



School Employee and Third Party Harassment and Complaint Procedure - ACAB-R

This procedure has been adopted by the Board in order to provide a method of prompt and equitable resolution of employee complaints of discrimination and harassment as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAB – Harassment and Sexual Harassment of School Employees. This procedure may also be used by other individuals (excluding students), such as parents, volunteers and vendors to the schools who wish to make a complaint of discrimination or harassment. Complaints alleging harassment or discrimination against students based on protected status should be addressed through the Board’s Student Discrimination and Harassment Complaint Procedure (ACAA-R).

Definitions

For purposes of this procedure:

- A. “Complaint” is defined as an allegation that an employee or other third party has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, age, religion, ancestry, national origin, genetic information or disability.
- B. “Discrimination or harassment” means discrimination or harassment on the basis of race, color, sex, sexual orientation, age, religion, ancestry, national origin, genetic information or disability. “Discrimination” may include treating individuals differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected class. “Harassment” may include oral, written, graphic, electronic or physical conduct relating to an individual’s actual or perceived membership in a protected class that is sufficiently severe, pervasive or persistent so as to interfere with or limit that individual’s ability to participate in the school unit’s programs or activities by creating a hostile, intimidating or offensive environment. The term “sexual orientation” under state law means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.”
- C. Whenever the term “employee” is used in this procedure it includes other third parties who are making a complaint of discrimination or harassment.

How to Make a Complaint

- A. Any employee who believes he/she has been harassed or discriminated against is encouraged to

try to resolve the problem by informing the individual(s) that the behavior is unwelcome or offensive and by requesting that the behavior stop. This shall not prevent the employee, however, from making an immediate formal complaint.

- B. Any employee who believes he/she has been harassed or discriminated against should report their concern promptly to his/her Supervisor (at the Principal/Director/Coordinator level). If the employee is uncomfortable reporting concerns to his/her Supervisor, he/she may report the concern to the Affirmative Action Officer. Written reports are preferred, but not required.

Employees who are unsure as to whether unlawful discrimination or harassment has occurred, or who need assistance in preparing a written complaint, are encouraged to discuss their concerns with his/her Supervisor (at the Principal/Director/Coordinator level) or Affirmative Action Officer. Employees will not be retaliated against for reporting suspected discrimination or harassment, or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary measures, up to and including dismissal.

Any employee who believes he/she has been discriminated against or harassed is encouraged to utilize the school unit's complaint procedure. However, employees are hereby notified that they also have the right to report incidents of discrimination or harassment to the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, Regional Director, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02110-1491 (telephone: 617-289-0111).

Complaint Handling and Investigation

- A. The Supervisor will promptly inform the Affirmative Action Officer and the Superintendent that a complaint has been made.
- B. The Affirmative Action Officer shall promptly inform the person(s) who is the subject of the complaint that a complaint has been made.
- C. The confidentiality of the complainant and the individual(s) against whom the Complaint is filed will be respected to the extent possible, consistent with school unit's legal obligations, including the necessity to investigate allegations of discrimination and/or harassment, to take appropriate disciplinary action, and to ensure the safety of the school community
- D. A Supervisor, in consultation with the Affirmative Action Officer, may pursue an informal resolution of the complaint with the agreement of the parties involved. Any party to the complaint may decide to end the informal resolution process and pursue the formal process at any point. The informal resolution is subject to the approval of the Superintendent, who shall consider whether the resolution is in the best interest of the school unit and the parties in light of the particular circumstances and applicable policies and laws.

- E. The complaint will be investigated by the Affirmative Action Officer unless the Superintendent designates another person to investigate it on his/her behalf. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the chairperson of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.
1. The person who is the subject of the complaint will be provided with an opportunity to be heard as part of the investigation. The complainant shall not be required to attend meetings with the person who is the subject of the complaint, but may choose to do so as part of the resolution process.
 2. The complainant and the subject of the complaint may suggest witnesses and/or submit materials they believe are relevant to the complaint.
 3. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.
 4. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
 5. The Affirmative Action Officer shall keep a written record of the investigation process.
 6. School administration may take interim remedial measures (consistent with any applicable collective bargaining agreement provisions), approved by the Superintendent, to reduce the risk of further discrimination or harassment while the investigation is pending. An example of a remedial measure is ordering no contact between the individuals involved.
 7. The designated investigator shall use a preponderance of the evidence standard (i.e. more likely than not) when evaluating the evidence and shall consult with the Affirmative Action Officer (if not the investigator) and Superintendent concerning the investigation and conclusions.
 8. The investigation shall be completed within 21 calendar days of receiving the complaint, if practicable.
 9. If it is determined that discrimination or harassment occurred, the Affirmative Action Officer shall, in consultation with the Superintendent:
 - (i) Determine what remedial action, if any, is needed to end the discrimination or harassment, remedy its effects and prevent recurrence; and

(ii) Determine what disciplinary action should be taken against the person(s) who engaged in discrimination or harassment, if any.

10. The Affirmative Action Officer shall, within five business days, inform the complainant and the subject of the Complaint in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).

11. After the conclusion of the investigation, the employee who made the Complaint or the subject of the Complaint may seek an appeal of the findings solely on the basis of either (a) prejudicial procedural error or (b) the discovery of previously unavailable relevant evidence that could significantly impact the outcome. Appeals must be submitted in writing to the Superintendent within 14 calendar days after receiving notice of the resolution. Upon receipt of a valid appeal, the Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. The Superintendent's decision on the appeal shall be provided within 21 calendar days, if practicable. The Superintendent's decision shall be final.

Legal Reference: Americans with Disabilities Act (28 CFR § 35.07)
Section 504 of the Vocational Rehabilitation Act (34 CFR § 104.7)
Title IX of the Educational Amendments of 1972 (34 CFR § 106.8(b))
Age Discrimination in Employment Act (34 CFR § 110.25)
Maine Human Rights Act (5 MRSA § 4571 et seq., 4681 et seq.)

Cross Reference: AC - Non Discrimination/Equal Opportunity and Affirmative Action
ACAB - Harassment and Sexual Harassment of School Employees
JICK - Bullying

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