

STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

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

This procedure is designed to comply with Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; Title IX of the Education Amendments of 1972 (Title IX); and other applicable state and federal laws.

In compliance with Title IX, this procedure applies to complaints of sex discrimination, including harassment, filed against students. Complaints alleging discrimination or discriminatory harassment, against employees or other third parties (such as parents, volunteers, vendors, etc.) should be addressed through the Board's Employee & Third Party Discrimination and Harassment Complaint Procedure (ACAB-R).

Definitions

For purposes of this procedure:

- A. A "Complaint" is defined as an allegation that a student has been discriminated against or harassed on the bases of race, color, sex, sexual orientation, age, religion, ancestry, national origin, pregnancy, marital status, familial status, or physical or mental disability.

- B. "Discrimination or harassment" refers to discrimination or harassment on the bases of race, color, sex, sexual orientation, age, religion, ancestry, national origin, pregnancy, marital status, familial status, or disability (each of which constitutes a "protected class"). "Discrimination" includes treating individuals differently, or interfering with or preventing individuals from enjoying the advantages or privileges afforded to others because of their membership in a protected class. "Harassment" includes oral, written, graphic, electronic, physical, or other conduct relating to an individual's actual or perceived membership in a protected class that is sufficiently severe, pervasive or persistent so as to interfere with or limit the individual's ability to participate in the school unit's programs or activities by creating a hostile, intimidating or offensive educational environment.

"Harassment" on the basis of sex shall include, but not be limited to, acts of "sexual violence," which refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. The term "sexual orientation" under state law means a person's "actual or perceived heterosexuality, bisexuality, or homosexuality."

- C. Complaints of bullying not involving the protected classes described above may be pursued under Board Policy JICK – Bullying.

How to Make a Complaint

- A. Any individual who wishes to bring a discrimination or harassment complaint against a student should report his/her concern promptly to the Principal or Principal's designee. Students or parents who are unsure whether discrimination or harassment has occurred are encouraged to discuss the situation with the Principal or the Principal's designee.
- B. School staff are expected to report possible incidents of students engaged in discrimination or harassment to the Principal.
- C. Students and others will not be retaliated against for making a Complaint. Any retaliation by students or school staff will result in disciplinary measures, up to and including expulsion or dismissal.
- D. Students and parents are encouraged to utilize the school district's Complaint Procedure.

Complaint Handling and Investigation

- A. The Principal or Principal's designee shall promptly inform the Superintendent and the person(s) who is the subject of the Complaint that a Complaint has been received.
- B. The Principal or the Principal's designee may pursue a prompt and equitable informal resolution of the Complaint if deemed appropriate and if all parties voluntarily agree to participate. The informal resolution is subject to the approval of the Superintendent, who shall consider whether the informal resolution is in the best interests of the parties in light of the particular circumstances of the complaint, as well as applicable laws and policies. Any complaint involving an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any Complaint involving the Superintendent should be submitted to the chairperson of the school board, who should consult with legal counsel concerning the handling and investigation of the Complaint.
- C. The Principal or the Principal's designee shall, within 5 school days of receiving the Complaint initiate an investigation into the Complaint allegations. The Complaint will be adequately, reliably, and impartially investigated by the Principal or the Principal's designee in consultation with the Student Services Director, unless the Superintendent chooses to investigate the complaint or designates another person to investigate it on his/her behalf.
 - 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. The parties will be permitted to present witnesses and other evidence.
 - 3. Privacy rights of all parties to the Complaint shall be maintained in accordance with applicable state and federal laws.
 - 4. The Complaint investigator shall keep a written record of the investigation process.

NEPN/NSBA CODE: ACAA-R

5. The Complaint investigator may provide interim remedial measures, as appropriate, to the parties prior to an investigation or while the investigation is pending.
 6. The Complaint investigator shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions. If the Complaint involves actions by the Superintendent, the investigator shall consult with the Chairperson of the school board.
 7. The investigation shall be completed within 21 school days of receiving the Complaint, unless there is good cause for extending the investigation period.
- D. If the Complaint investigator determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent take steps to eliminate the discrimination/harassment, prevent its recurrence and correct its discriminatory effects, as appropriate, including but not limited to:
1. Remedial action, if any; and
 2. Disciplinary action against the person(s) who engaged in discrimination or harassment, if any.
- E. Within 10 school days of the completion of the investigation, the Principal or the Principal's designee shall inform the Complainant and the subject of the Complaint in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- F. If a party to the complaint is dissatisfied with the resolution, an appeal may be made in writing to the Superintendent or the Superintendent's designee, within 14 calendar days after receiving notice of the resolution. The Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. The Superintendent's decision shall be final.

If the Complaint involves actions by the Superintendent, the investigator shall consult with the Chairperson of the school board.

Inquiries

Inquiries concerning this procedure or other concerns regarding possible discrimination or harassment can be directed to the School Principal or alternatively, the Student Services Director (who serves as the District's Title IX and Section 504/ADA Coordinator). The Student Services Director can be reached at the District's Administrative Offices, 30 Greenough Road Plaistow, NH, or by calling (603) 382-6119.

Legal Reference: Title II of the Americans with Disabilities Act (42 USC §12131, et. seq., as amended; 28 C.F.R § 35.107)

NEPN/NSBA CODE: ACAA-R

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, as amended, et seq.; 34 CFR §106.8)

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d; 34 C.F.R. § 100.3)

The Family Educational Rights and Privacy Act (20 USC § 1232g, as amended; 34 C.F.R Part 99)

New Hampshire "Law Against Discrimination" (RSA § 354-A)

Cross Reference: AC - Nondiscrimination/Equal Opportunity
ACAA - Harassment and Sexual Harassment of Students
JICK - Pupil Safety, Violence Prevention and Anti-Bullying