

BREWER SCHOOL DEPARTMENT AFFIRMATIVE ACTION PLAN

I. GENERAL POLICY STATEMENT

A. Statement of nondiscrimination

Brewer School Department does not discriminate on the basis of race, age, color, ancestry or national origin, religion, sex, sexual orientation, genetic information, or physical or mental disability in admission to, access to, treatment in or employment in its programs and activities. The School Board has adopted a nondiscrimination policy (see Appendix A).

B. Compliance with anti-discrimination laws

Brewer School Department recognizes its obligation to comply with the provisions of the Equal Employment Opportunity Act of 1972 (P.L. 92-261), amending Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.); Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); the Maine Human Rights Act of 1972 as amended (5 M.R.S.A. § 4551 et seq.); Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.); the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. § 621 et seq.); the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794 et seq.); the Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.); the Genetic Information Nondiscrimination Act (42 U.S.C. § 2000ff); 20-A MRSA §6554 (Prohibition on Bullying); and MHR/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4 (Equal Educational Opportunity).

C. Contacts for inquiries or complaints

To make an inquiry or file a complaint concerning the above statement, an individual may contact one of the following:

Gretchen Gardner
Affirmative Action Officer
Brewer School Department
261 Center Street, Brewer, ME 04412
207-989-3160

Boston Office
Office for Civil Rights
U.S. Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921

Telephone: (617) 289-0111; TDD: (877) 521-2172
Maine Human Rights Commission
State House Station 51
Augusta, ME 04333
Telephone: (207) 624-6290

D. Complaint procedures

Employee and student complaint procedures are available which provide for the prompt and equitable resolution of complaints alleging discrimination and harassment based on race, age, color, ancestry or national origin, religion, sex, sexual orientation, genetic information, or physical or mental disability. Copies of the complaint procedures will be made available to any interested person upon request at the Superintendent or Affirmative Action Officer's office. The complaint procedures can also be accessed from the Brewer School Department's website at the following link: www.breweredu.org/supt/policies

II. DISSEMINATION PROCEDURES: NOTICE AND POSTING

A. General notice and posting

Notice of the contents of the Affirmative Action Plan shall be provided to all employees and students at the beginning of each school year by means chosen by the Superintendent.

Notice of Brewer School Department's compliance with anti-discrimination laws shall be:

1. Posted in a conspicuous and accessible place in all school buildings of the school unit;
2. Included on job postings, advertisements and application forms which are made available to applicants and on enrollment forms made available to students and their parents;
3. Distributed to all personnel responsible for recruiting and screening applicants, and selecting, hiring and promoting employees;
4. Published annually on the school department's website.

B. Annual notice of employee harassment and sexual harassment policy/complaint procedure

A copy of the Employee Harassment and Sexual Harassment Policy and Complaint Procedure in Appendix B shall be distributed annually to all school unit employees

C. Posting on sexual harassment and employment discrimination

Workplace posters on sexual harassment and employment discrimination shall be posted in conspicuous and accessible places in school buildings where notices to employees are customarily posted.

D. Copies of Affirmative Action Plan available

A copy of this Affirmative Action Plan, including all appendices, shall be made available to any interested person upon request at the office of the Superintendent or Affirmative Action Officer. The Plan can also be accessed from Brewer School Department's website at www.breweredu.org

III. TRAINING

A. Gender equity training

Brewer School Department is responsible for developing plans for in-service training programs on gender equity for teachers, administrators and the School Board.

B. Sexual harassment training

Brewer School Department shall conduct education and training programs on sexual harassment: (1) for all new employees within one year of commencement of employment, and (2) for supervisory and managerial employees within one year of commencement of supervisory or managerial employment status.

IV. RESPONSIBILITY FOR IMPLEMENTATION

A. The Superintendent of Schools holds ultimate responsibility for the operation, oversight and success of Brewer School Department's Affirmative Action Plan and nondiscrimination policies. These responsibilities will be delegated in whole or in part to an Affirmative Action Officer who is appointed by and reports directly to the Superintendent.

B. The responsibilities of the Affirmative Action Officer include, but are not limited to, the following:

1. Managing the organization and implementation of the Affirmative Action Plan;
2. Disseminating the required notices, policies and information regarding federal and state anti-discrimination laws to employees, applicants, students and parents, and others, where applicable;

3. Maintaining records, reports and documents required to comply with federal and state recordkeeping requirements;
 4. Coordinating Brewer School Department's efforts to comply with and carry out its responsibilities under all applicable federal and state anti-discrimination laws (including serving as the Title IX/ADA/Section 504/Age Discrimination Coordinator as required by those laws);
 5. Conducting and/or coordinating the investigation of discrimination complaints based on race, age, color, ancestry or national origin, religion, sexual orientation, sex, genetic information, or physical or mental disability;
 6. Reporting to the Superintendent when necessary any findings and recommendations for ensuring compliance with the Affirmative Action Plan;
 7. Developing, coordinating and implementing plans for in-service gender equity training programs;
 8. Developing, coordinating and implementing sexual harassment training programs for employees and supervisors.
- C. Each person charged with recruiting, screening, selecting, hiring and/or promoting applicants or employees in Brewer School Department must adhere to the policy of nondiscrimination and equal employment opportunity established in the Affirmative Action Plan.

V. ASSESSMENT OF CURRENT WORKFORCE: UTILIZATION ANALYSIS

Brewer School Department shall periodically assess the numbers of minorities, women and persons with disabilities in its workforce, and determine where imbalances exist. Such assessment will determine whether there is underutilization of a particular gender or minority or of persons with disabilities in different job categories in the school unit.

The term "underutilization" is defined by the Office of Federal Contract Compliance as having fewer minorities or women in a particular job classification than would reasonably be expected by their availability in the job market where an employer can reasonably expect to recruit new employees. In determining whether underutilization in the workforce exists, the school unit shall consider relevant local workforce statistics, the school unit's workforce profile, the nature and validity of its job classifications, and the number, frequency and category of vacancies.

VI. GOALS, PROCEDURES AND TIMETABLES

If an assessment determines that imbalances exist in Brewer School Department's workforce with respect to numbers of minorities, women and persons with disabilities, the school unit will develop realistic goals for necessary action and related procedures and timetables for correcting such imbalances.

The following goals, procedures and timetables have been adopted to increase the representation of minorities, women and persons with disabilities at all levels and in all segments of Brewer School Department's workforce where imbalances exist:

1. Recruitment:

It is the intent of the Brewer School Department to ensure equal access to all employment opportunities.

Goal/Objective: Brewer School Department will make continued efforts to recruit all segments of the population in the State of Maine, including women, minorities and persons with disabilities. Responsibility: Affirmative Action Officer. Timetable: Ongoing.

2. Selection:

Hiring of personnel is done through established policies and procedures, with interviews being monitored by the Superintendent for compliance with the Affirmative Action Plan.

Goal/Objective: When vacancies arise in job classifications where women, minorities or persons with disabilities are underrepresented, the Superintendent will review interview questions prior to contacting candidates to ensure that the school unit presents an equal employment opportunity. Responsibility: Superintendent. Timetable: Ongoing.

3. Wage and Salary Standards:

Job classifications and wage and salary standards are based solely upon the knowledge, skills, and abilities required by the position.

Goal/Objective: Creation of new or upgrading of existing job classifications will be discussed with the Affirmative Action Officer prior to implementation. Responsibility: Superintendent. Timetable: Ongoing.

4. Complaint Procedure:

Internal and external complaints of discrimination will be treated seriously and promptly by the Brewer School Department.

Goal/Objective: All discrimination complaints shall be processed in accordance with established complaint procedures. Responsibility: Affirmative Action Officer. Timetable: Ongoing.

5. Reasonable Accommodation for Applicants and Employees with disabilities:

It is the Brewer School Department's intent to provide reasonable accommodation to applicants and employees with disabilities consistent with the requirements of the Americans with Disabilities Act and the Maine Human Rights Act.

Goal/Objective: Periodically review and assess hiring procedures and implementation of employee leave policies for compliance with the Americans with Disabilities Act and the Maine Human Rights Act.

Responsibility: Affirmative Action Officer and Superintendent. Timetable: Ongoing.

VII. RECRUITING AND HIRING OF ADMINISTRATIVE STAFF PROCEDURE

The School Board has adopted a policy and procedure concerning the recruitment and hiring of administrative staff. The procedures are based upon the "Model Administrative Hiring Procedure" published by the Maine Department of Education in its "Final Report of the Equity Board," April 1991 (see Appendix E).

APPENDIX A

Policy AC

NON-DISCRIMINATION /EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

Discrimination against and harassment of school employees because of race, color, sex, sexual orientation, religion, ancestry or national origin, age, disability or genetic information are prohibited. Discrimination against and harassment of students because of race, color, sex, sexual orientation, religion, ancestry or national origin, or disability are prohibited. The term “sexual orientation” under state law means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.”

The Brewer School Committee directs the Superintendent to implement a continuing program designed to prevent discrimination against all applicants, employees, students and other individuals having access rights to school premises and activities. The Brewer School Department Affirmative Action Plan will include designation of an Affirmative Action Officer who will be responsible for ensuring compliance with all federal and state requirements relating to nondiscrimination. The Affirmative Action Officer will be a person with direct access to the Superintendent.

The Brewer School Committee directs the Superintendent to implement internal complaint procedures for resolving complaints of discrimination under this policy and to provide adequate notice of the availability of such complaint process.

The Brewer School Committee directs the Superintendent to provide notice of compliance with federal and state civil rights laws to all applicants for employment, employees, students, parents and other interested persons, as appropriate.

Legal Reference:

Equal Employment Opportunity Act of 1972 (P.L. 92-261) amending
Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000(e) et seq.)
Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.)
Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
Age Discrimination in Employment Act of 1967 (29 U.S.C. §621 et seq.)
Equal Pay Act of 1963 (29 U.S.C. § 206)
Section 504 of the Rehabilitation Act of 1973 (Section 504)(29 U.S.C. § 794 et seq) as amended
Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), as amended
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. §2000ff et seq.)
Maine Human Rights Act (5 MRSA § 4551, et seq.), as amended

Cross Reference:

Brewer School Department Affirmative Action Plan
ACAA - Harassment and Sexual Harassment of Students
ACAA-R – Student Discrimination and Harassment Complaint Procedure
ACAB - Harassment and Sexual Harassment of School Employees
ACAB-R - Employee Discrimination Harassment Complaint Procedure

APPENDIX B

Policy ACAB

HARASSMENT AND SEXUAL HARASSMENT OF SCHOOL EMPLOYEES

Harassment of school employees because of race, color, sex, sexual orientation, religion, ancestry or national origin, age, genetic information or disability is prohibited. Such conduct is a violation of Brewer School Committee policy and may constitute illegal discrimination under state and federal laws. The term “sexual orientation” under state law means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.”

Harassment

Harassment includes but is not limited to verbal abuse, threats, physical assault and/or battery based on race, color, sex, sexual orientation, religion, ancestry or national origin, age, genetic information or disability. Under the Maine Civil Rights Act, violence or threats of violence against a person or their property based on their sexual orientation are also illegal.

Sexual Harassment

Unwelcome sexual advances, suggestive or lewd remarks, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an employee’s work environment or employee benefits;
- B. Submission to or rejection of such conduct by an employee is used as the basis for decisions on employment benefits; and/or
- C. Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.

Any employee who engages in harassment or sexual harassment will be subject to disciplinary action, up to and including discharge.

All complaints of harassment will be investigated in accordance with the Employee & Third Party Discrimination and Harassment Complaint Procedure.

Notice and Training

Annually, each employee shall receive a copy of this policy and the Employee & Third Party Discrimination and Harassment Complaint Procedure. This may be accomplished by including the policy/procedure with employee paychecks or by using other appropriate means to ensure that each employee receives a copy. All newly hired employees shall be

provided training about sexual harassment in accordance with Maine law.

The Superintendent is responsible for ensuring that the school unit complies with all legal requirements for posting, notification and training of employees regarding harassment and sexual harassment.

Legal Reference:

Title IX of the Education Amendments of 1972 (20 USC § 1681 et seq.)

Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)

Americans with Disabilities Act (42 USC § 12101 et seq.) as amended

Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 USC § 794 et seq.) as amended

Title VII of the Civil Rights Act of 1964 (42 USC § 2000e et seq.; 29 CFR § 1604.11)

Age Discrimination in Employment Act (29 USC § 623)

Genetic Information Nondiscrimination Act of 2008 (42 USC § 2000ff et seq.)

5 MRSA § 4681 et seq.

26 MRSA §§ 806-807

Cross Reference:

ACAB-R - Employee & Third Party Discrimination and Harassment Complaint Procedure

AC - Nondiscrimination/Equal Opportunity and Affirmative Action

ACAD - Hazing

**EMPLOYEE & THIRD PARTY DISCRIMINATION AND HARASSMENT
COMPLAINT PROCEDURE**

This procedure has been adopted by the Committee 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 a protected status should be addressed through the School Committee’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; and
- 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 discriminated against or harassed should report their concern promptly to the Principal or Assistant Principal. If the employee is uncomfortable reporting concerns to the Principal or Assistant Principal, 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 are encouraged to discuss their concerns with the Principal, Assistant Principal 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, ME 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 Principal, Assistant Principal or Affirmative Action Officer will promptly inform the Superintendent and the person who is the subject of the complaint that a complaint has been received.
- B. The Principal, Assistant Principal or 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 informal resolution is in the best interest of the school unit and the parties in light of the particular circumstances and applicable policies and laws.
- C. The complaint will be investigated by The Principal, Assistant Principal or 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 Chair of the School Committee, 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 Principal, Assistant Principal or Affirmative Action Officer shall keep a written record of the investigation process.
 6. The Principal, Assistant Principal or 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. An example of a remedial measure is ordering no contact between the individuals involved.
 7. The Principal, Assistant Principal or Affirmative Action Officer shall consult with the Superintendent concerning the investigation, conclusions, and any remedial or disciplinary actions.
 8. The investigation shall be completed within 21 business days of receiving the complaint, if practicable.
- D. If the Principal, Assistant Principal or Affirmative Action Officer determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:
1. Determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect and prevent recurrence; and
 2. Determine what disciplinary action should be taken against the person(s) who engaged in discrimination or harassment, if any
- E. 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).
- F. 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 business days after receiving the notice of 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 business days, if practicable. The Superintendent's decision shall be final.

Legal Reference:

Americans with Disabilities Act (42 USC § 1201 et seq., as amended 28 CFR § 35.107)

Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 USC § 794 et seq., as amended; 34 CFR § 35.07)

Title IX of the Educational Amendments of 1972 (20 USC § 1681 et seq.; 34 CFR § 106.8(b))

Age Discrimination in Employment Act (29 USC § 623 et seq.; 34 CFR § 110.25)

Maine Human Rights Act (5 MRSA § 4571 et seq., 4681 et seq.)

26 MRSA §§ 806-807

Cross Reference:

AC - Nondiscrimination/Equal Opportunity and Affirmative Action

ACAB - Harassment and Sexual Harassment of School Employees

APPENDIX C

Policy ACAA

HARASSMENT AND SEXUAL HARASSMENT OF STUDENTS

Harassment of students because of race, color, sex, sexual orientation, religion, ancestry or national origin, or disability is prohibited. Such conduct is a violation of Committee policy and may constitute illegal discrimination under state and federal laws. The term “sexual orientation” under state law means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.”

Harassment

Harassment includes but is not limited to verbal abuse based on race, color, sex, sexual orientation, religion, ancestry or national origin, or disability. Harassment that rises to the level of physical assault, battery and/or abuse and bullying behavior are also addressed Committee Policies JICIA – Weapons, Violence, School Safety and JICK – Bullying.

Sexual Harassment

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, graphic, electronic or verbal conduct that is gender-based that interferes with a student’s education. School employees, fellow students, volunteers and visitors to the school, and other persons with whom students may interact in order to pursue school activities are required to refrain from such conduct.

Harassment/sexual harassment of students by school employees is considered grounds for disciplinary action, up to and including discharge. Harassment/sexual harassment of students by other students is considered grounds for disciplinary action, up to and including expulsion. The Superintendent will determine appropriate sanctions for harassment of students by persons other than school employees and students.

The Superintendent or the employees designated as the Title IX Coordinator or Affirmative Action Officer will investigate complaints of harassment in accordance with the Student Discrimination and Harassment Complaint Procedure. School employees, students, and parents shall be informed of this policy/procedure through handbooks and/or other means selected by the school administration.

Legal Reference:

Americans with Disabilities Act (28 CFR § 35.07), as amended
Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended; 34 CFR § 104.7
Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.)
Title VI of the Civil Rights Act of 1964 (42 USC § 2000(d))
5 MRSA § 4551 et seq.
20-A MRSA § 6553
MHR/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

Cross Reference:

ACAA-R – Student Harassment Complaint Procedure

AC – Nondiscrimination/Equal Opportunity and Affirmative Action

ACAD – Hazing

JFCK – Student Use of Cellular Telephones and Other Electronic Devices

JICIA – Weapons, Violence and School Safety

JICK - Bullying

APPENDIX C (cont.)

Regulation ACAA-R

STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

This procedure has been adopted by the Committee in order to provide a method of prompt and equitable resolution of student complaints of discrimination or discriminatory harassment as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAA – Harassment and Sexual Harassment of Students.

Definitions

For purposes of this procedure:

- A. A “Complaint” is defined as an allegation that a student has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, or disability; and
- B. “Discrimination or harassment” means discrimination or harassment on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, 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. Discrimination on the basis of sex shall include acts of “sexual violence,” which refers to acts of physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. “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 the individual’s ability to participate in the school unit’s programs or activities by creating a hostile, intimidating or offensive educational environment. The term “sexual orientation” under state law means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.”
- C. Complaints of bullying not involving the protected classes described above may be pursued under Brewer School Department Policy JICK – Bullying.

How to Make a Complaint

- A. Any individual who believes that a student has been discriminated against or harassed should report their concern promptly to the building principal and utilize this complaint procedure. Written reports are preferred, but not required. Individuals who are unsure whether discrimination or harassment has occurred, or who need assistance in preparing a written complaint, are encouraged to discuss the situation with the building administrator.
- B. School staff is expected to report possible incidents of discrimination or harassment of students to the building principal. Parents and other adults are

also encouraged to report any concerns about possible discrimination or harassment of students.

- C. Students and others will not be retaliated against for making a complaint or participating in an investigation. Retaliation is illegal under state and federal nondiscrimination laws and any retaliation by students or school staff will result in disciplinary measures, up to and including expulsion or dismissal.
- D. Students are encouraged to utilize the school unit's complaint procedure. However, students are hereby notified that they also have the right to report complaints to the police, Maine Human Rights Commission, 51 State House Station, Augusta, ME 04333 (telephone: 207-624-6290) and/or to the federal office for Civil Rights, Regional Director, U.S. Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921 (telephone: 617-289-0111).

Complaint Handling and Investigation

- A. The Principal and/or Assistant Principal shall respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed to the extent possible, consistent with the 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.
- B. The Principal and/or Assistant Principal shall promptly inform the Superintendent and the person(s) who is the subject of the complaint that a complaint has been received.
- C. The Principal and/or Assistant Principal may pursue a prompt and equitable informal resolution of the complaint with the agreement of the parties involved. Any party to the complaint may decide to end an 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 informal resolution is in the best interest of the parties and the school unit in light of the particular circumstances and applicable policies and laws.
- D. The complaint will be investigated by the Principal and/or Assistant Principal, 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 Chair of the School Committee, 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 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 witness and/or submit materials they believe are relevant to the complaint.
3. If the complaint is against an employee of the school unit, any applicable individual or collective bargaining contract provisions shall be followed.
4. The Principal and/or Assistant Principal shall keep a written record of the investigation process.
5. The Principal and/or Assistant Principal may take interim remedial measures to facilitate the Complainant's access to school programs and activities, and reduce the risk of further discrimination or harassment while the investigation is pending. Examples of interim measures include, but are not limited to, ordering no contact between individuals, changing schedules or classes, etc.
6. The Principal and/or Assistant Principal shall use a preponderance of the evidence standard (i.e. more likely than not) when evaluating the evidence and shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
7. The investigation shall be completed within 21 business days of receiving the complaint, if practicable.
8. If the Principal and/or Assistant Principal determine that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:
 - A. Determine what remedial action is required, if any, is needed to end the discrimination or harassment, remedy its effects and prevent recurrence; and
 - B. Determine what disciplinary action should be taken against the person(s) who engaged in discrimination or harassment, if any.
9. 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).
10. After the conclusion of the investigation, the Complainant 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 business days of receiving notice of the outcome of the investigation. 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 in writing to the parties within 21

business days, if practicable. The Superintendent's decision shall be final.

Legal Reference:

Americans with Disabilities Act (42 USC §12101 et seq., as amended; 28 CFR § 35.107)
Section 504 of the Vocational Rehabilitation Act of 1973 (Section 504) (29 USC § 794 et seq., as amended; (34 CFR § 104.7)

Title IX of the Education Amendments of 1972 (20 SC § 1681 et seq.; 34 CFR § 106.8)

Title VI of the Civil Rights Act of 1964 (42 USC § 2000d) 20 USC § 1232g; 34 CFR Part 99

MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

20-A MRSA §§ 6001 et seq.

20-A MRSA § 6554

Cross Reference:

AC - Nondiscrimination/Equal Opportunity and Affirmative Action

ACAA - Harassment and Sexual Harassment of Students

APPENDIX D

Policy ACAD

HAZING

Maine law defines injurious hazing as “any action or situation, including harassing behavior that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in a public school.”

Injurious hazing activities of any type, either on or off school property, by any student, staff member, group or organization affiliated with the Brewer School Department, are inconsistent with the educational process and shall be prohibited at all times.

“Harassing behavior” includes acts of intimidation and any other conduct that recklessly or intentionally endangers the mental or physical health of a student or staff member.

“Acts of intimidation” include extortion, menacing, direct or indirect threats of violence, incidents of violence, bullying, statements or taunting of a malicious and/or derogatory nature that recklessly or intentionally endanger the mental or physical health of another person, and property damage or theft.

No administrator, faculty member, or other employee of the Brewer School Department shall encourage, permit, condone, or tolerate injurious hazing activities. No student, including leaders of student organizations, shall plan, encourage, or engage in injurious hazing activities.

Students who violate this policy may be subject to disciplinary action which may include suspension, expulsion or other appropriate measures. Administrators, professional staff, and all other employees who violate this policy may be subject to disciplinary action up to and including dismissal.

In the case of an organization affiliated with the Brewer School Department that authorizes hazing, penalties may include rescission of permission for that organization to operate on school property or to receive any other benefit of affiliation with the Brewer School Department.

Persons not associated with the Brewer School Department who fail to abide by this policy may be subject to ejection from school property and/or other measures as may be available under the law.

These penalties shall be in addition to any civil or criminal penalties to which the violator or organization may be subject.

The Superintendent/designee shall be responsible for administering this policy. In the event that an individual or organization disagrees with an action – or lack of action – on the part of the Superintendent/designee as he/she carries out the provisions of this policy, that individual or organization may appeal to the School Committee. The ruling of the School Committee, with respect to the provisions of this policy, shall be final.

This right to appeal does not apply to student suspensions of 10 days or less or to matters submitted to grievance procedures under applicable collective bargaining agreements.

A copy of this policy shall be included in all school, parent, and employee handbooks or otherwise distributed to all school employees and students.

Legal Reference:

20-A MRSA § 6553

Cross Reference:

ACAA – Harassment and Sexual Harassment of Students

ACAB – Harassment and Sexual Harassment of Employees

JICIA – Weapons, Violence and School Safety

APPENDIX E

Policy GCFB

RECRUITING AND HIRING OF ADMINISTRATIVE STAFF

The School Committee affirms its commitment to the strict prohibition of discrimination in employment on the basis of race, national origin, religion, sex, age, or disability, and to the principle of affirmative action to obtain wide and representative candidate pools.

In accordance with 20-A MRSA, § 1001(13), the Superintendent shall prepare a procedure designed to ensure nondiscriminatory practice in recruitment and hiring all positions requiring administrator certification, as well as to result in selection of the most qualified candidates. This procedure shall be attached hereto as GCFB-R, and shall be reviewed periodically.

Moreover, upon each occasion of administrative vacancy, the Superintendent shall review the procedure and make appropriate adaptations as may be warranted by special circumstances. In the case of a vacancy in the Superintendentcy, the School Committee shall review the procedure, adapting as appropriate.

In accordance with 20-A MRSA, § 4502 (4-A), the unit's Affirmative Action Plan shall include a description of the status of the unit's nondiscriminatory administrator hiring practice and plans for in-service training programs on gender equity for teachers, administrators and the School Committee.

Legal Reference:

5 MRSA § 4576

20-A MRSA §§ 6, 254.8-10, 256.1,7, 1001.13, 4502.4A, 13011.6, 13019.1D, 13019-B.1C

Cross Reference:

AC – Nondiscrimination/Equal Opportunity and Affirmative Action

GCFB-R – Recruiting and Hiring of Administrative Staff Administrative Procedures

APPENDIX E (cont.)

Regulation GCFB-R

RECRUITING AND HIRING OF ADMINISTRATIVE STAFF ADMINISTRATIVE PROCEDURE

These procedures implement School Committee policy GCFB and are designed to establish a thorough, efficient and nondiscriminatory practice for the recruiting and hiring of the most qualified candidates for administrative positions.

A. Job Description Development/Review

To ensure that a written role description of the vacant position accurately represents the current functions and needs, the Superintendent/designee (the Board in a Superintendent search) is to:

1. Conduct a review of (if none exists, develop) the job description, with input from persons affected by the position;
2. Include the criteria (skills, knowledge, abilities) required to perform the duties/responsibilities of the position; and
3. List the minimum qualifications (training, education and experience) for the position.

B. Recruitment

To attract a strong pool of qualified candidates, the Superintendent/designee is to advertise (except in the circumstances described in K below) by:

1. Posting notice of the vacancy within the unit;
2. Placing a display advertisement in appropriate print media, considering at least one appearance in a major Maine weekend or Sunday newspaper; and
3. Identifying and notifying other possible sources of potential candidates, such as professional associations, educational administration programs and placement offices at colleges and universities in Maine and other states, and the Maine Department of Education.

C. Screening

To ensure that a fair and efficient screening process will occur, the Superintendent/designee is to:

1. Ensure that all applications are reviewed by more than one individual, with attention given to an unbiased regard for the criteria and qualifications in the job description;

2. Appoint a screening panel with representation as deemed appropriate to the particular vacancy;
3. Provide orientation on confidentiality and equity issues to screeners;
4. Eliminate all candidates who do not meet the minimum qualifications;
5. Conduct preliminary reference and background checks, as appropriate;
6. Select candidates for interview based on the degree to which they meet the criteria and demonstrate the skills, knowledge and abilities outlined in the job description; and
7. Notify applicants not selected for interview.

D. Interviewing

To ensure that the interview process will be conducted in a legal and proper manner, the Superintendent/designee is to:

1. Appoint an interview panel (may be the same persons who serve the screening function) with representation as deemed appropriate to the particular vacancy;
2. Provide orientation on the process including the function and extent of responsibility of the panel, the weighting of criteria and the nomination/hiring procedure; and
3. Conduct training to ensure that panel members are aware of the legal aspects of interviewing, including confidentiality and equity issues.

The interviewing panel is to:

1. Design interview questions which match the criteria and the duties/responsibilities outlined in the job description; and
2. Provide equal opportunity for the candidates to respond to the same questions/questioners.

E. Selection

The interview panel is to:

1. Individually assess the candidates according to their answers to the job description-related questions, rating and commenting on each using a specially prepared form corresponding to the questions/criteria; and
2. Submit a report to the Superintendent, including the individual rating forms as well as a list (usually 2 to 4) of candidates to be considered further for the position.

The Superintendent/designee is to:

1. Have reference contacts made, as appropriate, to check perceived strengths and weaknesses of the candidates;
2. Review the material on the finalist candidates to determine whether additional information is needed;
3. Conduct final interviews of any or all finalists, as deemed necessary;
4. Select the most qualified candidate who fits the criteria and the duties/responsibilities outlined in the job description, based on his/her own professional judgment along with those of the interview panel (or, reject all finalists, reopen the position and begin the process anew); and
5. Have any further reference checks made, as appropriate.

F. Nomination/Employment

The Superintendent is to:

1. Notify and obtain agreement of the successful candidate, pending Committee approval;
2. Inform the interview panel; and
3. Nominate and employ the successful candidate in accordance with state law and local policies.

G. Notification

The Superintendent/designee may:

1. Notify the nominee of the Committee approval and employ the administrator; and
2. Notify the other candidates interviewed.

H. Orientation and Support

To ensure that the new administrator is provided with the proper information about the system and job expectations, the Superintendent/designee is to provide an orientation that includes expectations of the duties/responsibilities of the position along with the policies and procedures of the local school unit.

I. Record Keeping

To ensure that the confidentiality of employee and applicant records are properly maintained, the Superintendent is to provide for the maintenance in secure files of all applications and documentation of the hiring, screening and interviewing process for a period of three years.

J. Confidentiality

To ensure that confidentiality is maintained throughout and permanently following the hiring process, the Committee, all employees involved, and any other participants are to maintain absolute confidentiality about candidates, including names, in accordance with state law (20-A MRSA § 6101). The Committee is to assume responsibility through the Superintendent for providing adequate orientation at appropriate stages of the process, including at the completion.

K. Hiring of Current Employees

The Brewer School Department may forego one or more of the steps set forth in sections B-E of this procedure and appoint a person who is currently employed by the unit to fill an administrative position only if the Superintendent, after consultation with the School Committee, or the School Committee in a Superintendent search, determines that the following circumstances exist:

1. The currently employed candidate is exceptionally well qualified for the position;
and
2. The decision to forego all or part of the recruitment and screening process will not detract from the goals of this policy.