

## **EMPLOYEE DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE**

This procedure has been adopted by the RSU 23 Board of Education 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 Affirmation Action and ACAB – Harassment and Sexual Harassment of School Employees.

### **Definitions**

For purposes of this procedure:

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

### **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 Building Administrator or the Affirmative Action Officer. The report should be made in writing (see ACAB-E).

Employees who are unsure as to whether unlawful discrimination or harassment has occurred are encouraged to discuss their concerns with the Building Administrator or Affirmative Action Officer. Employees will not be retaliated against for reporting suspected discrimination or harassment.

- C. 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 of Civil

Rights, Regional Director, U.S. Department of Health and Human Services,  
Government Center, J.F. Kennedy Federal Building – Room 1875, Boston, MA  
02203 (telephone: 617-565-1340).

### **Complaint Handling and Investigation**

- A. The 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 Affirmative Action Officer may pursue an informal resolution of the complaint with the agreement of the parties involved. The informal resolution is subject to the approval of the Superintendent, who shall consider whether the informal resolution is in the best interest of the school unit in light of applicable policies and law.
- C. The complaint will be investigated by the Affirmative Action Officer unless the Superintendent chooses to investigate the complaint or designates another person to investigate it on his/her behalf. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the Chair of the School Board, who should consult with legal counsel concerning the handling and investigation of the complaint.
  - 1. The person who is the subject of the complaint will be provided with an opportunity to be heard as part of the investigation.
  - 2. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.
  - 3. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
  - 4. The Affirmative Action Officer shall keep a written record of the investigation process.
  - 5. The Affirmative Action Officer may take interim remedial measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further harassment while the investigation is pending.
  - 6. The Affirmative Action Officer shall consult with the 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.

- D. If the Affirmative Action Officer determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:
1. Determine what remedial action is required, if any;
  2. Determine what disciplinary action should be taken against the person(s) who engaged in harassment, if any; and
  3. Inform the employee who made the complaint in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- E. If the employee who made the complaint is dissatisfied with the resolution, he/she made appeal to the Superintendent within 14 business days after receiving notice of the resolution. The Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate.
- F. If the employee is dissatisfied with the decision of the Superintendent, he/she may appeal to the School Board within 14 business days after receiving notice of the Superintendent's decision. The Board will consider the appeal in executive session, at its regular meeting or a special meeting. The Superintendent shall submit to the Board his/her decision, the complaint, any responses, the investigation report and related documents. All parties will 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. After reviewing the Superintendent's submissions and hearing from the parties, the Board shall make a decision as to whether to affirm or modify the Superintendent's conclusions. The Board's decision shall be the district's final determination.

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

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

Adopted: 4/12/11

