the parent/legal guardian with the Title IX Coordinator's contact information so that the Title IX Coordinator can take any necessary actions to ensure the student's equal access to the school unit's education programs and activities. The employee should also notify the Title IX Coordinator of the pregnancy or related condition(s), unless the employee reasonably believes that the Title IX Coordinator has already been notified.

Once the Title IX Coordinator is informed of a student pregnancy, they shall inform the student (or the parent/legal guardian if they informed the Title IX Coordinator), of the school unit's obligations (outlined below) and provide a copy of Board Policy AC.

B. Reasonable Modifications

1. Reasonable modifications to the school unit's policies, procedures, and practices shall be made to prevent sex discrimination and ensure equal access to education programs and activities based on the student's individualized needs. The Title IX Coordinator will consult with the student regarding any such modifications. Modifications that fundamentally alter the nature of an education program or activity are not considered "reasonable" under Title IX regulations.

2. The student has the discretion to accept or decline each reasonable modification offered. If a student accepts a modification, the Title IX Coordinator will see that it is implemented.

3. Reasonable modifications may include, but are not limited to:

   a. Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions (such as eating, drinking, or using the restroom);
   b. Intermittent absences to attend medical appointments;
   c. Access to online or homebound education;
   d. Change in schedule or course sequence;
   e. Extensions of time for coursework and rescheduling of tests and examinations;
   f. Allowing a student to sit or stand, or carry or keep water nearby;
   g. Counseling;
   h. Changes in physical space or supplies (such as access to a larger desk or a footrest);
   i. Elevator access; and/or
   j. Other reasonable changes in policies, procedures, or practices.

C. Voluntary Access to Separate and Comparable Portions of Education Programs or Activities

1. If the school unit offers a separate and comparable portion of an education program or activity, the student must voluntarily agree to participate in such program or activity.

D. Voluntary Leave of Absence

1. The school unit shall allow a student to voluntarily be absent from school to cover, at a minimum, the period of time deemed medically necessary by the student's licensed health care provider.

2. When the student returns to the school unit's education programs and activities, they shall be reinstated to the academic status, and to the extent practical, any extracurricular status, that they held prior to the voluntary leave.

E. Lactation Space

1. The student shall be able to access a lactation space, other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by the student for expressing breast milk or breastfeeding as needed.

F. Limits on Requiring Documentation

1. The Title IX Coordinator shall not require supporting documentation from the student, except to the extent it is necessary and reasonable to determine the reasonable modifications to make or to determine whether additional specific actions are needed.

2. Examples of situations where requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action under this procedure is obvious, such as when a pregnant student needs a larger uniform or desk, needs break time, etc. Supporting documentation is also not necessary and reasonable if a specific action is available to other students who are not pregnant or have related conditions.

3. The Title IX Coordinator shall not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in a class, program, or extracurricular activity unless:

   a. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
   b. The school unit requires such certification of all participating students; and
   c. The information obtained is not used as a basis for discrimination against the student.

Legal References: Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688; 34 C.F.R. § 106.40.
5 MRSA § 4602 (2021); MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4.
20-A MRSA § 5001-A(4)(A) (2020).

Cross Reference: AC – Nondiscrimination/Equal Opportunity and Affirmative Action
ACAA – Harassment of Students
ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure