

HARASSMENT AND SEXUAL HARASSMENT OF SCHOOL EMPLOYEES

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

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

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. “Gender identity” means gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, regardless of the individual’s assigned sex at birth.

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, religion, ancestry or national origin, age, or disability. Under the Maine Civil Rights Act, violence or threats of violence against a person or their property based on the sexual orientation are also illegal.

Sexual Harassment

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

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.

A. 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 provide assistance to 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).

Legal Reference: Title IX of the Education Amendments of 1972
(20 USC § 1681 et seq.)
Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)
Americans with Disabilities Act (42 U.S.C. § 12101 et seq.)
Section 504 of the Vocational Rehabilitation Act of 1973
(29 USC § 794 et seq.)
Title VII (42 USC § 2000c-2; 29 CFR § 1604.11)
Age Discrimination in Employment Act (29 U.S.C. § 623)
5 MRSA §§ 4602; 4681 ET SEQ.

20-A MRSA § 6553
26 MRSA §§ 806-807

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

Adopted: October 10, 2000
Revised: June 13, 2005
Reviewed: March 10, 2008
Revised: March 14, 2011
Reviewed: May 12, 2014
Reviewed: September 11, 2017
Reviewed: March 11, 2019
Reviewed: March 09, 2020
Revised: October 13, 2020