

EMPLOYEE DISCRIMINATION & HARASSMENT COMPLAINT PROCEDURE		File: ACAB-R
Section A: Foundations and Basic Commitments	Adopted: 2/3/2005	Last Revised: February 6, 2020

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.

Definitions

For purposes of this procedure:

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

How to Make a Complaint

- A. Any employee who believes they have 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 they have been discriminated against or harassed should report their concern promptly to Executive Director. If the employee is uncomfortable reporting concerns to Executive Director, they may report the concern to the Director of Operations and Human Resources.

Employees who are unsure as to whether unlawful discrimination or harassment has occurred are encouraged to discuss their concerns with Executive Director. Employees will not be retaliated against for reporting suspected discrimination or harassment.
- C. Any employee who believes they have 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, ME 04333 (telephone: 207-624-6050) and/or to the U.S. Department of Education, Office for Civil Rights/ED, 5 Post Office Square, Suite 900, Boston, MA 02109-3921 (telephone: 617-223-9622; TDD: 877-521-2172; fax: 617-289-0150).

Complaint Handling and Investigation

- A. Executive Director will promptly inform the Executive Director and the person who is the subject of the complaint that a complaint has been received.
- B. Executive Director may pursue an informal resolution of the complaint with the agreement of the parties involved. The informal resolution is subject to the approval of the Executive Director, who shall consider whether the informal resolution is in the best interest of the school unit in light of applicable policies and law.

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- C. The complaint will be investigated by Executive Director, unless the Executive Director chooses to investigate the complaint or designates another person to investigate it on his/her behalf. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Executive Director should be submitted to the Chair of the School 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.
 2. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.
 3. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
 4. The Affirmative Action Officer shall keep a written record of the investigation process.
 5. The Affirmative Action Officer may take interim remedial measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further harassment while the investigation is pending.
 6. The Affirmative Action Officer shall consult with the Executive Director concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
 7. The investigation shall be completed within 21 calendar [**OR: business**] days of receiving the complaint, if practicable.
- D. If the Affirmative Action Officer determines that discrimination or harassment occurred, they shall, in consultation with the Executive Director:
1. Determine what remedial action is required, if any;
 2. Determine what disciplinary action should be taken against the person(s) who engaged in harassment, if any; and
 3. Inform the employee who made the complaint in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- E. If the employee who made the complaint is dissatisfied with the resolution, they may appeal to the Executive Director within 14 business days after receiving notice of the resolution. The Executive Director shall review the investigation report and may conduct further investigation if deemed appropriate. The Executive Director's decision shall be final.
- F. If the employee is dissatisfied with the decision of the Executive Director, they may appeal to the Board within 14 business days after receiving notice of the Executive Director's decision.

The Board will consider the appeal in executive session, at its next regular meeting or a special meeting. The Executive Director shall submit to the Board their decision, the complaint, any responses, the investigation report and related documents. The complainant shall be allowed to be heard. The person(s) against whom the Complaint was made shall be invited and allowed to be heard. If present, the complainant's representative and the representative of the person(s) against whom the complaint was made will also be given the opportunity to be heard.

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After reviewing the Executive Director’s submissions and hearing from the parties, the Board shall make a decision as to whether to affirm or modify the Executive Director’s conclusions. The Board’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 – Nondiscrimination Equal Opportunity and Affirmative Action
ACAB – Harassment and Sexual Harassment of School Employees

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