

RSU #16 (Mechanic Falls, Minot, Poland)(msm)

Policy Code: ACAB-R

Adopted: July 2003

Revised: ~~February 2012—October 2018~~ December 2019

EMPLOYEE DISCRIMINATION & HARASSMENT COMPLAINT PROCEDURE

Policy

This procedure may also be used, to the extent applicable, by visitors (with the exception of students), such as parents, volunteers and others having lawful access to the schools who wish to make a complaint of discrimination or harassment. Complaints alleging discrimination against students based on protected status should be addressed through the Board's Student Discrimination and Harassment Procedure, ACAA-R.

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, sexual orientation, age, religion, ancestry, national origin or disability, and
- B. "Discrimination or harassment" means discrimination or harassment on the basis of race, color, sex, sexual orientation, age, religion, ancestry, national origin or disability. "Sexual orientation," under Maine law, means a person's "actual or perceived heterosexuality, bisexuality, homosexuality or gender identify or expression."

"Discrimination" may include treating individuals differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected class.

"Harassment" may include oral, written, graphic, electronic, or physical conduct relating to an individual's actual or perceived membership in a protected class that is sufficiently severe, pervasive, or persistent so as to interfere with or limit that individual's ability to participate in the school unit's programs or activities by creating a hostile, intimidating, or offensive environment.

- C. As used in this procedure, the term "employee" includes visitors who have a lawful basis to make a complaint of discrimination or harassment.

How to Make a Complaint

- A. Any employee who believes they have 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 they have been discriminated against or harassed should report their concern promptly to the Principal/Director/Designee. If the employee is uncomfortable reporting concerns to the Principal/Director/Designee, they may report the concern to the Affirmative Action Officer. The report should be made in writing.
Employees who are unsure as to whether unlawful discrimination or harassment has occurred are encouraged to discuss their concerns with the Principal/Director/Designee. Employees will not be retaliated against for reporting suspected discrimination or harassment or for participating in an investigation. Retaliation is illegal under federal and Maine discrimination laws, and any retaliation will result in employee discipline, up to and including termination.
- C. Any employee who believes they have been discriminated against or harassed is encouraged to utilize RSU 16'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 Regional Director, Office for Civil Rights U.S.

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Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02110-1491 (telephone: 617-289-0111).

Complaint Handling and Investigation

- A. The Principal/Director/Designee will promptly inform the Superintendent and the person who is the subject of the complaint that a complaint has been received.
- B. The Principal/Director/Designee may pursue an informal resolution of the complaint with the agreement of the parties involved. Any party to the complaint may decide to end the informal resolution process and pursue the formal process at any point. The informal resolution is subject to the approval of the Superintendent, who shall consider whether the informal resolution is in the best interest of the school unit in light of applicable policies and law.
- C. The complaint will be investigated by the Principal/Director/Designee, unless the Superintendent chooses to investigate the complaint or designates another person to investigate it on their 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 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. The complainant shall not be required to attend meetings with the person who is the subject of the complaint, but may choose to do so as part of the resolution process.
 - 2. Both the complainant and the person who is the subject of the complaint may suggest witnesses and/or submit materials they believe are relevant to the complaint.
 - 3. If the complaint is against an employee of the school unit, all rights conferred under an applicable collective bargaining agreement shall be applied.
 - 4. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
 - 5. The Principal/Director/Designee shall keep a written record of the investigation process.
 - 6. The Principal/Director/Designee may take interim remedial measures (consistent with any applicable collective bargaining agreement provisions), e.g. ordering no contact between the persons involved, to reduce the risk of further harassment while the investigation is pending.
 - 7. The Principal/Director/Designee shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
 - 8. The investigation shall be completed within 21 calendar days of receiving the complaint, if practicable.
- D. If the Principal/Director/Designee determines that discrimination or harassment occurred, they shall, in consultation with the Superintendent:
 - 1. Determine what remedial action is required, if any, to end the discrimination or harassment, remedy its effect, and prevent recurrence;
 - 2. Determine what disciplinary action should be taken against the person(s) who engaged in harassment, if any; and
 - 3. Within five calendar days, inform the employee who made the complaint and the person who is 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).
- E. After the conclusion of the investigation, the employee who made the complaint or the person who is the subject of the complaint may seek an appeal of the findings, but solely on the basis of either a) prejudicial procedural error, or b) the discovery of previously unavailable relevant evidence that could significantly

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impact the outcome. Appeals must be submitted, in writing, to the Superintendent within 14 calendar days after receiving notice of the resolution. Upon receipt of a valid appeal, the Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. The Superintendent's decision on the appeal shall be provided within 21 calendar days, if practicable. The Superintendent's decision shall be final.

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)
Genetic Information Nondiscrimination Act (42 USC § 2000ff et seq.)
Maine Human Rights Act (5 MRSA § 4571 et seq., 4681 et seq.)

SIGNATURE BLOCK:

RSU 16 School Board

Mary Martin, Chair

DATE

Joe Parent, Vice Chair

DATE

Travis Ritchie

DATE

Scott Lessard

DATE

Louis Goulet

DATE

Mike Downing

DATE

Ed Rabasco, Jr.

DATE

Laura Hemond

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Steve Holbrook

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Melanie Harvey

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Julie Rioux

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