

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 the Affirmative Action Officer and/or Title IX Coordinator.

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Section 1. Definitions

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

- A. “Discrimination or harassment” is unwelcome conduct as described below on the basis of an individual’s membership in a protected category; race, color, religion, ancestry, national origin, or disability.
- B. “Discrimination” is 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” is 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 membership in a protected category.
- E. “Complainant” is (1) the student victim of alleged discrimination or harassment; or (2) other victim of alleged discrimination or harassment who was participating or attempting to participate in Scarborough Public School’s education programs or activities at the time of the alleged discrimination or harassment.
- F. “Respondent” is a person who is alleged to have violated Scarborough Public School’s prohibition on discrimination or harassment.
- G. “Retaliation” : is intimidation, threats, coercion, or discrimination against any person by Scarborough Public Schools, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or services under Scarborough Public Schools education program or activity, for the purpose of interfering with any right or privilege, 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 Scarborough Public Schools in regard to allegations of discrimination.²²
- H. “Hostile environment” is unwelcome 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 Scarborough Public Schools’ education program or activity. Scarborough Public Schools is obligated to address-hostile environments 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.

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 and 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 and 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 and Title IX Coordinator. If the report is made orally, the AAO and 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 and 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 and/or 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 and/or 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 and/or 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 the AAO and/or 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 Board Chair, who should consult with legal counsel concerning the handling and investigation of the complaint.
 5. The investigator shall consult with the AAO and/or 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 Scarborough Public Schools, 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 and/or Title IX Coordinator.

C. Findings and Subsequent Actions

1. The AAO and 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 and/or 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 and/or 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

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