

EMPLOYEE & THIRD PARTY 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 employee complaints of discrimination and harassment as described in policies AC – Nondiscrimination/Equal Opportunity and ACAB – Harassment and Sexual Harassment of School Employees. This procedure may also be used by other individuals (excluding students), such as parents, volunteers and visitors to the schools who wish to make a complaint of discrimination or harassment. Complaints alleging harassment or discrimination of students based on protected status should be addressed through the Board’s Student Discrimination and Harassment Complaint Procedure (ACAA-R).

Definitions

For purposes of this procedure:

- A. “Complaint” is defined as an allegation that an employee or other third party has been discriminated against or harassed on the basis of age, sex, race, religion, color, marital status, familial status, physical or mental disability, national origin, ancestry, sexual orientation or genetic information.
- B. “Discrimination or harassment” means discrimination or harassment on the basis of age, sex, race, religion, color, marital status, familial status, physical or mental disability, national origin, ancestry, sexual orientation or genetic information. “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 District’s programs or activities by creating a hostile, intimidating or offensive environment.
- C. Whenever the term “employee” is used in this procedure it includes other third parties who are making a complaint of discrimination or harassment.

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 harassed or discriminated against should report their concern in writing promptly to the Nondiscrimination Officer/Title IX Coordinator or the Superintendent/designee.

Employees who are unsure as to whether unlawful discrimination or harassment has occurred or who need assistance in preparing a written complaint, are encouraged to discuss their concerns with the Nondiscrimination Officer/Title IX Coordinator or the Superintendent/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 state nondiscrimination laws, and any retaliation will result in disciplinary measures, up to and including dismissal.

- C. Any employee who believes he/she has been discriminated against or harassed is encouraged to utilize the District's Complaint Procedure. However, employees are hereby notified that they also have the right to report incidents of discrimination or harassment to the New Hampshire Commission on Human Rights, 2 Chenell Drive, Concord, NH 03301-8501 (telephone: 603-271-2767) 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).

Complaint Handling and Investigation

- A. The Nondiscrimination Officer/Title IX Coordinator or Superintendent's designee will promptly inform the Superintendent and the person who is the subject of the Complaint that a Complaint has been received.
- B. The Nondiscrimination Officer/Title IX Coordinator or the Superintendent/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 resolution is in the best interest of the parties in light of the particular circumstances and applicable policies and law.
- C. The Complaint will be investigated by the Nondiscrimination Officer/Title IX Coordinator or by another internal or external investigator designated by the Superintendent. 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 subject of the Complaint, but may choose to do so as part of the resolution process.
 - 2. The Complainant and the subject of the Complaint may suggest witnesses and/or submit materials they believe are relevant to the Complaint.

3. Within five business days, 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 and any applicable collective bargaining agreement provisions).
4. Privacy rights of all parties to the Complaint shall be maintained in accordance with applicable state and federal laws.
5. The Nondiscrimination Officer/Title IX Coordinator shall keep a written record of the Complaint and investigation.
6. The Nondiscrimination Officer/Title IX Coordinator or the Superintendent/designee may take interim remedial measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further discrimination or harassment while the investigation is pending. An example of a remedial measure is ordering no contact between the individuals involved.
7. The Nondiscrimination Officer/Title IX Coordinator 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 Nondiscrimination Officer/Title IX Coordinator determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:

1. Determine what remedial action, if any, is required 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 discrimination or harassment, if any; and
3. Inform the employee who made the Complaint 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 and any applicable collective bargaining agreement provisions).

E. If the employee who made the Complaint is dissatisfied with the resolution, he/she may appeal to the Superintendent 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 provided in writing to the complainant within 21 business days, if practicable. The Superintendent's decision shall be final.

Legal Reference: Americans with Disabilities Act (28 CFR § 35.107)
Section 504 of the Vocational Rehabilitation Act (29 U.S.C. § 794); 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 of 2008 (42 U.S.C. §
2000ff et seq.)
NH Code Admin. R. Ed. 303.01(i) and (j)

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

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