Regional School Unit 5
Durham · Freeport · Pownal

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

Tom Gray, Superintendent of Schools
Kelly Wentworth, Director of Finance & Human Resources
Erica Mazzeo, Assistant Superintendent of Schools
Elisha Morris, Director of Instructional Support

TO: Colin Cheney, Danielle George, Kara Kaikini

CC: Trevor Bean, Jill Hooper, Erica Mazzeo

FROM: Tom Gray, Superintendent

DATE: September 25, 2025

RE: Policy Meeting – October 2, 2025

The Policy Committee is scheduled to meet on October 2, 2025 at 4:15 p.m. via Google Meet at the following link: https://meet.google.com/rut-qnko-ump Or dial: (US) +1 321-677-2271 PIN: 549 964 453#

Agenda:

1. Law Change:
   - JKAA - Use of Physical Restraint and Seclusion
   - JKAA-R - Procedures on Physical Restraint and Seclusion

2. Regular Review:
   - IHBEA - Program for Multilingual Learners
   - IHBEA-R - RSU No. 5 Lau Plan
   - JICK - Bullying
   - JICK-R - Bullying Administrative Procedure

3. Board Request:
   - None

USE OF PHYSICAL RESTRAINT AND SECLUSION

The **RSU No. 5** Board has adopted this policy and the accompanying procedures to implement the standards for use of physical restraint and seclusion with students, as required by state law and regulations, and to support a safe school environment. Physical restraint and seclusion, as defined by this policy, may only be used as an emergency intervention when the behavior of a student presents an imminent risk of serious physical injury to the student or others, and less intrusive interventions have failed or been deemed inappropriate.

State law and MDOE Rule Chapter 33 do not restrict or limit the protections available to school officials under 20-A M.R.S.A. § 4009, but those protections do not relieve school officials from complying with this policy/procedure.

The Superintendent has overall responsibility for implementing this policy and the accompanying procedure, but may delegate specific responsibilities as they deem appropriate.

I. DEFINITIONS.

The following definitions apply to this policy and accompanying procedure:

A.

1. **Physical restraint:** A personal restriction that immobilizes or reduces the ability of a student to move their arms, legs, or head freely.

2. **Physical restraint does not include any of the following:**

   a. Physical escort: A temporary ~~voluntary~~ touching or holding of the hand, wrist, arm, shoulder or back to induce a student to walk to a safe location.

   b. Physical prompt: A teaching technique that involves **voluntary** physical contact with the student and that enables the student to learn or model the physical movement necessary for the development of the desired competency.

   c. Protective Physical Interventions: Brief physical contact with a student in response to potentially harmful student action that serves to deflect, block, or redirect the student's actions or disengage from a student's inappropriate grip, but from which the student could freely move away.

   ~~e.~~ **d.** The use of adaptive devices or mechanical supports to achieve proper body position, balance or alignment to allow greater freedom of movement than would be possible without the use of such devices or supports.

   ~~d.~~**e.** The use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

B.

1. **Seclusion:** The involuntary isolation or confinement of a student alone in a room or clearly defined area from which the student does not feel free to go or is physically denied exit.

2. **Seclusion does not include:** ~~Timeout.~~ A timeout, which is an intervention where a student requests, or complies with an adult request for a break.

C.

1. **Serious physical injury:** Any impairment of the physical condition of a person, whether self-inflicted or inflicted on someone else, that ~~is beyond the care of routine first aid, and if the injury had occurred, would~~ require**s a medical practitioner, including but not limited to, a school nurse,** to evaluate and/or treat the ~~victim~~ **person**.

2. **Voluntary:** Voluntary means that a student cooperates with a request, independent of staff using physical force for the purpose ~~of~~ overcoming a student's resistance.

3. **Emergency:** A sudden, urgent occurrence, usually unexpected, but sometimes anticipated, that requires immediate action.

II. PROCEDURES FOR IMPLEMENTING PHYSICAL RESTRAINT AND SECLUSION.

The requirements for implementing physical restraint and seclusion, as well as incident notices, documentation and reporting are included in the accompanying procedure, JKAA-R.

III. ANNUAL NOTICE OF POLICY/PROCEDURE.

RSU No. 5 shall provide annual notice to parents/legal guardians of this policy/procedure by means determined by the Superintendent/designee.

IV. TRAINING REQUIREMENTS.

A. All school staff and contracted providers shall receive an annual overview of this policy/procedure.

B. RSU No. 5 will ensure that there are a sufficient number of administrators/designees, special education and other staff who maintain certification in a restraint and seclusion training program approved by the Maine Department of Education. A list of certified staff shall be updated annually and maintained in the Superintendent's Office, in each school office and in the school unit's Comprehensive ~~Health and~~ Emergency Management Plan.

V. PARENT/LEGAL GUARDIAN COMPLAINT PROCEDURE.

A parent/legal guardian who has a complaint concerning the implementation of this policy/procedure must submit it in writing to the Superintendent as soon as possible. The Superintendent/designee shall investigate the complaint and provide written findings to the parent/legal guardian within twenty (20) business days of receiving the complaint, if practicable.

A parent/legal guardian who is dissatisfied with the result of the local complaint process may file a complaint with the Maine Department of Education. The Department of Education will review the results of the local complaint process and may initiate its own investigation at its sole discretion. The Department shall issue a written report with specific findings to the parent/legal guardian and the school unit within 60 calendar days of receiving the complaint.

Legal References: 20-A MRSA §§ 4014, 4502(5)(M); 4009
Chapter 33 (Maine Department of Education Rules)

Cross Reference: JKAA-R – Procedures on Physical Restraint and Seclusion
JK – Student Discipline
KLG~~/KLG-R~~ – Relations with Law Enforcement **Authorities**
KLG-R - Relations with Law Enforcement Authorities Administrative Procedures
EBCA – Comprehensive ~~Health and~~ Emergency Management Plan

Adopted: June 24, 2009
Reviewed: March 24, 2010
Revised: January 26, 2011
Revised: November 28, 2012
Revised: June 12, 2013
Reviewed: January 24, 2018
Revised: February 7, 2024

PROCEDURES ON PHYSICAL RESTRAINT AND SECLUSION

These procedures are established for the purpose of meeting the obligations of RSU No. 5 under state law/regulations and Board Policy JKAA governing the use of physical restraint and seclusion. These procedures shall be interpreted in a manner consistent with state law and regulations.

I. PHYSICAL RESTRAINT

To the extent possible, physical restraint will be implemented by staff certified in a training program approved by the Maine Department of Education. If untrained staff have intervened and initiated a physical restraint in an emergency, trained staff must be summoned to the scene to assume control of the situation if the emergency continues.

This procedure does not preclude law enforcement personnel, **or other first responders** from implementing physical restraints in carrying out their professional responsibilities.

A. Permitted Uses of Physical Restraint

1. Physical restraint may be used only when the behavior of a student presents an imminent risk of serious physical injury to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate. The physical restraint must end immediately upon the cessation of the imminent risk of serious physical injury to the student or another person, and should involve the least amount of force necessary to protect the student or other person.

2. Serious physical injury is any impairment of the physical condition of a person, whether self-inflicted or inflicted on someone else, that ~~is beyond the care of routine first aid, and if the injury were to occur, would~~ requires a medical practitioner**, including but not limited to, a school nurse,** to evaluate and/or treat the ~~victim~~ **person**.

3. Prescribed medications, harnesses, **seat belts** and other assistive or protective devices may be used as permitted by law and described in Policy JKAA.

4. Parents/legal guardians may be requested to provide assistance with their child at any time.

B. Prohibited Forms and Uses of Physical Restraint

1. Physical restraint used for punitive purposes; as a therapeutic or educational intervention; for staff convenience; or to control challenging behavior.

2. Physical restraint used to prevent property destruction or disruption of the environment in the absence of a risk of **serious physical** injury or harm.

3. Physical restraint that is life threatening, restricts breathing or restricts blood flow to the brain, including prone restraint.

4. Physical restraint that relies on pain for control, including but not limited to joint hyperextension, excessive force, unsupported take-downs (e.g., tackles), the use of any physical structure (e.g., wall, railing or post), punching and hitting.

5. Physical restraint that is contraindicated based on the child's disability, health care needs, or medical or psychiatric condition if appropriately documented in:

   - A health care directive or medical management plan;
   - A school-approved behavior plan;
   - An IEP or an Individual Family Service Plan (IFSP); or
   - A school-approved 504 or ADA plan.

6. Aversive procedures and mechanical and chemical restraints.

   a. Aversive procedures are defined as the use of a substance or stimulus, intended to modify behavior, which the person administering it knows or should know is likely to cause physical and/or emotional trauma to a student, even when the substance or stimulus appears to be pleasant or neutral to others. Such substances and stimuli include but are not limited to infliction of bodily pain (e.g., hitting, pinching, slapping); water spray; noxious fumes; extreme physical exercise; costumes or signs.

   b. Mechanical restraints are defined as any restraint that uses a device to restrict a student's freedom of movement. Such restraints do not include adaptive devices or mechanical supports to achieve proper body position, balance or alignment to allow greater freedom of movement, or the use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

   c. Chemical restraints are defined as the use of drug or medication that is not prescribed as the standard treatment of a student's medical or psychiatric condition by a licensed physician or other qualified health professional acting under the scope of the professional's authority under state law that is used on a student to control behavior or restrict freedom of movement.

C. Monitoring Students in Physical Restraint

1. At least two adults must be present at all times when physical restraint is used except when, for safety reasons, waiting for a second adult to arrive is precluded by the particular circumstances.

2. The student must be continuously monitored until they no longer presents a risk of injury or harm to the student or others.

3. If an injury occurs, applicable school policies and procedures should be followed.

D. Termination of Physical Restraint

1. The staff involved in the use of physical restraint must continually assess for signs that the student **in physical restraint** is no longer presenting an imminent risk of serious **physical** injury ~~or harm~~ to themselves or others, and the physical restraint must be discontinued immediately after it is determined that the imminent risk of serious physical harm has ended.

   a. The time a student is in physical restraint must be monitored and recorded.

   b. If physical restraint continues for more than ten (10) minutes, an administrator/designee shall determine whether continued physical restraint is warranted, and shall continue to monitor the status of the physical restraint every ten (10) minutes until the restraint is terminated.

   c. If attempts to release a student from physical restraint have been unsuccessful and the student continues to present behaviors that create an imminent risk of serious physical injury to the student or to others, then staff may request additional assistance from other school staff, parents, medical providers, or other appropriate persons or organizations.

II. SECLUSION.

To the extent possible, seclusion will be implemented by staff certified in a training program approved by the Maine Department of Education. If untrained staff have intervened and initiated seclusion in an emergency, trained staff must be summoned to the scene as soon as possible.

A "timeout" where a student requests, or complies with an adult request, for a break is not considered seclusion under this procedure. Seclusion also does not include any situation where others are present in the room or defined area with the student (including but not limited to classrooms, offices and other school locations).

A. Permitted Uses and Location of Seclusion

1. Seclusion may be used only as an emergency intervention when the behavior of a student presents an imminent risk of serious bodily injury to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate. The seclusion must end immediately upon the cessation of the imminent risk of serious physical injury to the student or another person.

2. Serious physical injury is any impairment of the physical condition of a person, whether self-inflicted or inflicted on someone else, that ~~is beyond the care of routine first aid, and if the injury were to occur, would~~ require**s** a medical practitioner, **including but not limited to, a school nurse,** to evaluate and/or treat the ~~victim~~ **person**.

3. Seclusion may occur in any part of a school building with adequate light, heat, ventilation and of normal room height.

   a. Seclusion may not take place in a locked room.

   b. If a specific room is designated as a seclusion room, it must be a minimum of sixty (60) square feet; have adequate light, heat and ventilation; be of normal room height; contain an unbreakable observation window in a wall or door; and must be free of hazardous material~~s~~ and objects which the student could use to self-inflict bodily injury.

4. Parents/legal guardians may be requested to provide assistance **with their child** at any time.

B. Prohibited Uses of Seclusion

1. Seclusion used for punitive purposes; as a therapeutic or educational intervention; for staff convenience; or to control challenging behavior.

2. Seclusion used solely to prevent property destruction or disruption of the environment in the absence of **an** imminent risk of serious physical injury.

3. Seclusion that is life threatening.

4. Seclusion that is contraindicated based on the child's disability, health care needs, or medical or psychiatric condition if appropriately documented in:
   - A health care directive or medical management plan;
   - A school-approved behavior plan;
   - An IEP or IFSP; or
   - A school-approved 504 or ADA plan.

C. Monitoring Students in Seclusion

1. At least one adult must be physically present at all times to continuously monitor a student in seclusion. The adult, while not present in the room or defined area, must be situated so that the student is visible at all times.

2. The student must be continuously monitored until they no longer present **an imminent** risk of **serious physical** injury ~~or harm~~ to ~~themself~~ **the student** or others.

3. If an injury occurs, applicable school policies and procedures should be followed.

D. Termination of Seclusion

1. The staff involved in the seclusion must continually assess for signs that the student is no longer presenting an imminent risk of serious physical injury to the student or others, and the seclusion must be discontinued as soon as the imminent risk ceases.

   a. The time a student is in seclusion must be monitored and recorded.

   b. If seclusion continues for more than ten (10) minutes, an administrator/designee shall determine whether continued seclusion is warranted, and shall continue to monitor the status of the seclusion every ten (10) minutes until the seclusion restraint is terminated.

   c. If attempts to release a student from seclusion have been unsuccessful and the student continues to present behaviors that create an imminent risk of **serious physical** injury to the student or others, then staff may request additional assistance from other school staff, parents, medical providers, or other appropriate persons or organizations.

III. NOTIFICATION AND REPORTS OF PHYSICAL RESTRAINT AND SECLUSION INCIDENTS.

For the purposes of this procedure, an "incident" consists of all actions between the time a student begins to create an imminent risk of serious physical injury and the time the student ceases to pose that imminent risk and returns to their regular programming.

A. Notice Requirements

After each incident of physical restraint or seclusion:

1. A staff member involved in the incident shall make an oral notification to the administrator/designee as soon as possible, but no later than the end of the school day.

2. An administrator/designee shall notify the parent/legal guardian about the physical restraint or seclusion (and any related first aid provided) as soon as practical, but within the school day in which the incident occurred. The administrator/designee must utilize all available phone numbers or other available contact information to reach the parent/legal guardian. If the parent/legal guardian is unavailable, the administrator/designee must leave a message (if the parent/legal guardian has a phone and message capability) to contact the school as soon as possible. The parent/legal guardian must be informed that written documentation will be provided within seven (7) calendar days.

3. If the physical restraint or seclusion incident occurred outside the school day, the notifications must be made as soon as possible and in accordance with RSU No. 5 usual emergency notification procedures.

4. If serious bodily injury or death of a student occurs during the implementation of physical restraint or seclusion, the RSU No.5 emergency notification procedures shall be followed and an administrator/designee shall notify the Maine Department of Education within twenty-four (24) hours or the next business day.

B. Incident Reports

Each use of physical restraint or seclusion must be documented in an incident report. The incident report must be completed and provided to an administrator/designee as soon as practical, and in all cases within two (2) school days of the incident. The parent/legal guardian must be provided a copy of the incident report within seven (7) calendar days of the incident.

The incident report must include the following elements:

1. Student name;
2. Age, gender and grade;
3. **Does the student have an individualized Education or 504 plan;**
4. Location of the incident;
5. Date of the incident;
6. Date of report;
7. Person completing the report;
8. Beginning and ending time of each physical restraint and~~/or~~ seclusion;
9. Incident start and end time;
10. Total time of incident;
11. Total number of uses of seclusion within the incident period;

a. Beginning and ending time of each use of seclusion within the incident period;
b. A detailed description of each use of seclusion within the incident period;

12. Total number of uses of physical restraint within the incident period;
    a. Beginning and ending time of each use of physical restraint within the incident period;
    b. A detailed description of each use of physical restraint within the incident period;
13. Description of prior events and circumstances;
14. Less restrictive interventions tried prior to the use of physical restraint ~~and/~~or seclusion ~~and,~~. ~~i~~**I**f none ~~were~~ used, explain why;
15. The student behavior **that** ~~justifying~~ **justified**the use of physical restraint or seclusion;
16. A detailed description of the physical restraint or seclusion used;
17. The staff person(s) involved, their role in the physical restraint **and/**or seclusion, and ~~whether each person is certified~~ **their certification, if any,** in an approved training program;
18. Description of the incident, including the resolution and process of return~~ing the student~~ to ~~their~~ program, if appropriate;
19. Whether the student has an **a.** IEP, **b.** 504 Plan, **c.** behavior plan, **d.** IHP ~~(individual health plan)~~ or **e.** ~~any~~ other plan;
20. If a student ~~and/~~or staff sustained bodily injury, the date and time of nurse or ~~other~~ response personnel notification and ~~any~~ **the** treatment administered**, if any**;
21. **If a staff member sustained bodily injury, the date and time of nurse or response personnel notification and the treatment administered, if any.**
22. ~~The d~~**D**ate, time and method of parent~~/legal guardian~~ notification; **and**
~~23. The date and time of administrator/designee notification; and~~
24. Date**,** ~~and~~ time of staff debriefing.

Copies of the incident reports shall be maintained in the student's file and in the school office.

IV. SCHOOL UNIT RESPONSE FOLLOWING THE USE OF PHYSICAL RESTRAINT OR SECLUSION.

A. Following each incident of physical restraint or seclusion, an administrator/designee shall take these steps within two (2) school days (unless serious bodily injury requiring emergency medical treatment occurred, in which case these steps must take place as soon as possible, but no later than the next school day):

1. Review the incident with all staff persons involved to discuss: (a) whether the use of physical restraint or seclusion complied with state and school board requirements and (b) how to prevent or reduce the need for physical restraint and/or seclusion in the future.

2. Meet with the student who was physically restrained or secluded to discuss: (a) what triggered the student's escalation and (b) what the student and staff can do to reduce the need for physical restraint and/or seclusion in the future.

B. Following the meetings, staff must develop and implement a written plan for response and de-escalation for the student. If a plan already exists, staff must review it and make revisions, if appropriate. For the purposes of this procedure, "de-escalation" is the use of behavior management techniques intended to cause a situation involving problem behavior of a student to become more controlled, calm and less dangerous, thus reducing the risk of injury or harm.

V. PROCEDURE FOR STUDENTS AFTER EVERY THIRD INCIDENT ~~IN A SCHOOL YEAR.~~

The school unit will make reasonable, documented efforts to encourage parent/legal guardian participation in the meetings required in this section, and to schedule meetings at times convenient for parents/legal guardians to attend.

A. Special Education/504 Students

1. After ~~the~~ **every** third incident of physical restraint and/or seclusion in one school year, the student's IEP or 504 Team shall meet within ten (10) school days of the third incident to discuss the incident and consider the need to conduct an FBA (functional behavioral assessment) and/or develop a BIP (behavior intervention plan), or amend an existing one.

2. Schools are not required to hold more than one meeting within any 30-school-day period to address restraints or seclusion, notwithstanding the "after every third incident" standard noted above.

B. All Other Students

1. After every third incident of physical restraint and/or seclusion in one school year, a team consisting of the parent/legal guardian, administrator/designee, a teacher for the student, a staff member involved in the incident (if not the administrator/designee or teacher already invited), and other appropriate staff shall meet within ten (10) school days to discuss the incidents.

2. Schools are not required to hold more than one meeting within any 30-school-day period to address restraints or seclusion, notwithstanding the "after every third incident" standard noted above.

3. The team shall consider the appropriateness of a referral to special education and, regardless of whether a referral to special education is made, the need to conduct an FBA (functional behavior assessment) and/or develop a BIP (behavior intervention plan).

VI. CUMULATIVE REPORTING REQUIREMENTS

A. Reports within the School Unit

Each building administrator must report the following data on a quarterly and annual basis:

~~1.~~ **2. Physical Restraint**

a. total number of incidents that include the use of physical restraints;

b. the aggregate number of uses of physical restraint;

c. the aggregate number of students placed in physical restraint;

d. the aggregate number of students with disabilities and an individualized education program under state and federal special education laws or a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, placed in physical restraints;

e. the aggregate number of serious physical injuries to students related to physical restraint;

f. the aggregate number of serious physical injuries to staff related to physical restraint;

g. aggregate number of uses of physical restraint;

h. aggregate number of students placed in physical restraint;

i. aggregate number of serious ~~physical~~ **bodily** injuries to students related to the use of restraint **and seclusions**; and

j. aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.

~~2.~~ **1.Seclusion:**

a. total number of incidents that include the use of seclusion;

b. the aggregate number of uses of seclusion;

c. the aggregate number of students placed in seclusion;

d. the aggregate number of students with disabilities and an individualized education program under state and federal special education laws or a plan pursuant to Section 504 federal Rehabilitation Act of 1973, placed in seclusion;

e. the aggregate number of serious physical injuries to students related to seclusion;

f. the aggregate number of serious physical injuries to staff related to seclusion;

B. Superintendent Review of Reports.

1. The superintendent~~/designee~~ **or chief administrator** shall review cumulative reports received as set forth in this section and identify those areas that can be addressed to reduce the future use of physical restraint and seclusion. These cumulative reports may be requested by the Department of Education at any time.

C. Reports to Maine Department of Education

Each covered entity shall submit to the department an annual report on incidents of physical restraint and seclusion of students of that covered entity that includes:

~~1.~~ **2.Physical Restraint:**

a. total number of incidents that include the use of physical restraints;

b. the aggregate number of uses of physical restraint;

c. the aggregate number of students placed in physical restraint;

d. the aggregate number of students with disabilities and an individualized education program under state and federal special education laws or a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, placed in physical restraints;

e. the aggregate number of serious physical injuries to students related to physical restraint; **and**

f. the aggregate number of serious physical injuries to staff related to physical restraint.

~~2.~~ **1.Seclusion:**

a. total number of incidents that include the use of seclusion;

b. the aggregate number of uses of seclusion;

c. the aggregate number of students placed in seclusion;

d. the aggregate number of students with disabilities and an individualized education program under state and federal special education laws or a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, placed in seclusion;

e.the aggregate number of serious physical injuries to students related to seclusion; **and**

f. the aggregate number of serious physical injuries to staff related to seclusion;

Legal Reference: 20-A MRSA §§ 4014, 4502(5)(M); 4009
Chapter 33 (Maine Department of Education Rules)

Cross Reference: EBCA – Comprehensive ~~Health and~~ Emergency Management Plan
JKAA – Use of Physical Restraint and Seclusion
JK – Student Discipline
KLG~~/KLG-R~~ – Relations with Law Enforcement **Authorities**
KLG-R - Relations with Law Enforcement Authorities Administrative Procedures

Administrative Procedure Adopted: March 16, 2010
Administrative Procedure Revised: December 14, 2010
Board of Directors Adopted: November 28, 2012
Revised: June 12, 2013
Revised: January 24, 2018
Revised: February 7, 2024

PROGRAMS FOR ~~MULTILINGUAL LEARNERS~~ ENGLISH LEARNERS

~~The Board of Directors recognizes that there may be some students attending RSU No. 5 schools for whom English is not their primary home language, Multilingual Learners. These students may be significantly challenged as they acquire or improve English proficiency at the same time they are learning the knowledge and skills associated with the content standards of the system of Learning Results. In order to ensure equal educational opportunity, the school system will provide a program for students who are limited in English proficiency.~~

~~To that end, the Superintendent/designee shall be responsible for developing and implementing the school unit's "Lau Plan." The Lau Plan will describe:~~

~~A. How students will be identified as being from a non-English language background;~~

~~B. How such students will be assessed to determine their English language proficiency level and their need for support in content areas;~~

~~C. The types of services the school system will provide Multilingual Learners to meet their English language acquisition needs and support in content areas;~~

~~D. How Multilingual Learners will be evaluated for the purpose of determining when to reduce services or exit them from the language support services when they are ready to benefit from an all-English Learning Results aligned curriculum, and how their progress will be monitored after they have stopped receiving Multilingual services; and~~

~~E. How the school system will evaluate the effectiveness and appropriateness of the language support program for Multilingual Learners.~~

~~The Lau Plan will also describe how the school unit will communicate with the parents/guardians of Multilingual Learners parents.~~

~~The school unit will comply with all applicable federal laws and/or regulatory requirements if federal funds or grants are utilized for Multilingual Learners.~~

RSU No. 5 shall provide appropriate programs for English Learners to assist them in attaining English language proficiency and meeting state and local academic achievement standards in compliance with applicable federal and state requirements. The School Department shall also provide for opportunities for parent involvement in their children's education as required by federal law.

The Superintendent is responsible for developing and implementing the school unit's Lau Plan and any necessary administrative procedures. The Superintendent may delegate specific responsibilities to building administrators or others as they deem appropriate.

Legal References: Title VI of the **1964** Civil Rights Act ~~of 1964, 42 U.S.C. § 2000d~~
~~P.L. 107-110 (No Child Left Behind Act of 2001)~~
~~20-A M.R.S.A. § 15670(18)~~
~~Ch. 127 § 3.02 (Me. Dept. of Ed. Rule)~~
~~Commissioner's Administrative Letter No. 24 (December 9, 2003)~~
20 U.S.C. §§ 6312; 6811 et seq.
20-A M.R.S.A. § 4701
Maine Department of Education Rule Chapter 127

Adopted: February 24, 2010
Reviewed: April 25, 2012
Revised: April 26, 2017
Revised: January 25, 2023

NOTE: Although a Board-level policy is not required by law, local Boards that do not already have a policy on this topic may want to consider adopting this sample.

PROGRAMS FOR ENGLISH LEARNERS

The _____ School Department shall provide appropriate programs for English Learners to assist them in attaining English language proficiency and meeting state and local academic achievement standards in compliance with applicable federal and state requirements. The School Department shall also provide for opportunities for parent involvement in their children's education as required by federal law.

The Superintendent is responsible for developing and implementing the school unit's Lau Plan and any necessary administrative procedures. The Superintendent may delegate specific responsibilities to building administrators or others as they deem appropriate.

Legal References: Title VI of the 1964 Civil Rights Act
20 U.S.C. §§ 6312; 6811 et seq.
20-A M.R.S.A. § 4701
Maine Department of Education Rule Chapter 127

PROGRAM FOR ENGLISH LANGUAGE LEARNERS

The Board recognizes the need to provide a program for students who are English language learners in order to assure these students of equal educational opportunity.

To that end, the Superintendent shall be responsible for developing and implementing a "Lau Plan" to meet the needs of students who are English language learners, including procedures for identification, assessment, programming, monitoring or progress, exit/reclassification, follow-up, and parent notification. A Language Assessment Committee shall be appointed to assist in the coordination, oversight and periodic review of the program.

The Lau Plan shall be approved by the Board before it is submitted to the Maine Department of Education.

At the beginning of each school year, **[School unit name]** will notify parents of students identified for or participating in programs for English language learners about the instructional program and parent rights, as required by law. Parents will be regularly informed of their child's progress. Whenever practicable, communications with parents will be in the language understood by the parents.

Legal Reference: 42 U.S.C. § 2000d (Title VI, Civil Rights Act of 1964)
20 U.S.C. § 6801 et seq.
Me. Dept. of Educ. Rule Ch. 127.02

Adopted: _____

PLEASE NOTE MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board's policy development on specific topics. Rarely does one board's policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system.

MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

RSU No. 5 Lau PLAN

RSU No. 5 Multilingual Learners (ML) Program

A Lau Plan, named after the landmark Lau vs. Nichols U.S. Supreme Court Decision of 1974, is an equal access plan that protects Multilingual Learners (ML).

RSU No. 5 does not discriminate against Multilingual Learners (ML). In accordance with the Equal Education Opportunities Act (1974), the School Department makes an effort to do whatever is educationally appropriate to address the English language and educational needs of the Multilingual Learners so that they can participate with their English speaking peers in the educational program of RSU No. 5 schools. Eligible students will be identified and placed in programs and services in accordance with statutory guidelines. RSU No. 5 strives to provide a linguistically and culturally rich teaching and learning environment. It is the policy of RSU No. 5 to comply with all Federal and State laws prohibiting discrimination against students on the basis of all civil rights categories. The district ML services program for will be overseen by the Director of Instructional Support.

Part I: STUDENT ASSESSMENT

A. Identification of Multilingual Learners

The Maine Department of Education conducts an annual home language survey to determine the number of language minority children who are enrolled in Maine schools. Schools collect the completed surveys from the parents/guardians of new kindergarten students and newly transferring students. In order to provide English for Speakers of other Languages (ESOL) services in a timely manner, potential Multilingual Learners should be tested and placed within one month.

RSU No. 5 will use the following instruments to identify Multilingual Learners (MLs):

- Home Language Surveys
- Maine Department of Education (MDOE) approved World-Class Instructional Design and Assessment (WIDA) Screener
- Review of all relevant educational documents and student records
- Teacher observations

B. Assessment for English Language Proficiency

Once a child has been identified as being from a non-English language background or having spent considerable amount of time in a non-English speaking country (and that stay has affected the child's ability to comprehend and express in English), RSU No. 5 will ensure that the following instrument is administered annually to determine the English language proficiency of MLs:

- Annual administration of the ACCESS for MLs English Language Proficiency Test
- Teacher observations and recommendations

C. District Language Assessment Committee (DLAC)

The District Language Assessment Committee (DLAC) is a group of district-wide school staff and parents of students that meets to discuss and develop an appropriate and effective structured ESOL program for Multilingual Learners. The District Language Assessment Committee will:

- Oversee RSU No. 5's ESOL program and advise on identifying, serving, assessing, and exiting a Multilingual Learner from the program.
- Serve to notify parents about upcoming WIDA-ACCESS testing.
- Recommend revisions to the Lau Plan for action by the Superintendent and School Board.

The DLAC will meet twice per year in fall and spring, to review the Multilingual Learner Program, the effectiveness of the program, and to redirect certain instructional activities, if necessary. It is the responsibility of the ESOL teacher to convene the DLAC Committee and schedule meeting dates.

D. A School Language Assessment Committee (LAC) is established at each school to coordinate and oversee the educational program of Multilingual Learners enrolled in the school. LAC members will include the Director of Instructional Support or Building Administrators, classroom teacher(s) and an ESOL teacher.

The **LAC responsibilities** will include the following:

- To make determinations based on either the WIDA-ACCESS, or WIDA Screener about placement, programming services and delivery of services.
- To meet annually, or more frequently if needed, to monitor Multilingual Learner's language and academic progress.
- To meet with school staff to provide information about Multilingual Learners and the ESOL Program.
- To recommend modification of ESOL support services or reclassification of Multilingual Learners.
- To develop an Individual Language Acquisition Plan for each eligible Multilingual Learner.
- To continue annual monitoring for two years after Multilingual Learner's reclassification to full English proficiency.

PART II: STUDENT PLACEMENT (ENTRY AND EXIT)

A. Factors that Affect Program Design

There are many factors that must be considered when determining the most appropriate and effective structured language support program. Some of those factors are:

- Age of the child
- English language proficiency level
- Native or preferred language proficiency level

- ~~Amount of interrupted schooling in the child's background~~
- ~~The amount of native or preferred language literacy skills the child possesses~~
- ~~Complications from trauma associated with refugee status, e.g. histories of war, persecution, resettlement & acculturation~~
- ~~Amount of literacy readiness/exposure in child's background~~

~~B. Classification of Student's English Fluency Level~~

~~The English language proficiency level of language minority students can be translated to classification categories. These categories are:~~

~~Level 1 – Entering~~
~~Level 2 – Beginning~~
~~Level 3 – Developing~~
~~Level 4 – Expanding~~
~~Level 5 – Bridging~~
~~Level 6 – Reaching~~

~~C. Grade-level Placement~~

~~Based on the results of the LAC meeting, the building principal will place the Multilingual Learner in an appropriate grade. An Multilingual Learner will not be placed in a grade level that is more than one year below their chronological age.~~

~~D. Criteria for Reclassification, Transfer and Exit~~

~~If a structured language support program is effective and appropriate, the Multilingual Learner will eventually be: (a) reclassified at a higher level of proficiency, or (b) exited from the structured language support program entirely. Students will be exited from the program based on achieving a WIDA ACCESS composite score of 4.5.~~

~~If and when the child is found to be eligible for reclassification or exit, the LAC will need to monitor the child's academic performance and psychosocial well being after the reclassification or exit is made. In the case of a student who is reclassified, the decreased ESOL instructional time should be monitored in terms of: continued academic success; adjustment to a longer time period in the mainstream classroom; and, instructional needs being met in the structured language support program. In the case of exit from the program, the full mainstreaming should be monitored for academic success; adjustment to the full-time mainstream classroom; and, any emerging language skills needs that may surface once mainstreaming has occurred.~~

~~After a child has been exited from a structured language support program, that child's language performance and growth must be monitored for two years (if the child is still in school). During those two years of monitoring, if the child experiences a pattern of difficulty with language or content skills, the LAC may re-enter the child into the structured language program.~~

In the event that a parent/guardian refuses ESOL services for a student, a signed letter of refusal is to be placed in the student's file. These ESOL services will be offered yearly, and a letter of refusal must be signed annually. The parent may withdraw refusal of services at any time.

PART III: PROGRAM INSTRUCTION

A. Teacher Skills and Credentials

Just as with any other teaching specialization, ESOL teachers require special pedagogies to provide the best services for their students. The State Board of Education in 1988 adopted an ESOL endorsement for teachers. ESOL language support services may be provided in two personnel configurations:

1. An ESOL-endorsed teacher provides direct ESOL instruction

2. An educational technician supervised by an ESOL-endorsed teacher

The presence of an ESOL-endorsed professional is imperative for an effective and appropriate program to be implemented. The recommended configuration is the former; recommended by the Office of Civil Rights and the Maine Department of Education.

B. Service Delivery Models

There are several types of structured language support programs that RSU No. 5 believes can be beneficial to Multilingual Learners. This system's ability to provide some of these programs depends on both availability of native or preferred language-speaking personnel and availability of native or preferred language instructional materials for sheltered content. The keys to an effective and appropriate program choice will include careful consideration of the child's needs, full research into the resources available (personnel, materials), and full understanding of the possible program configurations.

Some of the likely structured language support programs to be used in RSU No. 5 schools will include:

English for Speakers of Other Languages: A structured language learning program or curriculum designed to teach English to students whose native or preferred language is not English. Pullout and push-in services are provided based on individual student's need. Services are provided by or supervised by a State certified teacher endorsed in ESOL.

Sheltered English: An approach that utilizes the simplification of the English language to teach ESOL and subject area content simultaneously (sometimes called "content ESOL"). Although the actual content is the same as that taught to non-Multilingual Learners, key concepts and vocabulary are targeted to fit the Multilingual Learners English language proficiency level.

~~A structured language support program encompassing the above models will be provided in a time allocation that will most benefit the Multilingual Learners. The consideration of many factors must take place when a program is being developed. However, the ultimate goal is to provide effective and appropriate services to the student so that they may benefit fully from and succeed in an education conducted in English.~~

~~The determination of a time allotment for structured language support programs will be made by the Language Assessment Committee with assessment information available.~~

~~PART IV: PROGRAM EVALUATION AND RECORDKEEPING~~

~~In order to ensure the most effective and appropriate structured language support programming for Multilingual Learners, a model for overall program evaluation must be developed and utilized. An annual program evaluation will illustrate the following: attainment of program outcomes; attainment of learner outcomes; school climate and support for the program and children; the quality of instructional materials; the maintenance of information about students; the effectiveness of staff development activities; the amount and effectiveness of mainstream – ESOL collaboration; the effectiveness of school and program communication with parents/guardians; and the implementation of the district's Lau Plan itself approved by its Board.~~

~~In all the procedures involving the identification, assessment, provision of services, and exit from services for Multilingual Learners, thorough record keeping must be implemented and maintained.~~

~~It is the responsibility of the ESOL teacher to maintain accurate files for each Multilingual Learner. Items included in student files (but not limited to) would consist of:~~

- ~~Copy of the Home Language Survey~~
- ~~Copy of the WIDA-ACCESS/MODEL tests~~
- ~~Test scores~~
- ~~Copy of ILAP~~
- ~~Any other pertinent information~~

~~Part V: STATUTE~~

~~Legal Obligation of Schools toward Multilingual Learners~~

~~1. **Civil Rights Act of 1964**~~

~~Title VI: "*No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial Assistance.*"~~

~~2. **US Department of Education Office for Civil Rights Memorandum (1970):**~~

~~"*(1) Where inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.*~~

~~*(2) School districts must not assign national origin minority group students to classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English language skills; nor may school districts deny national origin minority group children access to college preparatory courses on a basis directly related to the failure of the school system to inculcate English language skills.*~~

~~*(3) Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational dead end or permanent track.*~~

~~*(4) School districts have the responsibility to adequately notify national origin minority group parents of school activities, which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.*~~"

~~3. **Lau v. Nichols: U.S. Supreme Court decision of 1974**~~

~~"*No state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by –*~~

~~(f) *the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.*~~"

~~Administrative Procedure Adopted: 4/13/10~~
~~Administrative Procedure Reviewed: 4/3/12~~
~~Adopted by Board: 4/26/17~~
~~Revised: 1/25/23~~

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RSU No. 5 LAU Plan

Table of Contents

Section 1. Introduction 2
- Mission/Definition 2
- Purpose 2

Section 2. Multilingual Learner Identification 3
- Policies and Procedures 3
- English Language Proficiency (ELP) Screeners 4
  - Parent/Guardian Notification and Rights 4

Section 3. Development of Individualized Language Acquisition Programs 5
- General Service Provision Guidelines 5
- Overview of Programming 5
- Individual Language Acquisition Plan (ILAP) 6
  - Multilingual Learners and Special Education 6
  - Immigrants and International Students 7

Section 4. Meaningful and Equitable Access to Academic and Extracurricular Programs 8

Section 5. Equitable Personnel, Facilities, and Materials 8

Section 6. Administration of Annual English Language Proficiency Assessment 9

Section 7. Exit and Monitoring 9

Section 8. Ongoing Program Evaluation 10

Section 9. Meaningful Communication with Parents/Guardians 10

Section 10. Lau Plan Review 11

Section 1: Introduction

- Mission statement.

  RSU 5 To inspire and support every learner by challenging minds, building character, sparking creativity, and nurturing passions.

- ML Definitions

  RSU 5 recognizes the unique paths students take in acquiring English and adapting to new cultural environments. RSU 5 is committed to affirming their identities, recognizing linguistic backgrounds, and leveraging strengths while addressing their individual needs.

- Purpose of plan:

  This Lau Plan outlines RSU 5's procedures and services for identifying, assessing, placing, and supporting MLs from Pre-K through Grade 12. It ensures compliance with federal and state laws while upholding our responsibility to provide equitable access to meaningful, rigorous, and engaging instruction. **The education of Multilingual Learners is a shared responsibility of all RSU 5 educators, working in partnership with families and the community.**

Section 2. Multilingual Learner Identification[1]

To ensure equitable access to learning, schools are required to identify MLs and provide appropriate programming within 30 days of the start of the school year, or within two weeks of a student's enrollment during the school year. Parents/guardians are notified of their child's identification and rights within these timelines and are invited to participate in decisions about their child's education.

RSU 5 follows the monitoring and reidentification guidelines set by the Maine DOE. All students who exit ML status are monitored for continued success and may be rescreened and reentered into ML status if their English proficiency declines.

[1] Elementary and Secondary Education Act of 1965 (ESEA), Section 3111 & Maine DOE, Administrative Letter No. 27 (June 2023) & Guidance on Determining English Learner Status (State policy document)

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Policies and Procedures

Action Required by Federal Law and/or State Policy	Specific Procedure and Responsible Position
Administration of the Maine DOE Language Use Survey	As outlined within Administrative Letter #27, the Language Use Survey is administered to the parent/guardian of every student (pre-kindergarten through twelfth grade) enrolling in an RSU 5 school for the first time. The Language Use Survey is included within the online registration system. If any question is answered with a language other than English, the student is administered an English language proficiency screener.
Translation/interpretation provided to parents/guardians	When a family requires interpretation/translation for completing the online registration, a phone/in-person interpreter is contacted, and a translation of the survey can be provided. School staff are trained annually on the process for securing translation/interpretation.
Referral of all potential MLs for screening	When a potential ML enrolls, school staff notify ESOL teachers to initiate screening and intake.
Administration of English language proficiency (ELP) screener	ESOL teachers administer the appropriate ELP screener within the required time frame. See chart below for details.
Development of individualized program of services	Upon first enrollment in a US school, a thorough intake interview is administered to the student and family to inform the student's placement and services. A Language Acquisition Committee reviews the student's Individual Language Acquisition Plan (ILAP) at least annually

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English Language Proficiency (ELP) Screeners

RSU 5 follows the Maine Multilingual Learner Identification and Placement Guidance, which requires* the following screeners and thresholds:

Grade	ELP Screener	Identification Threshold
pre-K	preLAS*	77 (oral domains only)
1st semester K	WIDA Screener for Kindergarten	Oral language level 4.5
2nd semester K/ 1st semester 1st grade	WIDA Screener for Kindergarten	Overall composite proficiency level 4.5
2nd semester 1st grade through 12th grade	WIDA Screener Online	Overall composite proficiency level 4.5

Parent/Guardian Notification and Rights

If a student is identified as in need of ESOL services, the parents/guardians should be notified no later than 30 days after the beginning of the school year or within 30 days of the child's placement in the program, in accordance with the requirements of ESEA. Parents/guardians should be invited to attend and participate in all meetings pertaining to their child and should be notified of all school activities called to the attention of other families.

Parents/guardians have the right to refuse ESOL services for their child. A parent who does not want their child to have ESOL services is required to sign a Notice for Parent/Guardian Wishing to Decline ESOL Services, which is then placed in the student's permanent record. However, if a parent/guardian refuses ESOL services, meaningful education must still be provided. When a parent/guardian refuses ESOL services, the refusal of ESOL services must be documented, but it does not release the school from its responsibility for providing meaningful education to the ML. If refusal of

ESOL services denies an ML access to a meaningful education, this violates the student's rights. A parent/guardian cannot refuse "education" and if a student cannot access education without ESOL services, then the school must support the academic learning of the student. If an ESOL program is necessary in order to ensure academic progress, then ESOL services must be provided.

Further, even if parents refuse services, all identified MLs must still participate in the annual ACCESS for ELLs assessment. Students and families who refuse services or assessment must have a conversation with a building administrator and ESOL teacher to review the student's rights and the responsibilities of the school to educate and assess the student.

Section 3. Development of Individualized Language Acquisition Programs

General Service Provision Guidelines

Proficiency (as measured by the annual test of ELP*)	Program Type	Amount/Frequency
Level 1 - Beginning	Intensive English Language Development (IELD)	2 class periods/day
Level 2 - Entering	IELD	2 class periods/day
Level 3 - Developing	Cognitive Academic Language Support (CALS)	1 class period/day
Level 4-4.5 - Expanding	CALS	1 class period/day

*English language proficiency screening assessment or ACCESS for ELLs

Overview of Programming

Programming is designed by ESOL staff, in collaboration with other staff, to meet the needs of each individual student, taking into consideration all aspects of their learner profile. The general service provision amount/frequency above are used as a guideline, but amount/frequency of service varies to meet individual student

needs. The ESOL staff will collaborate with grade-level content teachers and other service providers to determine the instructional combination of services deemed most appropriate for each learner.

All MLs must be provided with ESOL services that enable them to meaningfully access the curriculum in order to meet grade-level standards.[2] English language development and content area knowledge are to be acquired simultaneously rather than consecutively. MLs are entitled to ELD services until exiting by demonstrating English language proficiency on ACCESS for ELLs/Alternate ACCESS for ELLs (defined as an overall composite proficiency level score of 4.5 or higher).

ESOL services are to be provided in a way that minimizes the isolation of MLs from the general student population and encourages MLs to participate in all aspects of the school program, including advanced coursework, career and technical education, gifted and talented programs, and extracurricular activities.

Support structures include co-planning between ESOL and general and special education educators, as well as collaboration with intervention specialists to ensure access to grade-level curriculum. These supports may take a variety of forms depending on student need and available staffing, including collaborative lesson design, push-in or pull-out instructional support, co-teaching models, consultation, and integration of language objectives into core content instruction. ESOL teachers may also partner with educational technicians, instructional coaches, or specialists to extend services, provided that such work supplements and does not supplant the role of certified staff. Deployment of these models will be determined collaboratively by administrators, ESOL staff, and other educators in a manner that is consistent with district collective bargaining agreements, while maximizing the use of personnel to meet the diverse linguistic and academic needs of students.

ESOL teachers will maintain a file on each student with copies of all relevant documents (state and local assessment scores, ILAPs, progress reports) in their cumulative files. Student records are also maintained in district-approved electronic systems.

Individual Language Acquisition Plan (ILAP)

Each student's ILAP will outline a personalized action plan for language development. The ILAP is created by the student's team of educators and is updated annually. Each

[2] Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.; Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1703(f)

year, the ILAP is shared with individual students, parents/guardians, and staff directly working with the student. The ILAP is a useful resource which assists all teachers with understanding and effectively meeting the individual student's needs in terms of: English proficiency levels, language goals, modifications, and accommodations.

Factors considered in developing each student's ILAP include but are not limited to:

- Age
- English language proficiency level
- Native or preferred language proficiency level
- Native or preferred language literacy skills/readiness
- Interruptions in schooling
- Complications from trauma associated with refugee status, e.g. histories of war, persecution, resettlement & acculturation

Multilingual Learners and Special Education

RSU 5 is committed to providing equity for all students, from early intervention, response to intervention, referral and identification of services. Through a robust Multi-Tiered System of Support (MTSS), we strive to provide linguistically and culturally responsive core instruction, monitor academic progress, and respond to students' linguistic, academic, and behavioral needs through consistent and continuous support.

When a referral to special education is appropriate, we ensure that cultural, linguistic, and experiential factors are taken into account through a collaborative process involving special education, ESOL, and general educators, as well as families.

Students may qualify for and have legal entitlement to both ESOL and special education services. Appropriate screening is required to determine students' eligibility for each type of service. Depending on a student's learning disability and Individual Education Plan (IEP), universal testing tools or accommodations may be needed in order to measure English language proficiency. When evaluating an ML for learning disabilities, screening must be linguistically and culturally appropriate.

RSU 5 recognizes the importance that IEP Teams for ELs with disabilities include persons with expertise in second language acquisition and/or other professionals, such as speech-language pathologists, who understand how to differentiate between limited English proficiency and a disability. The participation of these individuals on the

IEP Team may be essential in order to develop appropriate academic and functional goals for the child and provide specially designed instruction and the necessary related services to meet these goals.[3]

All students, including immigrant and international students, must be screened for ML status. International students are not exempt from Title I required state academic assessments. In Maine, recently arrived MLs who have been enrolled in a U.S. school for less than 12 months are exempt from one administration of the state's English language arts assessment only.
RSU 5 will continue to follow state and national guidelines as they are developed.

Section 4. Meaningful and Equitable Access to Academic and Extracurricular Programs[4]

English language proficiency is not a prerequisite to participate in general education classes and other school activities, programs or events. All staff—including administrators, ESOL teachers, guidance counselors, coaches, and general education teachers—share responsibility for ensuring MLs have meaningful access to programs. MLs are entitled to equitable access to all academic and extracurricular programs that their schools offer, such as required curriculum, college preparatory classes, Advanced Placement, dual enrollment, gifted and talented, career and technical education, athletics, academic/career counseling, performing and visual arts, clubs, honor societies, and others. MLs with disabilities are entitled to full access to academic and extracurricular programs, with accommodations and supports provided as outlined in their IEP or 504 plan.

Students have equal access to academic and extracurricular activities, including summer programming. Language proficiency levels will not determine a student's eligibility for such programming and activities. RSU 5 will monitor ML participation in advanced courses, specialized programs, and extracurricular activities to ensure equity, and will take corrective action if disparities are identified. Information about these programs is provided through individual school communication from teachers, district leadership, and other staff and community members. All communications will

[3] U.S. Dep't of Educ. & U.S. Dep't of Justice, "Dear Colleague Letter and Q&A on English Learners with Disabilities" (2016).
[4] 34 C.F.R. §§ 100.1–.2 (implementing Title VI); Equal Educational Opportunities Act, 20 U.S.C. § 1703(f); Maine Revised Statutes Annotated, 20-A M.R.S. §§ 4712, 4722-A, 8205, 8402, 5225.

be provided in a language that is understandable to each family, in written and/or oral formats.

As discussed in Section 9 below, RSU 5 ensures that important information about programs is provided to parents/guardians in a language they understand, through written translation and/or oral interpretation.

Section 5. Equitable Personnel, Facilities, and Materials[5]

MLs must be provided with sufficient, qualified teaching staff to meet their language learning and academic content acquisition needs, as well as facilities and materials of comparable quality to those of their non-ML peers.

ESOL services are provided through qualified ESOL teachers, who are certified through the State of Maine 660 ESOL endorsement. Staffing is adjusted according to need and number of students on teacher caseloads. ESOL teachers are available to consult with mainstream teachers and may also provide professional development to staff when possible. The district will review staffing allocations annually, in collaboration with building administrators, to ensure caseloads allow assisting MLs in a manner consistent with this Lau Plan.

ESOL services may be provided by an educational technician who is supervised by an ESOL teacher as long as those services do not supplant the standard curriculum or replace direct services from an ESOL teacher. Educational technicians may provide core ESOL support services only as an emergency, interim measure while the district seeks to secure qualified staffing. If necessary, teachers with conditional certification may be hired if they are actively engaged in obtaining appropriate credentials.

ESOL teachers maintain a classroom/office space in each building where students who are MLs attend. An ESOL program budget line is used to provide MLs with equitable educational materials, comparable to those of their non-ML peers. Students who are MLs have full access to all educational opportunities and materials provided by RSU 5. Facilities provided for MLs will be comparable in quality to those used by non-ML peers, and instructional materials will align with WIDA standards and district curricula.

ESOL staff will participate in decision-making teams for specialized program placement (e.g., gifted/talented, AP, honors, special education), to ensure language and cultural

[5] Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.; Elementary and Secondary Education Act of 1965, Title III, 20 U.S.C. § 6826(c); Castañeda v. Pickard, 648 F.2d 989, 1013 (5th Cir. 1981).

factors are considered and MLs are not excluded from opportunities. RSU 5 recognizes that characteristics of giftedness may present differently in MLs (e.g., code-switching, rapid language acquisition, cross-cultural negotiation, or advanced literacy in the home language) and will ensure these factors are considered during referral and evaluation.

Section 6. Administration of Annual English Language Proficiency Assessment[6]

Federal and state laws require that the English language proficiency of all MLs be measured annually as a component of accountability under the Elementary and Secondary Education Act (ESEA). If a student is identified as an ML, that student must be administered ACCESS for ELLs/Alternate ACCESS for ELLs annually until the student demonstrates English language proficiency. The Maine Department of Education defines English language proficiency as an overall composite proficiency level of 4.5 on ACCESS for ELLs or 4 on Alternate ACCESS for ELLs, as applicable.

State law requires that ACCESS for ELLs/Alternate ACCESS for ELLs be administered only by an individual trained in its administration. It is not required that the individual be an ESOL endorsed teacher. All test administrators must complete WIDA training and certification annually prior to administering ACCESS assessments. The district ACCESS Coordinator will collaborate with school-level ACCESS Coordinators to ensure consistent implementation, compliance, and secure handling of testing materials.

Dually-identified students that qualify for alternate state academic assessments will participate in WIDA Alternate ACCESS for ELLs. For students with significant cognitive disabilities who cannot meaningfully participate in ACCESS even with accommodations, Alternate ACCESS will be administered by the student's special education teacher or another qualified adult familiar with the student's IEP/504 plan.

Parents/guardians may decline ESOL services (see Section 2 above), but the district remains legally obligated to ensure the student receives meaningful access to education.

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[6] Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. § 6311(b)(7); Title III, 20 U.S.C. § 6823(b)(3)(C)–(D); see also Maine DOE, Participation in Alternate Assessments Decision Flowchart; WIDA, Alternate ACCESS for ELLs Participation Criteria Decision Tree.

Section 7. Exit and Monitoring[7]

When a Multilingual learner meets Maine's definition of English language proficiency on ACCESS for ELLs (currently an overall composite proficiency level of 4.5), the student is exited from Multilingual learner status. For students with the most significant cognitive disabilities who take the Alternate ACCESS for ELLs, exit occurs upon reaching Level PL2, provided the student is eligible for Alternate ACCESS under their IEP/504 plan. While the district may choose to continue to provide language support services to students who have demonstrated English language proficiency, such students are no longer classified as MLs and are no longer administered ACCESS for ELLs/Alternate ACCESS for ELLs.

As mentioned previously, RSU 5 follows the monitoring and reidentification guidelines as stated in the Maine DOE Administrative Letter 20 and Guidance On Determining English Learner Status. "After an EL demonstrates English language proficiency by attaining a CPL of 4.5 or higher on ACCESS for ELLs, federal and state regulations require that schools monitor the student's academic progress for two years. If during or after that two-year period a continued need for English language acquisition services becomes apparent, the student must be provided services. Students who have previously exited English learner status may experience a change in English proficiency level at any time. It is essential to monitor the performance of such students in order to ensure that any student who needs English language acquisition support services receives them."

MTSS Building Teams or ESOL teacher/case managers are responsible for reviewing the academic progress of all exited MLs. Monitoring is conducted at least twice annually during the required two-year period, including review of grades, attendance, behavior, and assessment data. After the two-year period, monitoring may continue as needed."

If concerns arise about the academic progress of a monitored student, the student will be referred to the MTSS, which includes an ESOL teacher. The MTSS team determines whether the student's lack of progress is due to language development. If language is identified as a factor after interventions, the student may be referred for re-screening using the WIDA Screener Online or other appropriate tool.

[7] Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. § 6311(b)(7); Title III, 20 U.S.C. § 6823(b)(3)(C)–(D)

Section 8. Ongoing Program Evaluation[8]

RSU 5 strives to provide an equitable and high-quality educational program for all MLs. The effectiveness of ESOL teachers is assessed annually through the district-wide process of teacher evaluation. Longitudinal data collection and analysis methods are provided as needed via the Comprehensive Needs Assessment to ensure that long-term outcomes are comparable to those of students who were never MLs. The following ML data will be reviewed annually, and program modifications will be made as necessary:

- State and local academic assessment scores
- Graduation rate
- ML status exit rate
- Participation in advanced coursework (college prep, AP)

Section 9. Meaningful Communication with Parents/Guardians[9]

Families not only have a right to meaningful communication, but also RSU 5 recognizes families as an essential partner in the education of their children. Communication must be two-way, asset-based, and culturally responsive in order to fully engage families. Engaged families are a key to success for individual students and the community as a whole.

Therefore, RSU 5 ensures meaningful communication with families in a language they can understand through a variety of means, including on-demand video and phone interpretation, contracted interpretation and translation services, and automated translation of school communications through an online platform. RSU 5 identifies interpretation and translation needs of parents and guardians, in part, through the multilingual intake process.

Essential communications provided to parents/guardians may include, as applicable, information about federal and ESOL programs, special education and related services (including IEP meetings), grievance procedures, nondiscrimination notices, student discipline policies, registration and enrollment, report cards, permission slips, parent-teacher conferences, handbooks, gifted and talented programs, magnet and

[8] Castañeda v. Pickard, 648 F.2d 989, 1014–15 (5th Cir. 1981).
[9] Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.; Elementary and Secondary Education Act of 1965, Titles I & III, 20 U.S.C. §§ 6301 et seq., 6801 et seq.

charter schools, health and wellness information, and any other school or program choice options.

Section 10. Lau Plan Review

RSU 5 conducts an annual review of the Lau Plan to ensure alignment with updated federal and state policies, as well as to ensure that it reflects current practices and procedures within the district. The review process will be led by the Assistant Superintendent, in collaboration with other staff and community stakeholders as needed. The Lau Plan will be shared annually with the School Board for its awareness near the beginning of each academic year. In addition to this annual review and reporting, RSU 5 will engage in continuous monitoring of the Lau Plan's 7efficacy and maintain a formal schedule for considering substantive revisions at least once every three years, or more frequently if required by changes in law or district practice.

Legal References

The following non exhaustive list provides legal references for consideration in conjunction with this Lau Plan:

I. **Title VI of the Civil Rights Act of 1964** prohibits discrimination on the basis of national origin in programs or activities which receive federal financial assistance.

II. **Equal Education Opportunities Act of 1974** prohibits states from denying equal educational opportunity to an individual on account of his or her race, color, sex or national origin. The statute specifically prohibits states from denying equal educational opportunity by the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

III. **Elementary and Secondary Education Act** (ESEA), reauthorized in 2015 as the Every Student Succeeds Act (ESSA), holds state educational agencies, local educational agencies, and schools accountable for increases in English language proficiency and core academic content knowledge of Multilingual Learners (MLs). It requires states to implement yearly student academic assessments that include, at minimum, academic assessments in mathematics and reading or language arts. Title I of the ESEA also requires that states

provide for an annual assessment of English language proficiency (listening, speaking, reading, writing, and comprehension in English) of all students identified as MLs in schools served by the state.

Supreme Court Decisions

- **Lau vs. Nichols (1974)** ruled that providing the same access to curriculum, instruction and materials for MLs as is provided to English dominant students is not, in effect, equitable.
- **Plyler vs. Doe (1981)**: Public schools must serve all students regardless of immigration status.
- **Castañeda vs. Pickard (1981)** ruled that schools must take "appropriate action" to address the needs of MLs. Programs designed to address the needs of ML's must (1) be based on sound theory, (2) be implemented with adequate resources, and (3) be evaluated for effectiveness in helping students overcome language barriers.

More recent cases, including *Horne v. Flores (2009) (examining adequacy of state funding and structured English immersion programs)*, and ongoing federal enforcement actions (e.g., *United States v. Texas*), reaffirm that districts must ensure not only theoretical compliance but actual program effectiveness, with sufficient staffing, resources, and monitoring.

BULLYING AND CYBERBULLYING PREVENTION IN SCHOOLS

~~The Board believes that bullying, including cyberbullying, is detrimental to student well-being and to student learning and achievement. It interferes with the mission of the schools to educate their students and disrupts the operations of the schools. Bullying affects not only students who are targets but also those who participate in and witness such behavior.~~

~~**Bullying Prohibited**~~

~~Bullying, including "cyberbullying," harassment and sexual harassment is not acceptable conduct in RSU5 and is prohibited.~~

~~Retaliation for the reporting of incidents of such behavior is also prohibited.~~

~~In adopting this policy, it is not the Board's intent to prohibit students from expressing their ideas, including religious, political and philosophical views that may offend the sensibilities of others, or from engaging in civil debate. However, the Board does not condone and will take action in response to conduct that directly interferes with students' rights at school under applicable laws or with the educational mission, operations, discipline or general welfare of the schools.~~

I. Introduction

It is our goal for our school[s] to be a safe and secure learning environment for all students. It is the intent of the RSU No. 5 Board to provide all students with an equitable opportunity to learn. To that end, the Board has a significant interest in providing a safe, orderly, and respectful school environment that is conducive to teaching and learning.

Bullying and other forms of peer mistreatment are detrimental to the school environment as well as student learning, achievement and well-being. Peer mistreatment interferes with the mission of the schools to educate their students and disrupts the operations of the schools. Bullying and other forms of peer mistreatment affect not only students who are targets but also those who participate in and witness such behavior. These behaviors must be addressed to ensure student safety and an inclusive learning environment.

It is not the Board's intent to prohibit students from expressing their ideas, including ideas that may offend the sensibilities of others, or from engaging in civil debate. However, the Board does not condone and will take action in response to conduct that interferes with students' opportunity to learn, the educational mission of the [School Unit Name] schools, and the operation of the schools.

II. Prohibited Behavior

The following behaviors are prohibited:

1. **Bullying;**
2. **Cyberbullying;**
3. **Harassment and Sexual Harassment (as defined in board policy ACAA);**

4. **Retaliation against those reporting such defined behaviors; and**
5. **Making knowingly false accusations of bullying behavior.**

Any person who engages in any of these prohibited behaviors that constitutes bullying shall be subject to appropriate disciplinary actions.

~~**Definition of Bullying**~~

III. Bullying and Cyberbullying Defined

"Bullying" and "cyberbullying" have the same meaning in this policy as in Maine law:

~~**Bullying**~~

A. "Bullying" includes, but is not limited to, a written, oral or electronic expression or a physical act or gesture or any combination thereof directed at a student or students that:

~~A.~~ **(1)** Has, or a reasonable person would expect it to have, the effect of:

~~1.~~ **(a)** Physically harming a student or damaging a student's property; or

~~2.~~**(b)**Placing a student in reasonable fear of physical harm or damage to ~~his/her~~ **the student's** property;

OR

~~B.~~ **(2)** Interferes with the rights of a student by:

~~1.~~ **(a)** Creating an intimidating or hostile educational environment for the student; or

~~2.~~ **(b)** Interfering with the student's academic performance or ability to participate in or benefit from the services, activities or privileges provided by the school; ~~or~~

OR

~~C.~~ **(3)** Is based on:

~~a.~~ A student's actual or perceived ~~characteristics identified in~~

~~5 MRSA § 4602 or 4684-A (including~~ race, color, ancestry, national origin, ~~sex,~~ sexual orientation; gender identity or expression; religion; physical or mental disability~~)~~ or **any** other distinguishing ~~personal~~ characteristics ~~(such as socioeconomic status; age; physical appearance; weight; or family status);~~ or **is based on**

~~b.~~ ~~A~~ **a** student's association with a person with one or more of these actual or perceived characteristics ~~or any other distinguishing~~

~~characteristics;~~ and that has the effect described in subparagraph ~~A.~~ **(1)** or ~~B.~~ **(2)** above. **(These behaviors might also meet the criteria for harassment as defined in board policy ACAA: Harassment and Sexual Harassment of Students.)**

~~Under Maine law:~~

~~"Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression.~~

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

Examples of conduct that may constitute bullying include, but are not limited to:

1. **Repeated or pervasive taunting, name-calling, belittling, mocking, put-downs, or demeaning humor;**
2. **Behavior that is likely to harm someone by damaging or manipulating his or her relationships with others, including but not limited to gossip, spreading rumors, and social exclusion;**
3. **Non-verbal threats and/or intimidations such as use of aggressive, menacing, or disrespectful gestures;**
4. **Threats of harm to a student, to his/her possessions, or to other individuals, whether transmitted verbally or in writing;**
5. **Blackmail, extortion, demands for protection money, or involuntary loans or donations;**
6. **Blocking access to school property or facilities;**
7. **Stealing or hiding books, backpacks, or other possessions;**
8. **Stalking; and**
9. **Physical contact or injury to another person or his/her property.**

~~Cyberbullying~~

B. "Cyberbullying" means bullying through the use of technology or any electronic communication, including but not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted by the use of any electronic device including, but not limited to, a computer, telephone, cellular telephone, text messaging device ~~or~~ **and** personal digital assistant.

Examples of conduct that may constitute cyberbullying include, but are not limited to the following actions on any electronic medium:

1. **Posting slurs or rumors or displaying any defamatory, inaccurate, disparaging, violent, abusive, profane, or sexually oriented material about a student on a website, an app, in social media, or any other electronic platform;**
2. **Posting misleading or fake photographs or digital video footage of a student on websites or creating fake websites or social networking profiles in the guise of posing as the targeted student;**

3. **Impersonating or representing another student through the use of that other student's electronic device or account to send e-mail, text messages, instant messages (IM), phone calls or other messages on a social media website;**
4. **Sending e-mail, text messages, IM, or leaving voice mail messages that are mean or threatening, or so numerous as to bombard the target's e-mail account, IM account, or cell phone; and**
5. **Using a camera phone or digital video camera to take and/or send embarrassing or "sexting" photographs of other students.**

~~**Definition of Harassment and Sexual Harassment**~~

~~Harassment includes but is not limited to verbal abuse based on race, color, sex, religion, ancestry or national origin, sexual orientation, disability (or other protected class.)~~

~~Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors or pressure to engage in sexual activity, physical contact of a sexual nature, gestures, comments, or other physical, written or verbal conduct that is gender-based that interferes with a student's education.~~

~~**Definition of Retaliation**~~

C. "Retaliation" means an act or gesture against a student for asserting or alleging an act of bullying. "Retaliation" also includes ~~reporting that is not made in good faith on an act of bullying.~~ **knowingly falsely reporting an act of bullying.**

D. "Substantiated" means that the outcomes of the investigation on the Responding Form (JICK-E2) provide clear evidence to prove that bullying or cyberbullying, as defined in policy, did occur.

E. "Alternative discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior.

IV. Application of Policy

A. This policy applies to any student, school employee, contractor, visitor or volunteer who engages in conduct that constitutes bullying or retaliation, all of whom have the responsibility to comply with this policy.

B. This policy applies to bullying that:

~~A.~~ 1. Takes place at school or on school grounds, ~~at any school-sponsored or school-related activity or event or while students are being transported to or from school or school-sponsored activities or events; or~~ **meaning: a school building; property on which a school building or facility is located; and property that is**

owned, leased or used by a school for a school-sponsored activity, function, program, instruction or training. "School grounds" also includes school-related transportation vehicles.

2. Takes place while students are being transported to or from schools or school-sponsored events;

3. Takes place at any school-sponsored event, activity, function, program, instruction or training; or

~~B.~~ **4.** Takes place elsewhere or through the use of technology, but only if the bullying also infringes on the rights of the student at school as set forth in ~~the~~ **this policy's** definition of "bullying."

~~**Consequences for Policy Violations**~~

~~**Students**~~

~~Students who violate this policy may be subject to disciplinary action which may include suspension, expulsion or a series of graduated consequences including alternative discipline or other behavioral interventions.~~

~~The Board retains the right to impose disciplinary consequences for bullying and other conduct that occurs at any time or place that substantially disrupts the instructional program, operations of the schools or welfare of students.~~

~~Any student violating this policy may also be subject to civil or criminal penalties.~~

~~**School Employees and Others**~~

~~Administrators, professional staff and all other employees who violate this policy may be subject to disciplinary action up to and including dismissal, and in accordance with any applicable collective bargaining agreements.~~

~~Volunteers, contractors and visitors who violate this policy will be barred from school property until the Superintendent is satisfied that the person will comply with Maine's bullying law and this policy.~~

~~Any person violating this policy may also be subject to civil or criminal penalties.~~

~~Any school-affiliated organization that authorizes or engages in bullying or retaliation is subject to forfeiture of Board approval/sanctioning and/or suspension or revocation of its permission to operate on school grounds.~~

~~**Staff Training**~~

~~RSU5 will provide professional development and staff training in bullying prevention and response.~~

~~**Delegation of Responsibility**~~

~~The Superintendent will designate the school principal and/or other school personnel to be responsible for implementation/enforcement of this policy and associated procedures on the school level.~~

~~The Superintendent/designee will be responsible for developing and implementing procedures in accordance with applicable law to implement this policy.~~

~~**Dissemination of Policy**~~

~~This policy, any associated administrative procedures and the names of the person(s) responsible for implementing the policy/procedure at the school level will be provided, in writing to students, parents, school employees and volunteers in handbooks, and on the school unit's website and by such other means (if any) as may be determined by the Superintendent.~~

V. Reporting
Refer to the Reporting Form – JICK-E1

Bullying or suspected bullying is reportable in person or in writing (including anonymously) to school personnel.

A. School staff, coaches and advisors for extracurricular and cocurricular activities are required to report alleged incidents of bullying to the school principal or other school personnel designated by the superintendent. Any other adult working or volunteering in a school will be encouraged to promptly report observed or suspected alleged incidents of bullying to the building principal or school personnel designated by the superintendent.

B. Students who are believed to have been bullied or are aware of incidents of bullying are strongly encouraged to report this behavior to a staff member or school administrator.

C. Parents and other adults who believe that an incident of bullying has occurred are encouraged to report this behavior to a staff member or school administrator.

D. Acts of reprisal or retaliation against any person who reports an alleged incident of bullying are prohibited. Any student who is determined to have knowingly falsely accused another of bullying shall be subject to disciplinary consequences.

VI. Responding
Refer to the Responding Form – JICK-E2

The school principal or a superintendent's designee will:

A. Promptly [OR: within ___ days] investigate and respond to allegations of bullying behavior;

B. Keep written documentation of all allegations of bullying behavior and outcomes of the investigations, and report alleged and substantiated incidents to the superintendent;

C. Inform parent(s) or guardian(s) of the student(s) who was alleged to have bullied AND of the student(s) who was believed to have been bullied that a report of an alleged incident of bullying has been made;

D. Communicate to the parent(s) or guardian(s) of a student(s) who was believed to have been bullied the measures being taken to ensure the safety of the student(s) who was believed to have been bullied and to prevent further acts of bullying;

E. Inform parent(s) or guardian(s) of the students involved the findings of the investigation and actions to be taken;

F. Communicate with local or state law enforcement agency if it's believed that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act may be appropriate.

VII. Remediation
Refer to the Remediation Form – JICK-E3

The school principal or a superintendent's designee will:

A. Identify the specific nature(s) of the incident.

B. Apply disciplinary actions, which may include but are not limited to, imposing a series of graduated consequences that include alternative discipline. In determining the appropriate response to students who engage in bullying behavior, school administrators should consider the type of behaviors, the frequency and/or pattern of behaviors, and other relevant circumstances. Alternative discipline includes, but is not limited to:

1. **Meeting with the student and the student's parents/guardian;**
2. **Reflective activities, such as requiring the student to write an essay about the student's misbehavior;**
3. **Mediation, but only when there is mutual conflict between peers, rather than one-way negative behavior, and both parties voluntarily choose this option;**
4. **Counseling;**
5. **Anger management;**
6. **Health counseling or intervention;**
7. **Mental health counseling;**
8. **Participation in skills building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;**
9. **Community service; and**
10. **In-school detention or suspension, which may take place during lunchtime, after school or on weekends.**

C. Remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, which may include referring the victim, perpetrator or other involved persons to counseling or other appropriate services.

VIII. Appeal

Notification shall be provided to parent(s), guardian(s) and students of the right to appeal a decision of a school principal or a superintendent's designee related to taking or not taking remedial action in accordance with this policy. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent.

IX. Assignment of Responsibility

A. The School Board is responsible for:

1. **Annually providing written versions of this policy and related procedures to students, parent(s) and guardian(s), volunteers, administrators, teachers and school staff;**

2. **Posting this policy and related procedures on the school administrative unit's publicly accessible website; and**

3. **Including in student handbooks a section that addresses in detail this policy and related procedures.**

B. The superintendent is responsible for:

1. **Oversight, implementation, and enforcement of this policy and its procedures;**

2. **Designating a school principal or other school personnel to administer the policies at the school level;**

3. **Developing a procedure for publicly identifying the superintendent's designee or designees for administering the policies at the school level;**

4. **Ensuring that the prohibition on bullying and retaliation and the attendant consequences apply to any student, school employee, contractor, visitor or volunteer who engages in conduct that constitutes bullying or retaliation;**

5. **Ensuring that any contractor, visitor, or volunteer who engages in bullying is barred from school grounds until the superintendent is assured that the person will comply with the policies of the school board;**

6. **Ensuring that any organization affiliated with the school that authorizes or engages in bullying or retaliation forfeits permission for that organization to operate on school grounds or receive any other benefit of affiliation with the school;**

7. **Providing professional development and staff training in the best practices in prevention of bullying and harassment and implementation of this policy;**

8. **Filing the SAU policy that addresses bullying and cyberbullying with the Maine Department of Education; and**

9. **Ensuring that substantiated incidents of bullying and cyberbullying are reported to the Maine Department of Education on at least an annual basis.**

Legal Reference: **20-A M.R.S.A. § 254 (11-A)**
20-A M.R.S.A. § 1001(15), 6554
Maine Public Law, Chapter 659

Cross Reference: AC - Nondiscrimination, Equal Opportunity
ACAA - Harassment and Sexual Harassment of Students
ACAA-R - Harassment and Sexual Harassment of Students
ACAD - Hazing
AD - Educational Mission and Vision
ADAA - School System Commitment to Standards for Ethical and Responsible Behavior
~~ADF - School District Commitment to Learning Results~~
CHCAA - Student Handbooks
GCI - Professional Staff Development Opportunities
IJNDB-R - Student Technology, Internet Use, and Internet Safety Rules
JI - Student Rights and Responsibilities
JIC - Student Code of Conduct
JICC - Student Conduct on Buses
JICIA - Weapons, Violence and School Safety
JK - Student Discipline
JKD - Suspension of Students
JKE - Expulsion of Students
JRA-R - Student Education Records and Information Administrative Procedures
KLG - Relations with Law Enforcement Authorities

Adopted: July 8, 2009
Revised: March 27, 2013
Revised: April 29, 2020

BULLYING AND CYBERBULLYING ADMINISTRATIVE PROCEDURE

This procedure is intended as guidance for **the** school ~~administrators~~ **principal or superintendent's designee** ~~in carrying out their responsibilities when bullying is alleged to have occurred. It provides important definitions as well as steps for reporting, investigating and responding to allegations of bullying.~~ **to address an alleged bullying incident. Definitions, as well as steps for reporting, responding to, and remediating allegations of bullying, are provided.**

~~Bullying~~ ~~b~~**B**ehavior alleged to be based on **a targeted student's actual or perceived** race, color, ancestry, national origin, sex, sexual orientation(**including gender identity and expression**), religion or disability should be addressed under the ~~procedures set forth in the~~ Student Harassment and Sexual Harassment procedure, ACAA-R~~, rather than under this procedure.~~

Definitions

The following terms are defined in Maine Public law, Chapter 659 and 20-A M.R.S.A. §6554:

A. "Bullying" includes, but is not limited to, a written, oral or electronic expression or a physical act or gesture or any combination thereof directed at a student or students that:

(1) Has, or a reasonable person would expect it to have, the effect of:

(a) Physically harming a student or damaging a student's property; or

(b) Placing a student in reasonable fear of physical harm or damage to the student's property;

OR

(2) Interferes with the rights of a student by:

(a) Creating an intimidating or hostile educational environment for the student; or

(b) Interfering with the student's academic performance or ability to participate in or benefit from the services, activities or privileges provided by a school;

OR

(3) Is based on a student's actual or perceived race, color, national origin, ancestry, religion, physical or mental disability, gender, sexual orientation, or any other distinguishing characteristic, or is based on a student's association with a person with one or more of these actual or perceived characteristics, and that has the effect described in subparagraph (1) or (2) above.

"Bullying" includes cyberbullying.

B. "Cyberbullying" means bullying through the use of technology or any electronic communication, including, but not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted by the use of any electronic device, including, but not limited to, a computer, telephone, cellular telephone, text messaging device and personal digital assistant.

C. "Retaliation means" an act or gesture against a student for asserting or alleging an act of bullying. "Retaliation" can also include knowingly false reporting of bullying.

D. "School grounds" means a school building; property on which a school building or facility is located; and property that is owned, leased or used by a school for a school-sponsored activity, function, program, instruction or training. "School grounds" also includes school-related transportation vehicles.

E. "Alternative discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior.

~~**Bullying Reports**~~

~~**Students and Parents/Guardians**~~

~~Students who believe they have been bullied, or who have witnessed or learned about an act of bullying should report this behavior to the building principal.~~

~~Parents/guardians may report bullying on behalf of their children or when they have witnessed or are aware of the occurrence of bullying.~~

~~Reports of bullying may be made anonymously.~~

~~Any student who has been determined to have knowingly made a false report of bullying will be subject to disciplinary consequences.~~

~~No disciplinary action shall be taken against a student unless the report has been substantiated.~~

~~**School Employees**~~

~~For the purposes of this procedure, "school employees" includes coaches, advisors for cocurricular or extracurricular activities and volunteers.~~

~~All school employees are expected to intervene when they see acts of bullying in progress and are required to report incidents of bullying they have witnessed or become aware of to the building principal as soon as practicable.~~

School employees who fail to report bullying or who have made a false report of bullying will be subject to disciplinary consequences up to and including termination, in accordance with any applicable collective bargaining agreement.

Others

Contractors, service providers, visitors or community members who have witnessed or become aware of bullying are encouraged to report such incidents to the building principal.

Form of Reports

Complaints or reports of bullying may be made orally or in writing, but all reports will be recorded in writing by school personnel authorized to receive complaints or reports, using the school unit's reporting form (JICK-E1).

School employees are required to make reports of bullying to the principal in writing. Although students, parents and others, as identified above, may make bullying reports anonymously, all persons reporting incidents of bullying are encouraged to identify themselves.

The building principal will forward a copy of the report to the Superintendent by the end of the next school day.

Interim Measures

The building principal may take such interim measures as they deem appropriate to ensure the safety of the targeted student and prevent further bullying and will inform the parents of the targeted student of measures taken.

Investigation

The principal will ensure that all reports of bullying and retaliation are investigated promptly and that documentation of the investigation, including the substance of the complaint or report and the outcome of the investigation is prepared and forwarded to the Superintendent within a reasonable period of time.

The determination of whether particular conduct constitutes bullying requires reasonable consideration of the circumstances, which include the frequency of the behavior at issue, the location in which the behavior occurs, the ages and maturity of the students involved, the activity or context in which the conduct occurs, and the nature and severity of the conduct.

Response to Bullying by Students

If bullying has been substantiated, the building principal or designee as appropriate under the circumstances will determine the appropriate disciplinary consequences, which may include detention, suspension or expulsion; alternative discipline; remediation; and/or other intervention.

~~In order to remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, the principal may consider the following alternatives, which include but are not limited to:~~

~~A. Meeting with the student and the student's parents/guardians;~~

~~B. Reflective activities, such as requiring the student to write an essay about the student's misbehavior;~~

~~C. Mediation when there is mutual conflict between peers, rather than one-way negative behavior, and when both parties freely choose to meet;~~

~~D. Counseling;~~

~~E. Anger management;~~

~~F. Health counseling or intervention;~~

~~G. Mental health counseling;~~

~~H. Participation in appropriate social emotional cognitive skill building and resolution and restorative conferencing;~~

~~I. Community service; and~~

~~J. In-school detention or suspension, which may take place during lunchtime, after school or on weekends.~~

~~If the bullying behavior appears to be a criminal violation, the building principal will notify local law enforcement authorities.~~

~~If bullying has been substantiated, the building principal will provide written notification to:~~

~~A. The parents/guardians of the targeted student, including the measures being taken to ensure the student's safety; and to~~

~~B. The parents/guardians of the student found to have engaged in bullying, including the process for appeal.~~

~~All communications to parents must respect the confidentiality of student and employee information as provided by federal and Maine law and regulations.~~

~~Appeals~~

~~Any appeal of the building principal's decisions in regard to consequences for bullying must be submitted, in writing, within 14 calendar days of the parental notification. The~~

~~Superintendent will review the investigation report and actions taken and decide whether to sustain or deny the appeal. The Superintendent's decision shall be final.~~

Reports of Bullying

Bullying or suspected bullying is reportable in person or in writing (including anonymously) to school personnel using the school unit's Reporting Form (JICK-E1).

School staff, coaches and advisors for extracurricular and cocurricular activities are required to report alleged incidents of bullying to the school principal or other school personnel designated by the superintendent. Any other adult working or volunteering in a school will be encouraged to promptly report observed or suspected alleged incidents of bullying to the building principal or school personnel designated by the superintendent.

Students who are believed to have been bullied or are aware of incidents of bullying are strongly encouraged to report this behavior to a staff member or school administrator.

Parents and other adults who believe that an incident of bullying has occurred are encouraged to report this behavior to a staff member or school administrator.

Acts of reprisal or retaliation against any person who reports an incident of bullying are prohibited. Any student who is determined to have knowingly falsely accused another of bullying shall be subject to disciplinary consequences.

Reports of alleged bullying may be made anonymously, except by school staff, coaches and advisors, but in no instance will disciplinary action be taken against any person or organization affiliated with the schools solely on the basis of an anonymous report.

The school principal or superintendent's designee will forward a copy of the completed Reporting Form to the superintendent.

Safety Measures

The school principal or superintendent's designee will communicate to the parent(s) or guardian(s) of the student(s) who was believed to have been bullied the measures being taken to ensure the safety of the student who was believed to have been bullied and to prevent further acts of bullying.

These measures are documented on the Responding Form (JICK-E2)

Responding/Investigation

The school principal or superintendent's designee will:

- **Ensure that all reports of alleged bullying are investigated and responded to promptly [OR: within ___ days] and that documentation of the investigation is provided to the superintendent within a reasonable period of time using the Responding Form (JICK-E2).**

- **Inform parent(s) or guardian(s) of the student(s) who was alleged to have bullied AND of the student(s) who was believed to have been bullied that a report of an alleged incident of bullying has been made;**

- **Communicate to the parent(s) or guardian(s) of a student(s) who was believed to have been bullied the measures being taken to ensure the safety of the student(s) who was believed to have been bullied and to prevent further acts of bullying;**

- **Inform parent(s) or guardian(s) of the students involved the findings of the investigation and actions to be taken;**

- **Communicate with local or state law enforcement agency if it's believed that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act may be appropriate.**

Remediation

If it is determined that there is a substantiated incident of bullying, the school principal or superintendent's designee will:

- **Determine the specific nature(s) of the incident, alternative discipline actions, and appropriate consequences;**

- **Complete the Remediation Form (JICK-E3);**

- **Provide a copy of the Remediation Form to the superintendent; and**

- **Assure that the substantiated incident of bullying is reported to the Maine Department of Education.**

Appeal

The parent(s) or guardian(s) and student must be notified of the right to appeal the school principal's or superintendent's designees' decision related to taking or not taking remedial action as identified in the appeals procedure established by the school board.

Cross Reference: ACAA-R – Student Harassment and Sexual Harassment Procedure
JICK – Bullying **and Cyberbullying Prevention in Schools**
JRA-R – Student Education Records and Student Information

Adopted: March 27, 2013
Revised: April 29, 2020