

Policy Executive Summary

First Reading

March 20, 2023

The following policies and procedures will be presented for a first reading.

AC Nondiscrimination/Equal Opportunity and Affirmative Action

ACAA & ACAA-R Student Discrimination and Harassment

ACAB & ACAB-R Harassment and Sexual Harassment of School Employees

The revised policies and procedures were last updated in 2021. The revisions recognize the Maine Legislature's 2022 enactment of LD 598, *"An Act to Prohibit Discrimination in Employment and School Based on Hair Texture or Hairstyle amending the Human Rights Act."*

Proposed Language Addition to the Policies:

For the purpose of this policy, "race" includes traits associated with race, including hair texture, Afro hairstyles, and protective hairstyles, including braids, twists, and locks.

The following existing policy will be presented for a Second Reading.

Policy BCC Nepotism

Policy BCC is a required policy that was last updated in 2013. It is the intent of this policy to ensure that employment practices comply with Maine's "prohibited appointments and employment" statute, 20-A §MRS 2002 and to avoid favoritism and the appearance of favoritism in employment practices.

Proposed Additions to Policy BCC Nepotism:

The following exceptions for spouses of school committee members for stipend employment and as volunteers are now allowable as the result of LD 1323, enacted as P.L. 242 and signed by the Governor Jun 16, 2021. These exceptions have been added to the policy for your consideration and are not required.

Exceptions for spouses of School Committee members in stipend positions only

The School Committee authorizes the Superintendent to employ a spouse of the member of the School Committee as a stipend employee on a contractual basis when that action is in the best interest of the students and the needs of the Sanford School Department. Such a contract will summarize potential conflicts of interest and describe mitigations of such conflicts.

Such contract will be for one season or one year only, with no guarantee or expectation of continuation.

It is the School Committee's intent that hiring practices for stipend positions discourage favoritism and political patronage and provide qualified applicants a fair opportunity to be selected on merit, with priority consideration given to the best interest without restricts based solely on family association. To that end, the Superintendent/designee will be responsible for developing job descriptions for stipend positions, including relevant qualifications and duties/ responsibilities.

Exceptions for spouses of School Committee members in volunteer positions only

Notwithstanding the preceding paragraph, the Board may permit a Board's member's spouse to serve as a volunteer in the same capacities as other school volunteers. In approving spouses of School Committee members as volunteers, the Superintendent/designee will ensure that practices applicable to approval of school volunteers discourage favoritism and political patronage and provide qualified applicants a fair opportunity to be selected on merit, with priority consideration given to the best interest without restricts based solely on family association. School Committee member spouses who volunteer in schools will be subject to the provision of the board's policy IJOC, School Volunteers.

This exception applies only through June 30, 2024, unless extended by the Maine legislature.

Other Additions to Policy BCC Nepotism:

Definitions

A "stipend employee" means a person who receives limited monetary payment of benefit, through a series of payments or in a lump sum, for personal services performed in an advisory, mentoring, or coaching capacity for the Sanford School Department.

Introductory Paragraph

It is the intent of this policy to ensure that employment practices comply with Maine's "prohibited appointments and employment" statute, 20-A §MRSA 2002 and to avoid favoritism and the appearance of favoritism in employment practices.

Cross References

Cross Reference: BCB – Board Member Conflict of Interest
 GAB – Job Descriptions
 GDA – Support Staff Positions

Recommendation

Policy BCC Nepotism: To accept the Second reading of updated Policy BCC

NONDISCRIMINATION/EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

Discrimination against and harassment of school employees because of **actual or perceived** race, color, sex, sexual orientation, religion, ancestry or national origin, age, familial status, or disability are prohibited. Discrimination against and harassment of students because of race, color, sex, sexual orientation, gender identity or expression, religion, ancestry or national origin, familial status, or disability are prohibited.

For the purpose of this policy, “race” includes traits associated with race, including hair texture, Afro hairstyles, and protective hairstyles, including braids, twists, and locs.

As defined in Maine law and for the purpose of this policy, “sexual orientation” means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.” The term “gender identity” under state law means “the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual’s assigned sex at birth.”

Further, in compliance with Federal law, The Sanford School Committee prohibits discrimination against school unit employees and candidates for employment on the basis of pregnancy, or genetic information.

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

The School Committee directs the administration 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.

The School Department will require all persons, agencies, vendors, contractors, and other persons and organizations doing business with or performing services for the school unit to subscribe to all applicable federal and state laws pertaining to contract compliance.

The Sanford School Department has implemented complaint procedures for resolving complaints of discrimination/harassment and sexual harassment under this policy. The Sanford School Department provides required notices of these complaint procedures and how they can be accessed, as well as the school unit’s compliance with federal and state civil rights laws and regulations to all applicants for employment, employees, students, parents and other interested parties.

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.);
34 C.F.R. Part 106 (Title IX regulations)
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: Sanford School Department Affirmative Action Plan
ACAA - Harassment and Sexual Harassment of Students
ACAA-R – Student Discrimination/Harassment and Title IX Sexual
Harassment Complaint Procedures
ACAB - Harassment and Sexual Harassment of School Employees
ACAB-R-Employee Discrimination/Harassment and Title IX Sexual
Harassment Complaint Procedures
JICK-Bullying
GBGB-Workplace Bullying

Adopted: May 3, 2004 - (AC)
September 9, 1991 (GBA)
Revised: March 19, 2007
Updated: ~~December 20, 2021~~
April 3, 2023

STUDENT DISCRIMINATION AND HARASSMENT

Harassment of students because of race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, or disability is prohibited. Such conduct is a violation of Sanford School Committee policy and may constitute illegal discrimination under state and federal laws.

For the purpose of this policy, “race” includes traits associated with race, including hair texture, Afro hairstyles, and protective hairstyles, including braids, twists, and locs.

The term “sexual orientation” under state law means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.” The term “gender identity” under state law means “the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual’s assigned sex at birth.”

A. Harassment

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

B. Sexual Harassment

Sexual Harassment is addressed under federal and state laws/regulations. The scope and definitions of sexual harassment under these laws, differ, as described below.

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. 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.

C. Title IX Sexual Harassment

Under the Federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit’s education programs and activities:

1. “Quid pro quo” sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a better grade or a college recommendation) on an individual’s participation in unwelcome sexual conduct;

2. “Hostile environment” sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual’s equal access to the school unit’s education programs and activities; or
3. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.

D. Sexual Harassment Under Maine Law

Under Maine law, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a student’s educational benefits;
2. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or
3. Such conduct has the purpose and effect of substantially interfering with a student’s academic performance or creates an intimidating, hostile or offensive environment.

E. Reports and Complaints of Harassment or Sexual Harassment

All school employees are required to report possible incidents of harassment or sexual harassment involving students to the Affirmative Action Officer/Title IX Coordinator. Failure to report such incidents may result in disciplinary action.

Students, parents/legal guardians and other individuals are strongly encouraged to report possible incidents of harassment or sexual harassment involving students to the Affirmative Action Officer/Title IX Coordinator. The Affirmative Action Officer/Title IX Coordinator is also available to answer questions and aid any individual who is unsure whether harassment or sexual harassment has occurred.

All reports and complaints of harassment or sexual harassment against students shall be addressed through the Student Discrimination/Harassment and Title IX Sexual Harassment Procedures (ACAA-R).

Legal Reference: Americans with Disabilities Act (42 USC §12101 et seq., as amended; 28 CFR § 35.107)
Section 504 Of the 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 U.S.C. §1681, et Seq.; 34 CFR § 106.8)
Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)
Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)
Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000 (d))
Maine Human Rights Act, 5 MRSA § 4551 et seq.
20-A MRSA § 6553
MHR/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

Cross References: File: ACAA-R – Student Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures
File: AC – Nondiscrimination/Equal Opportunity and Affirmative Action
File: ACAD-Hazing
File: JFCK – Student Use of Cellular Telephones and Other Electronic Devices
File: JICIA – Weapons, Violence, and School Safety
File: JICK - Bullying

Adoption Date: August 19, 2002
Updated Cross Reference: July 27, 2007
Revised: January 27, 2020, 1st reading
Adopted: February 24, 2020
Updated: ~~August 10, 2020, Adopted August 24, 2020~~
April 3, 2023

STUDENT DISCRIMINATION/HARASSMENT and TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURE

The Sanford School Committee has adopted this procedure in order to provide a method of prompt and equitable resolution of reports and complaints of unlawful discrimination and harassment of students, including sexual harassment, as described in policies AC - Nondiscrimination/Equal Opportunity and Affirmative Action and ACAA - Harassment and Sexual Harassment of Students.

Any individual who is unsure about whether unlawful discrimination or harassment has occurred and/or or which complaint procedure applies is encouraged to contact the Affirmative Action Officer/Title IX Coordinator.

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I. Definitions

For purposes of these complaint procedures, the following definitions will be used. The Affirmative Action Officer/Title IX Coordinator shall assess all reports and complaints to ensure that they are addressed under the appropriate policy and complaint procedure.

A. Discrimination/Harassment Complaint Procedure Definitions

1. “Discrimination or harassment”: Discrimination or harassment on the basis of an individual’s membership in a protected category, which, for students, includes race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locs), color, sex, sexual orientation, gender identity, religion, ancestry, national origin or disability.
2. “Discrimination”: Treating individuals differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected category.
3. “Harassment”: Oral, written, graphic, electronic or physical conduct relating to an individual’s actual or perceived membership in a protected category 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.

4. “Sexual harassment”: Under Maine law, this means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of a student’s educational benefits;
 - b. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or
 - c. Such conduct has the purpose and effect of substantially interfering with a student’s academic performance or creates an intimidating, hostile or offensive environment.
5. “Sexual orientation”: Under Maine law, this means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.”
6. “Gender identity”: Under Maine law, this means “the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual’s assigned sex at birth.”
7. 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, gender identity, religion, ancestry, national origin, or disability (and not otherwise addressed in the Title IX regulations and Section 3 of ACA-R).
8. Complaints of bullying not involving the protected classes described above may be pursued under Board Policy JICK – Bullying and Cyberbullying of Students.

B. Title IX Sexual Harassment Complaint Procedure Definitions

1. “Sexual Harassment”: Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit’s education programs and activities:
 - a. “Quid pro quo” sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a better grade or a college recommendation) on an individual’s participation in unwelcome sexual conduct;

- b. “Hostile environment” sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual’s equal access to the school unit’s education programs and activities; or
 - c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.
- 2. “Report”: Under the Title IX regulations, any individual may make a report of sexual harassment involving a student, whether the individual is the alleged victim or not. School employees are required to report possible incidents of sexual harassment involving a student. A report must be made to the Affirmative Action Officer/Title IX Coordinator. A report triggers certain actions by the AAO/Title IX Coordinator for the alleged victim of sexual harassment, but an investigation is not conducted unless a “Formal Complaint” is filed.
- 3. “Formal Complaint”: Under the Title IX regulations, the alleged victim of sexual harassment can file a written complaint that triggers the complaint procedure in Section 3 of ACAA-R. Only a student and/or their parent/legal guardian (and in certain circumstances, the AAO/Title IX Coordinator) may file a formal complaint.
“Student”: For the purposes of this procedure, a student is an individual who is enrolled or participating in the school unit’s education programs and activities, or is attempting to enroll or participate.

II. Discrimination/Harassment Complaint Procedure

This procedure should be used for any complaint of unlawful harassment or discrimination complaint based on a protected category which does not involve Title IX sexual harassment (which is addressed in Section 3).

- A. Any individual who believes that a student has been discriminated against or harassed should report their concern promptly to a school administrator or AAO/Title IX Coordinator and utilize this complaint procedure. Written reports are required.
- B. Individuals, who are unsure if discrimination or harassment has occurred, or who need assistance in preparing a written complaint, are encouraged to discuss the situation with a school administrator or AAO/Title IX Coordinator.
- C. School staff are required to promptly report possible incidents of discrimination or harassment of students to a school administrator. Parents and other adults are also encouraged to report any concerns about possible discrimination or harassment of

students. School administration must inform the AAO/Title IX Coordinator of the complaint.

- D. The individual making the report must provide basic information in writing concerning the allegation of harassment or discrimination (i.e., date, time, location, individual(s) who allegedly engaged in harassment or discrimination, description of allegation) to the AAO/Title IX Coordinator.
- E. Individuals 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 discharge for employees, and expulsion for students.
- F. Individuals 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, the Maine Human Rights Commission, State House Station 51, 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).

III. Complaint Handling and Investigation

A. Complaint Handling and Investigation

- 1. The AAO/Title IX Coordinator will promptly inform the Superintendent and the person who is the subject of the complaint (respondent) that a complaint has been received.
- 2. The AAO/Title IX Coordinator may pursue an informal resolution of the complaint with the agreement of the parties involved. Any party to the complaint may decide to end the informal resolution process and pursue the formal process at any point. Any informal resolution is subject to the approval of the parties and the Superintendent, who shall consider whether the resolution is in the best interest of the school unit and the parties in light of the particular circumstances and applicable policies and laws.
- 3. The AAO/Title IX Coordinator may implement supportive measures to a student to reduce the risk of further discrimination or harassment to a student while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals involved or changing classes.
- 4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the AAO/Title IX Coordinator. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be

submitted to the Chair of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.

5. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.
6. The respondent 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 respondent, but may choose to do so as part of an informal resolution process.
7. The complainant and the respondent may suggest witnesses to be interviewed and/or submit materials they believe are relevant to the complaint.
8. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.
9. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
10. The investigation shall be completed within 40 business days of receiving the complaint, if practicable. Reasonable extensions of time for good reason shall be allowed.
11. The investigator shall provide a written report and findings to the AAO/Title IX Coordinator.

B. Findings and Subsequent Actions

1. The AAO/Title IX Coordinator shall consult with the Superintendent concerning the investigation and findings.
2. If there is a finding that discrimination or harassment occurred, the AAO/Title IX Coordinator, in consultation with the Superintendent shall:
 - a. Determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect and prevent recurrence; and
 - b. Determine what disciplinary action should be taken against the individual(s) who engaged in discrimination or harassment, if any.
3. Inform the complainant and the respondent in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).

C. Appeals

1. After the conclusion of the investigation, the complainant or respondent may seek an appeal of the findings solely on the basis of either: (a) prejudicial procedural error or (b) the discovery of previously unavailable relevant evidence that could significantly impact the outcome.
2. Appeals must be submitted in writing to the Superintendent within five business days after receiving notice of the resolution.
3. Upon receipt of a valid appeal, the Superintendent shall provide notice to the other party, along with an opportunity to provide a written statement within five business days.
4. The Superintendent shall review the available documentation and may conduct further investigation if deemed appropriate.
5. The Superintendent's decision on the appeal shall be provided to the parties within 10 business days, if practicable. The Superintendent's decision shall be final.

D. Records

The AAO/Title IX Coordinator shall keep a written record of the complaint process.

IV. TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURE

This section should be used only for complaints of Title IX sexual harassment as defined in Section 1.B.1.

A. How to Make A Report

1. School employees who have reason to believe that a student has been subjected to sexual harassment is required to promptly make a report to an administrator or AAO/Title IX Coordinator.
2. Students, parents/legal guardians or other individuals who believe a student has been sexually harassed are encouraged to make a report to an administrator or AAO/Title IX Coordinator.
3. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, administrator or AAO/Title IX Coordinator will meet with the alleged victim to discuss supportive measures that may be appropriate in the particular circumstances and explain the process for filing a formal complaint.
 - a. Supportive measures are individualized measures designed to ensure the student can continue to access educational programs and

activities (such as requiring no contact between individuals or changing classes).

- b. Supportive measures may be continued even if the alleged victim chooses not to file a formal complaint, if appropriate under the particular circumstances.
4. The school unit cannot provide an informal resolution process for resolving a report unless a formal complaint is filed.
5. Individuals will not be retaliated against for reporting sexual harassment, or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary actions, up to and including discharge for employees, or expulsion for students.
6. Any student (or their parent/legal guardian) who believes they have been the victim of sexual harassment is encouraged to utilize the school unit's complaint procedure. However, students (and their parents/legal guardians) are hereby notified that they also have the right to report sexual 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, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).
7. The Superintendent shall be informed of all reports and formal complaints of sexual harassment.

B. How to Make A Formal Complaint

1. An alleged student victim and/or their parent/legal guardian may file a formal written complaint requesting investigation of alleged Title IX sexual harassment. The written complaint must include basic information concerning the allegation of sexual harassment (i.e., date, time, location, individual(s) who allegedly engaged in sexual harassment, description of allegation).

Students who need assistance in preparing a formal written complaint, are encouraged to consult with the AAO/Title IX Coordinator.

2. In certain circumstances, the AAO/Title IX Coordinator may file a formal complaint even when the alleged victim chooses not to. Examples include if the respondent (person alleged to have engaged in sexual harassment) has been found responsible for previous sexual harassment or there is a safety threat within the school unit). In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.
3. In accordance with the Title IX regulations, the AAO/Title IX Coordinator must dismiss a formal complaint under this Title IX procedure if: a) the conduct alleged in the formal complaint does not constitute sexual harassment under the Title IX regulations and this policy; or b) if the conduct alleged did not occur within the scope of the school unit's education programs and activities, or c) did not occur in the United States.
4. In accordance with the Title IX regulations, the AAO/Title IX Coordinator may dismiss a formal complaint under this Title IX procedure if: a) a complainant withdraws the formal complaint, or withdraws particular allegations within the complaint; b) the respondent is no longer employed by or enrolled in the school unit; or c) there are specific circumstances that prevent the school unit from gathering evidence sufficient to reach a determination regarding the formal complaint. However, if the conduct potentially violates other policies or laws, it may be addressed through the applicable Board policy/procedure.
5. If a formal complaint is dismissed under this Title IX procedure, the AAO/Title IX Coordinator will promptly and simultaneously send written notices to the parties explaining the reasons. Parties have the opportunity to appeal dismissals in accordance with subsection I below.

6. If the conduct alleged in a formal complaint potentially violates other laws, Board policies and/or professional expectations, the school unit may address the conduct under Section 2 or another applicable Board policy/procedure.

C. Emergency Removal or Administrative Leave

The Superintendent may remove a student from education programs and activities on an emergency basis, or place an employee on administrative leave during the complaint procedure:

1. If there is a determination (following an individualized safety and risk analysis) that there is an immediate threat to the physical health or safety of an individual arising from the allegations of sexual harassment. Examples of such circumstances might include, but are not limited to, a continued threat of violence against a complainant by a respondent, or a respondent's threat of self-harm due to the allegations.
2. The respondent (and in the case of a student, their parent/legal guardian will be provided notice of the emergency removal or administrative leave, and will be provided an opportunity to challenge the decision following the removal (this is an opportunity to be heard, not a hearing). The respondent has the burden to demonstrate why the emergency removal or administrative leave was unreasonable.
3. Any such decision shall be made in compliance with any applicable disability laws, including the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

D. Notice to Parties of Formal Complaint

1. The Title IX Coordinator will provide to the parties written notice of the formal complaint and allegations of sexual harassment potentially constituting prohibited conduct under the Title IX regulations and this procedure. The notice shall include:
 - Notice regarding the complaint procedure and the availability of an informal resolution process;
 - Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (not less than five business **[or business]** days);
 -
 - As required by the Title IX regulations, a statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the

conclusion of the complaint); and that the parties may inspect and review evidence;

- Notice that the parties may each have an advisor of their choice (who may be an attorney), and that the parties may inspect and review evidence;
- Notice that knowingly making false statements or submitting false information during the complaint process is prohibited and may result in disciplinary action;
- Notice of the name of the investigator, with sufficient time (no less than three business days) to raise concerns of conflict of interest or bias.

2. If additional allegations become known at a later time, notice of the additional allegations will be provided to the parties.
3. The AAO/Title IX Coordinator will discuss supportive measures with each party and implement such measures as appropriate.

E. Informal Resolution Process

After a formal complaint has been filed, and if the AAO/Title IX Coordinator believes the circumstances are appropriate, the AAO/Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and determination process. Informal resolutions cannot be used to resolve a formal complaint where a student is the complainant and the respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; disciplinary actions against a respondent or a requirement to engage in specific services; or supportive measures. Both parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time. The Superintendent must agree to the terms of any informal resolution reached between the parties. If an informal resolution agreement is reached, it must be signed by both parties and the school unit. Any such signed agreement is final and binding according to its terms.

If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the subsequent investigation or determination.

F. Investigation

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and AAO/Title IX Coordinator. Any complaint about an employee who holds a supervisory

position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the Chair of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.

2. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.
3. If the complaint is against an employee of the school unit, rights conferred under an applicable collective bargaining agreement shall be applied, to the extent they do not conflict with the Title IX regulatory requirements.
4. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
5. The investigator will:
 - a. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.
 - b. Allow parties to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process.
 - c. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.
 - d. Interview witnesses and conduct such other activities that will assist in ascertaining facts (site visits, review of documents, etc.).
 - e. Consider evidence that is relevant and directly related to the allegations in the formal complaint.
 - f. During the course of the investigation, provide both parties with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint (including evidence which the school unit does not intend to rely upon in reaching a determination of responsibility), and favorable and unfavorable evidence.
 - g. Prior to completion of the investigation report, provide each party and advisor (if any) the evidence subject to inspection and review, and provide the parties with ten business days to submit a written response.
 - h. Consider the parties' written responses to the evidence prior to completing the investigation report.

- i. Create an investigative report that fairly summarizes relevant evidence and send the report to the parties and advisors (if any), for their review and written responses within ten business days of receipt.
 - j. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned decision maker.
6. The investigation shall be concluded within 40 business days if practicable. Reasonable extension of time for good reason shall be allowed.

G. Determination of Responsibility

[Note: The decision maker cannot be the investigator or Title IX Coordinator, and must receive specific training. If appeals are to be heard by the Superintendent, the Board should determine if they wish to use particular upper-level administrators as decision makers.]

1. The decision maker shall provide the parties with the opportunity to submit written, relevant questions that the party wants asked of another party or witness within five business days of when the decision maker received the investigation report and party responses.
 - a. The decision maker shall explain to a party proposing questions if the decision maker excludes a question as not relevant.
2. Each party shall be provided the opportunity to review the responses of another party and/or witness, and to ask limited written follow-up questions within five business days of receiving the answers.
3. Each party will receive a copy of the responses to any follow-up questions.
4. The decision maker shall review the investigation report, the parties' responses and other relevant materials, applying the preponderance of the evidence standard ("more likely than not").
5. The decision maker shall issue a written determination, which shall include the following:
 - a. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy;
 - b. A description of the procedural steps taken from receipt of the formal complaint through the determination, including

notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and meetings held;

- c. A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;
- d. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school unit imposes on the respondent, and whether remedies designed to restore or preserve equal access to the school unit's programs and activities will be provided to the complainant;
- e. The school unit's appeal procedure and permissible bases for the parties to appeal the determination.

- 6. The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that the school unit provides the parties with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

H. Remedies, Discipline and Other Actions

1. Remedies

Remedies are measures used to ensure that the complainant has equal access to the school unit's education programs and activities following the decision maker's determination. Such remedies may include supportive measures, and may include other appropriate measures, depending upon the determination and the needs of the complainant. The Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the Complainant.

2. Discipline and Other Actions - Students

The following are of the types of discipline and other actions that may be imposed on a student when there is a determination that they are responsible for one or more violations involving sexual harassment:

- In or out of school suspension.
- Expulsion.
- Restorative justice.
- Requirement to engage in education or counseling program.

3. Discipline and Other Actions – Employees

The following are examples of the types of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations involving sexual harassment:

- Written warning.
- Probation.
- Demotion.
- Suspension without pay.
- Discharge.

The following are examples of other types of actions that may be imposed on an employee when there is a determination of responsibility:

- Performance improvement plan.
- Counseling.
- Training.
- Loss of leadership/stipend position.

I. Appeals

The parties have the opportunity to appeal a determination regarding responsibility, and from dismissals of formal complaints. Under the Title IX regulations, appeals are allowed on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the formal complaint was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally, or the

individual complainant or respondent that affected the outcome of the matter.

An appeal must be filed in writing within five business days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

1. Appeals must be filed with the Superintendent, who will consider the appeal.
2. The Superintendent shall notify the other party in writing of the appeal and will allow both parties to submit a written statement in support of, or challenging, the determination of the decision maker.
3. The Superintendent shall conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with legal counsel or other school unit officials in making their decision.
4. The Superintendent shall issue a written decision describing the result of the appeal and rationale for the result, and provide the written decision simultaneously to the parties. The decision will either deny the appeal; grant the appeal and remand to the decision maker for further consideration; or grant the appeal by revising the disciplinary or other action(s).

J. Records

Records in connection with sexual harassment reports and the complaint process shall be maintained for a minimum of seven years.

Legal Reference: Americans with Disabilities Act (42 USC §12101 et seq., as amended;
28 CFR § 35.107)
Section 504 of the 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.; 34
CFR §106.8)
Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)
Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition
of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C.
§12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) –
definition of domestic violence)
Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
20 USC § 1232g; 34 CFR Part 99
Maine Human Rights Act 5 MRSA § 4551 et seq.
MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4
20-A MRSA §§ 6001 et seq.
20-A MRSA § 6554

Cross Reference: ACAA - Harassment and Sexual Harassment of Students
ACAA-R – Student Discrimination/Harassment and
Title IX Sexual Harassment Complaint Procedures
AC – Nondiscrimination/Equal Opportunity and Affirmative Action
ACAD – Hazing
GBEB – Staff Conduct with Students
JFCK – Student Use of Cellular Telephones and Other Electronic
Devices
JICIA – Weapons, Violence and School Safety
JICK – Bullying

Revised: January 27, 2020, First Reading
Adopted: February 24, 2020
Revised: ~~August 10, 2020, Adopted August 24, 2020~~
April 3, 2023

Harassment and Sexual Harassment of School Employees

Harassment of school employees because of race, color, sex, sexual orientation, gender identity or expression, religion, ancestry or national origin, age, familial status, genetic information or disability is prohibited. Such conduct is a violation of Board policy and may constitute illegal discrimination under state and federal laws.

For the purpose of this policy, “race” includes traits associated with race, including hair texture, Afro hairstyles, and protective hairstyles, including braids, twists, and locs.

As defined in Maine law and for the purpose of this policy, “sexual orientation” means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.” The term “gender identity” under state law means “the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual’s assigned sex at birth.”

Harassment

Harassment includes but is not limited to verbal abuse, threats, physical assault and/or battery based on race, color, sex, sexual orientation, gender identity or expression, 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

1. Title IX Sexual Harassment

Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit’s education programs and activities:

- a. “Quid pro quo” sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a promotion or favorable evaluation) on an individual’s participation in unwelcome sexual conduct;
- b. “Hostile environment” sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual’s equal access to the school unit’s education programs and activities; or
- c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.

2. Sexual Harassment Under Title VII and Maine Law

Under another federal law, Title VII, and under Maine law/regulations, sexual harassment is defined differently. Maine Human Rights Commission regulations define sexual harassment as conduct on the basis of sex which satisfies one or more of the following:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

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

3. Reports and Complaints of Harassment or Sexual Harassment

Any employee who believes they have been harassed or sexually harassed is encouraged to make a report to the Affirmative Action Officer/Title IX Coordinator. The Affirmative Action Officer/Title IX Coordinator is also available to answer questions and aid any individual who is unsure whether harassment or sexual harassment has occurred.

All reports and complaints regarding harassment or sexual harassment of employees shall be addressed through the Employee & Third-Party Unlawful Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures (ACAB-R).

Notice and Training

Annually, each employee shall receive a copy of this policy and the School Employee Discrimination/Harassment and Title IX Sexual 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 U.S.C. § 1681 et seq.); 34 C.F.R. Part 106
Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)
Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)
Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
Americans with Disabilities Act (42 U.S.C § 12101 et seq.), as amended
Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended
Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, et. seq.; 29 C.F.R. § 1604.11)
Age Discrimination in Employment Act (29 U.S.C. § 623 et seq.)
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
5 MRSA § 4551 et seq.
MHRC Rule Chapter 94-348, ch.3
26 MRSA §§ 806-807

Cross Reference: ACAB-R - School Employee Discrimination and Harassment Complaint Procedure
AC - Nondiscrimination/Equal Opportunity and Affirmative Action
ACAD - Hazing
GBGB - Workplace Bullying

Approved: May 3, 1999, April 4, 2016
Revised: March 21, 2016
Updated: ~~December 20, 2021~~
April 3, 2023

Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedure

This procedure has been adopted by the School Committee in order to provide a method of prompt and equitable resolution of employee complaints of discrimination and harassment, including sexual harassment, as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAB – Harassment and Sexual Harassment of School Employees.

Any individual who is unsure about whether unlawful discrimination or harassment has occurred and/or or which complaint procedure applies is encouraged to contact the Affirmative Action Officer/Title IX Coordinator.

Steve Bussiere
Assistant Superintendent
668 Main Street
Sanford, Me 04073
207-324-2810
Sbussiere@sanford.org

I. Definitions

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

A. Discrimination/Harassment Complaint Procedure Definitions

1. “Discrimination or harassment” means discrimination or harassment on the basis of an individual’s membership in a protected category, which, for employees, includes race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locs), color, sex, sexual orientation, gender identity or expression, age, familial status, religion, ancestry, national origin, genetic information or disability.
2. “Discrimination”: Treating individuals differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected category.
3. “Harassment”: Oral, written, graphic, electronic or physical conduct relating to an individual’s actual or perceived membership in a protected category 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.
4. Under Title VII and under Maine law/regulations, sexual harassment is defined differently than under Title IX. Maine Human Rights Commission regulations define sexual harassment as conduct on the basis of sex which satisfies one or more of the following:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
 - b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or

- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
5. "Sexual orientation": Under Maine law, this means a person's "actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression."
6. "Gender identity": Under Maine law, this means "the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth."
7. "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, gender identity, age, familial status, religion, ancestry, national origin, genetic information or disability (and in regard to sex, conduct not otherwise addressed in the Title IX regulations and Section 3 of ACAB-R).
8. "Employee": Whenever the term "employee" is used in Section 2, it includes visitors or others who have a lawful basis to make a complaint of discrimination or harassment.
9. "Familial status": Under Maine law, this means a family unit that contains:
 - a. One or more individuals who have not attained 18 years of age and are living with a parent or another person having legal custody of the individual or individuals or the designee of the parent or other person having custody with the written permission of the parent or other person; or
 - b. One or more individuals 18 years of age or older who lack the ability to meet essential requirements for physical health, safety or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions.

B. Title IX Sexual Harassment Complaint Procedure Definitions

1. "Title IX sexual harassment": Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit's education programs and activities:
 - a. "Quid pro quo" sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a promotion or favorable evaluation) on an individual's participation in unwelcome sexual conduct;
 - b. "Hostile environment" sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual's equal access to the school unit's education programs and activities; or
 - c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.

2. “Report”: Under the Title IX regulations, any individual may make a report of sexual harassment involving an employee, whether the individual is the alleged victim or not. A report must be made to the Affirmative Action Officer/Title IX Coordinator. A report triggers certain actions by the AAO/Title IX Coordinator for the alleged victim of sexual harassment, but an investigation is not conducted unless a “Formal Complaint” is filed.
3. “Formal Complaint”: Under Title IX, the alleged victim of sexual harassment can file a written complaint that triggers the complaint procedure in Section 3 of ACAB-R. Only a school employee (and in certain circumstances, the AAO/Title IX Coordinator) may file a formal complaint.
4. “Employee”: For the purpose of this procedure, “employee” means an applicant for employment or a current employee of the school unit.

II. Discrimination/Harassment Complaint Procedures

This procedure should be used for any complaint of unlawful harassment or discrimination based on a protected category which does not involve Title IX sexual harassment.

A. How to Make a Complaint

1. 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 to the Affirmative Action Officer/Title IX Coordinator.
2. Any employee who believes he/she has been harassed or discriminated against should report their written concern promptly to the **Affirmative Action Officer/Title IX Coordinator**. If the employee is uncomfortable reporting concerns to the **Affirmative Action Officer**, he/she may report the written concern to the **Assistant Superintendent**. A written complaint must include basic information concerning the allegation of harassment or discrimination (i.e., date, time, location, individual(s) who alleged engaged in harassment or discrimination, description of allegation).
3. Employees who are unsure as to whether unlawful discrimination or harassment has occurred are encouraged to discuss their concerns with the **Affirmative Action Officer/Title IX Coordinator**.
4. 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 discharge.
5. 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: 207-624-6050) 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).

B. Complaint Handling and Investigation

1. **The Affirmative Action Officer/Title IX Coordinator** will promptly inform the Superintendent and the person who is the subject of the complaint that a complaint has been received.
2. **The Affirmative Action Officer/Title IX Coordinator** may pursue an informal resolution of the complaint with the agreement of the parties involved. Any party to the complaint may decide to end the informal resolution process and pursue the formal process at any point. The informal resolution is subject to the approval of the parties and the Superintendent, who shall consider whether the informal resolution is in the best interest of the school unit in light of applicable policies and law.
3. The AAO/Title IX Coordinator may implement supportive measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further discrimination or harassment while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals involved; changing a work location or changing a work schedule.
4. The complaint will be investigated by **Affirmative Action Officer/Title IX Coordinator**, unless the Superintendent chooses to investigate the complaint or designates another trained internal or external 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.
5. 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 respondent, but may choose to do so as part of an informal resolution process.
6. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.
7. The complainant and the respondent may suggest witnesses and/or submit materials they believe are relevant to the complaint.
8. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
9. **The investigator shall** keep a written record of the investigation process.

10. **The investigator** shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
11. The investigation shall be completed within 40 business days of receiving the complaint, if practicable.
12. The investigator shall provide a written report and findings to the AAO/Title IX Coordinator.

C. Findings and Subsequent Actions

1. The AAO/Title IX Coordinator shall consult with the Superintendent concerning the investigation and findings.
2. If there is a finding that discrimination or harassment occurred, the AAO/Title IX Coordinator, in consultation with the Superintendent:
 - a. Shall determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect and prevent recurrence; and
 - b. Determine what disciplinary action should be taken against the individual(s) who engaged in discrimination or harassment, if any.
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).

D. Appeals

1. After the conclusion of the investigation, the complainant or respondent may seek an appeal of the findings solely on the basis of either: (a) prejudicial procedural error or (b) the discovery of previously unavailable relevant evidence that could significantly impact the outcome.
2. Appeals must be submitted in writing to the Superintendent within five business days after receiving notice of the resolution.
3. Upon receipt of a valid appeal, the Superintendent shall provide notice to the other party, along with an opportunity to provide a written statement within five business days.
4. The Superintendent shall review the available documentation and may conduct further investigation if deemed appropriate.
5. The Superintendent's decision on the appeal shall be provided to the parties within 10 business days, if practicable. The Superintendent's decision shall be final.
6. If the employee is dissatisfied with the decision of the Superintendent, he/she may appeal to the School Committee within 14 business days after receiving notice of the Superintendent's decision.

7. The School Committee will consider the appeal in executive session, at its next regular meeting or a special meeting. The Superintendent shall submit to the School Committee his/her 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.

E. Records

1. The AAO/Title IX Coordinator shall keep a written record of the complaint process.

III. TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURE

A. How to Make A Report

1. Any individual who believes an employee has been sexually harassed (as this term is defined in Section 1.B.1) may make a report to the AAO/Title IX Coordinator.
2. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the AAO/Title IX Coordinator will meet with the alleged victim to discuss supportive measures that may be appropriate in the particular circumstances and explain the process for filing a formal complaint.
 - a. Supportive measures are individualized measures designed to ensure the employee can continue to access and perform their work (such as requiring no contact between individuals, temporarily moving work locations or changing schedules, etc.).
 - b. Supportive measures may be continued even if the alleged victim chooses not to file a formal complaint, if appropriate under the particular circumstances.
3. The school unit cannot provide an informal resolution process for resolving a report until a formal complaint is filed.
4. Employees will not be retaliated against for reporting sexual harassment, or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary actions, up to and including discharge.
5. Any employee who believes they have been the victim of sexual harassment is encouraged to utilize the school unit's complaint procedures. However, employees are hereby notified that they also have the right to report sexual 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, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).
6. The Superintendent shall be informed of all reports and formal complaints of sexual harassment.

B. How to Make A Formal Complaint

1. An alleged victim may file a formal written complaint requesting investigation of alleged Title IX sexual harassment. The written complaint must include basic information concerning the allegation of sexual harassment (i.e., date, time, location, individual(s) who alleged engaged in sexual harassment, description of allegation).

Employees who need assistance in preparing a formal written complaint, are encouraged to consult with the AAO/Title IX Coordinator.

2. In certain circumstances, the AAO/Title IX Coordinator may file a formal complaint even when the alleged victim chooses not to. Examples include if the respondent (person alleged to have engaged in sexual harassment) has been found responsible for previous sexual harassment or there is a safety threat within the school unit). In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.
3. In accordance with the Title IX regulations, the AAO/Title IX Coordinator must dismiss a formal complaint under this Title IX procedure if: a) the conduct alleged in the formal complaint does not constitute sexual harassment under the Title IX regulations and this policy; b) if the conduct alleged did not occur within the scope of the school unit's education programs and activities, or c) did not occur in the United States.
4. In accordance with the Title IX regulations, the AAO/Title IX Coordinator may dismiss a formal complaint under this Title IX procedure if: a) a complainant withdraws the formal complaint, or withdraws particular allegations within the complaint; b) the respondent is no longer employed by the school unit; or c) there are specific circumstances that prevent the school unit from gathering evidence sufficient to reach a determination regarding the formal complaint.
5. If a formal complaint is dismissed under this Title IX procedure, the AAO/Title IX Coordinator will promptly and simultaneously send written notices to the parties explaining the reasons. Parties have the opportunity to appeal dismissals in accordance with subsection I below.
6. If the conduct alleged potentially violates other laws, Board policies and/or professional expectations, the school unit may address the conduct under Section 2 or another applicable policy/procedure.

C. Administrative Leave

The Superintendent may place a respondent on administrative leave during the complaint procedure:

1. If there is a determination (following an individualized safety and risk analysis) that there is an immediate threat to the physical health or safety of an individual arising from the allegations of sexual harassment. Examples of such circumstances might include, but are

not limited to, a continued threat of violence against a complainant by a respondent, or a respondent's threat of self-harm due to the allegations.

2. The respondent will be provided notice of the administrative leave, and will be provided an opportunity to challenge the decision following the removal (this is an opportunity to be heard, not a hearing). The respondent has the burden to demonstrate why the emergency leave was unreasonable.
3. Any such decision to place an employee on administrative leave shall be made in compliance with any applicable disability laws, including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

D. Notice to Parties of Formal Complaint

1. The Title IX Coordinator will provide to the parties written notice of the formal complaint and allegations of sexual harassment potentially constituting prohibited conduct under the Title IX regulations and this procedure. The notice will include:
 - Notice regarding the complaint procedure and the availability of an informal resolution process;
 - Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview not less than five business days.
 - As required by the Title IX regulations, a statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the complaint); and that the parties may inspect and review evidence;
 - Notice that the parties may each have an advisor of their choice (who may be an attorney), and that the parties may inspect and review evidence;
 - Notice that knowingly making false statements or submitting false information during the complaint procedure is prohibited and may result in disciplinary action; and
 - Notice of the name of the investigator, with sufficient time (no less than three business days) to raise concerns of conflict of interest or bias.
2. If additional allegations become known at a later time, notice of the additional allegations will be provided to the parties.
3. The AAO/Title IX Coordinator will discuss supportive measures with each party and implement such measures as appropriate.

E. Informal Resolution Process

After a formal complaint has been filed, and if the AAO/Title IX Coordinator believes the circumstances are appropriate, the AAO/Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and determination process. Informal resolutions cannot be used to resolve a formal complaint where a student is the complainant and the respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; disciplinary actions against a respondent or a requirement to engage in specific services; or supportive measures. Both parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time. The Superintendent must agree to the terms of any informal resolution reached between the parties. If an informal resolution agreement is reached, it must be signed by both parties and the school unit. Any such signed agreement is final and binding according to its terms.

If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the subsequent investigation or determination.

F. Investigation

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and AAO/Title IX Coordinator. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the Chair of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.
2. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.
3. If the complaint is against an employee of the school unit, rights conferred under an applicable collective bargaining agreement shall be applied, to the extent they do not conflict with the Title IX regulatory requirements.
4. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

5. The investigator will:

- a. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.
- b. Allow parties to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process.
- c. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.
- d. Interview witnesses and conduct such other activities that will assist in ascertaining facts (site visits, review of documents, etc.).
- e. Consider evidence that is relevant and directly related to the allegations in the formal complaint.
- f. During the course of the investigation, provide both parties with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint (including evidence which the school unit does not intend to rely upon in reaching a determination of responsibility), and favorable and unfavorable evidence.
- g. Prior to completion of the investigation report, provide each party and advisor (if any) the evidence subject to inspection and review, and provide the parties with ten business **[or business]** days to submit a written response.
- h. Consider the parties' written responses to the evidence prior to completing the investigation report.
- i. Create an investigative report that fairly summarizes relevant evidence and send the report to the parties and advisors (if any), for their review and written responses within ten business **[or business]** days of receipt.
- j. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned decision maker.
 - i. The investigation shall be concluded within 40 business days if practicable. Reasonable extension of time for good reason shall be allowed.

G. Determination of Responsibility

[Note: The decision maker cannot be the investigator or Title IX Coordinator, and must receive specific training. If appeals are to be heard by the Superintendent, the Board should determine if they wish to use particular upper-level administrators as decision makers.]

1. The decision maker shall provide the parties with the opportunity to submit written, relevant questions that the party wants asked of another party or witness within five business days of when the decision maker received the investigation report and party responses.

- a. The decision maker shall explain to a party proposing questions if the decision maker excludes a question as not relevant.
2. Each party shall be provided the opportunity to review the responses of another party and/or witness, and to ask limited written follow-up questions within five business days of receiving the answers.
3. Each party will receive a copy of the responses to any follow-up questions.
4. The decision maker shall review the investigation report, the parties' responses and other relevant materials, applying the preponderance of the evidence standard ("more likely than not").
5. The decision maker shall issue a written determination, which shall include the following:
 - a. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy;
 - b. A description of the procedural steps taken from receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and meetings held;
 - c. A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;
 - d. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school unit imposes on the respondent, and whether remedies designed to restore or preserve equal access to the school unit's programs and activities will be provided to the complainant;
 - e. The school unit's appeal procedure and permissible bases for the parties to appeal the determination.
 - i. The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that the school unit provides the parties with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

H. Remedies, Discipline and Other Actions

1. Remedies

- a. Remedies are measures used to ensure that the complainant has equal access to the school unit's education programs and activities following the decision maker's determination. Such remedies may include supportive measures, and may include other appropriate measures, depending upon the determination and the needs of the complainant. The Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the Complainant.

2. Discipline and Other Actions

- a. The following are examples of the types of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations involving sexual harassment:
 - b. Written warning.
 - c. Probation.
 - d. Demotion.
 - e. Suspension without pay.
 - f. Discharge.
 - g. The following are examples of other types of actions that may be imposed on an employee when there is a determination of responsibility:
 - h. Performance improvement plan.
 - i. Counseling.
 - j. Training.
 - k. Loss of leadership/stipend position.

I. Appeals

The parties have the opportunity to appeal a determination regarding responsibility, and from dismissals of formal complaints. Under the Title IX regulations, appeals are allowed on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the formal complaint was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent that affected the outcome of the matter.

An appeal must be filed in writing within five business **[or business]** days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

4. Appeals must be filed with the Superintendent, who will consider the appeal.

5. The Superintendent shall conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with legal counsel or other school unit officials in making their decision.
6. The Superintendent shall issue a written decision describing the result of the appeal and rationale for the result, and provide the written decision simultaneously to the parties. The decision will either deny the appeal; grant the appeal and remand to the decision maker for further consideration; or grant the appeal by revising the disciplinary action(s).

J. Records

Records in connection with sexual harassment reports and the complaint process shall be maintained for a minimum of seven years.

Legal Reference: Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); 34 C.F.R. Part 106
 Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)
 Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)
 Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
 Americans with Disabilities Act (42 U.S.C § 12101 et seq.), as amended
 Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended
 Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, et. seq.; 29 C.F.R. § 1604.11)
 Age Discrimination in Employment Act (29 U.S.C. § 623 et seq.)
 Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)

Cross Reference: **AC – Nondiscrimination/Equal Opportunity and Affirmative Action**
ACAB – Harassment and Sexual Harassment of School Employees
GBGB – Workplace Bullying

Approved: April 4, 2016
 Updated: ~~December 20, 2021~~
 April 3, 2022

Nepotism

It is the intent of this policy to ensure that employment practices comply with Maine's "prohibited appointments and employment" statute, 20-A §MRSA 2002 and to avoid favoritism and the appearance of favoritism in employment practices.

Definitions

For the purpose of this policy:

- A. "Immediate family" means spouse, sibling, parent, son, or daughter.
- B. "Administrative supervision" refers to the authority of a person in the position of principal or higher.
- C. A "stipend employee" means a person who receives limited monetary payment of benefit, through a series of payments or in a lump sum, for personal services performed in an advisory, mentoring, or coaching capacity for the Sanford School Department.

Employment

It shall be the policy of the Sanford School Committee not to employ as school department staff any person who is a member of the immediate family of a Committee member or of the Superintendent. Immediate family of Committee members or the Superintendent who are employed by the school department on the date of adoption of this policy are not affected by this paragraph.

By Maine law (20-A M.R.S.A. § 1002(2)), a Committee member's spouse is precluded from employment under any circumstances in any public school within the jurisdiction of the Committee to which the member is elected.

Supervision and Evaluation

No person shall be employed in or assigned to a position that is within the administrative supervision of a member of his/her immediate family, nor in a position in which he/she is supervised or evaluated, in whole or in part, by a member of his/her immediate family.

Exceptions

In extraordinary circumstances, the Committee may approve an exception to the prohibitions on the employment of immediate family so long as the candidate is qualified for the position to which he/she has applied, the hiring is in the best interest of the school system and its students, and the candidate is not the spouse of a Committee member.

Exceptions for spouses of School Committee members in stipend positions only:

The School Committee authorizes the Superintendent to employ a spouse of the member of the School Committee as a stipend employee on a contractual basis when that action is in the best interest of the students and the needs of the Sanford School Department. Such a contract will summarize potential conflicts of interest and describe mitigations of such conflicts.

Such contract will be for one season or one year only, with no guarantee or expectation of continuation.

It is the School Committee’s intent that hiring practices for stipend positions discourage favoritism and political patronage and provide qualified applicants a fair opportunity to be selected on merit, with priority consideration given to the best interest without restricts based solely on family association. To that end, the Superintendent/designee will be responsible for developing job descriptions for stipend positions, including relevant qualifications and duties/ responsibilities.

This exception applies only through June 30, 2024, unless extended by the Maine legislature.

Volunteers

Under Maine law (20-A M.R.S.A. § 1002(2-A)), a Committee member’s spouse may not serve as a volunteer when that volunteer has primary responsibility for a curricular, co-curricular, or extracurricular program or activity and reports directly to the superintendent, principal, athletic director, or other school administrator within the jurisdiction of the Committee.

Exceptions for spouses of School Committee members in volunteer positions only:

Notwithstanding the preceding paragraph, the Board may permit a Board’s member’s spouse to serve as a volunteer in the same capacities as other school volunteers. In approving spouses of School Committee members as volunteers, the Superintendent/designee will ensure that practices applicable to approval of school volunteers discourage favoritism and political patronage and provide qualified applicants a fair opportunity to be selected on merit, with priority consideration given to the best interest without restricts based solely on family association. School Committee member spouses who volunteer in schools will be subject to the provision of the board’s policy IJOC, School Volunteers.

This exception applies only through June 30, 2024, unless extended by the Maine legislature.

Legal Reference: 20-A M.R.S.A. § 1002

Cross Reference: BCB – Board Member Conflict of Interest
GAB – Job Descriptions
GDA – Support Staff Positions

Adopted: April 7, 2014

Revised: March 2023