

AFFIRMATIVE ACTION PLAN

2019-2020

DEVELOPED BY

RSU 54/MSAD 54

This Pamphlet Contains:

- ▶ **RSU 54/MSAD 54 Nondiscrimination Policy/ Equal Opportunity and Affirmative Action (AC)**
- ▶ **Harassment of Employees Policy (ACAB)**
- ▶ **Affirmative Action Plan**
- ▶ **Notification of Rights**
- ▶ **Grievance Procedure (ACAB-R)**
- ▶ **Grievance Form**
- ▶ **Appendix:**
 - Harassment & Sexual Harassment of Students (ACAA)**
 - Student Discrimination & Harassment Complaint Procedure (ACAA-R)**

**Jonathan Moody
Assistant Superintendent
Affirmative Action Officer**

August 2019

Adopted: September 15, 1994
Reviewed: November 21, 2002
Revised: March 5, 2010

FILE: ACAB

HARASSMENT AND SEXUAL HARASSMENT OF SCHOOL EMPLOYEES

Harassment of school employees because of race, color, sex, sexual orientation, 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.

Harassment

Harassment includes but is not limited to verbal abuse, threats, physical assault and/or battery based on race, color, sex, sexual orientation, 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 their sexual orientation are also illegal.

Sexual Harassment

Unwelcome sexual advances, suggestive or lewd remarks, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an employee's work environment or employee benefits;
- B. Submission to or rejection of such conduct by an employee is used as the basis for decisions on employment benefits; and/or
- C. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

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

All complaints of harassment will be investigated in accordance with the School Employee Discrimination and Harassment Complaint Procedure.

Notice and Training

Annually, each employee shall receive a copy of this policy and the School Employee Discrimination and Harassment Complaint Procedure. This may be accomplished by including the policy/procedure with employee paychecks or by using other appropriate means to ensure that each employee receives a copy. All newly hired employees shall be provided training about sexual harassment in accordance with Maine law.

The Superintendent is responsible for ensuring that the school unit complies with all legal requirements for posting, notification and training of employees regarding harassment and sexual harassment.

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 USC § 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 USC § 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

AFFIRMATIVE ACTION PLAN

A. General Statement

MSAD54 does not discriminate on the basis of race, age, color, ancestry or national origin, religion, sex, sexual orientation, genetic information, or physical or mental disability in admission to, access to, treatment in or employment in its programs and activity. (see board nondiscrimination policy: AC)

B. Responsibility for Implementation

The Superintendent holds primary responsibility for the successful implementation and administration of this Plan. However, the following specific responsibilities have been delegated to Assistant Superintendent who has been designated as Affirmative Action Officer:

1. To implement and administer the Affirmative Action Plan including providing assistance to staff who have responsibilities that affect Affirmative Action.
2. To maintain records and personnel transactions necessary for compliance with State and Federal requirements.
3. To prepare such reports as may be required by State and Federal agencies.
4. To recommend to the Superintendent and/or the Board of Directors revisions to current personnel practices that are inconsistent with the procedures outlined in this Plan for correcting the under-utilization of women and minorities.
5. To monitor and evaluate the Plan on an annual basis.
6. To inform students, parents, and employees of RSU 54/MSAD 54's non-discrimination policy through school handbooks and postings on the district website.
7. To inform all contractors providing services to students and employees of RSU 54/MSAD 54's non-discrimination policy.
8. To administer complaints and grievances arising from the Maine Human Rights Act or related State/Federal laws.
9. The Board of Directors will provide adequate resources for the Affirmative Action Officer to assure that s/he is given the time and assistance necessary to fulfill this responsibility.
10. The Affirmative Action Officer will have direct access to the Superintendent concerning affirmative action matters and will be given the authority to appoint an Affirmative Action Committee for advice in the implementation of this policy.

B. Utilization Analysis

Data from the 2018-19 school year show that RSU 54/MSAD 54 follows a profile similar to that of the State of Maine both in terms of salaries for male and female staff and in relative percentages for teaching staff.

Minorities are under-utilized in the current work force and generally reflect the community population as a whole. The pool of workers available for these jobs is basically within the towns, since few people cannot afford to move to this area for an hourly employee position.

The following observations are made concerning male/female distributions on the work force:

1. Women have been slightly under-represented in the hourly employee category of custodians.
2. Men have been under-represented in the hourly employee categories of: Educational Technicians, Secretaries and Cafeteria Workers.
3. In the teaching ranks men and women are employed at a very similar rate K-12. At the 9-12 teaching level MSAD54 has attained a relative balance between women and men in the workforce, which represents improvement from past analysis which indicated less women in the workforce at the high school level.

C. Category Goals

1. Minorities: RSU 54/MSAD 54 continues to have a goal of hiring as many qualified minorities as possible to ensure a broad and diverse workforce.
2. Employees: Efforts will continue to be made to ensure a balance of genders in each employee category.
3. RSU 54/MSAD 54 will continue its non-discriminatory hiring practices for all positions.

D. Dissemination of the Plan

In September of each school year, the Superintendent shall cause to be posted in conspicuous locations within each building of the RSU 54/MSAD 54 School District, a notice to the effect that a copy of the Plan shall be available to any interested employee, student or parent of a student in the RSU 54/MSAD 54 School District. Copies of the plan shall be provided at:

1. School libraries
2. Principals' offices
3. Superintendent's Office
4. District's Website

Timetable: Ongoing

All new staff will review the affirmative action plan and will participate in a training on appropriate behaviors in the workplace as they relate to the plan/policy.

E. Students

RSU 54/MSAD 54 School District has strictly prohibited the harassment of students because of race, color, sex, sexual orientation, religion, gender, ancestry or national origin, or disability. Any student or person wishing to address harassment related issues should follow the Student Discrimination and Harrassment complaint procedure, policy ACAA-R. Any student or person with information regarding the harassment of any individual in the district for any reason should report that information to administration.

NOTIFICATION OF RIGHTS

RSU 54/MSAD 54 does not discriminate on the basis of race, color, national origin, disability, sex or age in admission to, access to, treatment in, or employment in its services, programs and activities. The person(s) identified below has (have) been designated to address inquiries regarding RSU 54/MSAD 54 Public Schools' nondiscrimination policies:

Jonathan Moody
Assistant Superintendent/Affirmative Action Coordinator
RSU 54/MSAD 54
196 W. Front St.
Skowhegan, ME 04976
(207) 474-9508

Inquiries concerning the application of RSU 54/MSAD 54's Public Schools' nondiscrimination policies also may be referred to the U.S. Department of Education, Office for Civil Rights (OCR), 400 Maryland Ave, SW Washington, DC 20202-1100 (800) 421-3481, FAX (202) 245-6840.

**EMPLOYEE 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 Affirmative 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, 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.

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 informal or formal complaint.
- B. Any employee who believes he/she has been discriminated against or harassed should report their concern promptly to the building administrator. If the employee is uncomfortable reporting concerns to the building administrator, he/she may report the concern to the Assistant Superintendent. 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 building administrator. 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: 207-624-6050) and/or to the federal Office for Civil Rights, Regional Director, U.S. Department of Education, S.W. McCormack POCH Room 222, Boston, MA 02109-4557 (telephone: 617-223-9622).

Complaint Handling and Investigation

- A. The building administrator will promptly inform the Superintendent or his designee and the person who is the subject of the complaint that a complaint has been received.
- B. The building administrator 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 building administrator, 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 building administrator shall keep a written record of the investigation process.
 5. The building administrator 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 building administrator shall consult with the Superintendent or his designee 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 building administrator determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent or designee:
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 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 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)
Maine Human Rights Act (5 MRSA § 4571 et seq., 4681 et
seq.)

GRIEVANCE FORM

RSU 54/MSAD 54

Name of Grievant: _____

Statement of Grievance:

Relief Sought:

Signed: _____

Date: _____

Adopted: June 17, 1999
Reviewed: December 5, 2002
Revised: March 5, 2010

FILE: ACAA

HARASSMENT AND SEXUAL HARASSMENT OF STUDENTS

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

Harrassment

Harassment includes but is not limited to verbal abuse based on race, color, sex, sexual orientation, religion, ancestry or national origin, or disability. Harassment that rises to the level of physical assault, battery and/or abuse is also addressed in the Board policy JICIA – Weapons, Violence and School Safety.

Sexual Harassment

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors or pressure to engage in sexual activity, physical contact of a sexual nature, gestures, comments, or other physical, written or verbal conduct that is gender-based that interferes with a student's education. School employees, fellow students, volunteers and visitors to the school, and other persons with whom students may interact in order to pursue school activities are required to refrain from such conduct.

Harassment/sexual harassment of students by school employees is considered grounds for disciplinary action, up to and including discharge. Harassment/sexual harassment of students by other students is considered grounds for disciplinary action, up to and including expulsion. The Superintendent will determine appropriate sanctions for harassment of students by persons other than school employees and students.

The Superintendent or the employee designated as the Affirmative Action Officer (building and/or district) will investigate complaints of harassment in accordance with the Student Harassment Complaint Procedure. School employees, students, and parents shall be informed of this policy/procedure through handbooks and/or other means selected by the school administration.

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 § 2000(d))
5 MRSA §§ 4602; 4681 et seq.
20-A MRSA § 6553

Cross Reference: ACAA-R - Student Discrimination and Harassment Complaint Procedure
AC - Nondiscrimination/Equal Opportunity and Affirmative Action
ACAD - Hazing
JICIA - Weapons, Violence and School Safety

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 student complaints of discrimination or discriminatory harassment as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAA – Harassment and Sexual Harassment of Students.

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 basis of race, color, sex, sexual orientation, religion, ancestry, national origin, or disability; and
- B. “Discrimination or harassment” means discrimination or harassment on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, or disability.

How to Make a Complaint

- A. Any student who believes he/she has been discriminated against or harassed should report his/her concern promptly to the building administrator. Students who are unsure whether discrimination or harassment has occurred are encouraged to discuss the situation with the building administrator.
- B. School staff is expected to report possible incidents of discrimination or harassment of students. Parents and other adults are also encouraged to report any concerns about possible discrimination or harassment of students.
- 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 are encouraged to utilize the school unit's complaint procedure. However, students are hereby notified that they also have the right to report complaints to the Maine Human Rights Commission, 51 State House Station, Augusta, ME 04333 (telephone: 207-624-6050) and/or to the federal office for Civil Rights, Regional Director, U.S. Department of Education, SW McCormack POCH Room 222, Boston, MA 02109-4557 (telephone: 617-223-9622).

Complaint Handling and Investigation

- A. The building administrator shall promptly inform the Superintendent or his designee and the person(s) who is the subject of the complaint that a complaint has been received.
- B. The building administrator 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 the particular circumstances and applicable policies and laws.
- C. The complaint will be investigated by the building administrator, 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 applicable individual or collective bargaining contract provisions shall be followed.

3. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
 4. The building administrator shall keep a written record of the investigation process.
 5. The building administrator may take interim remedial measures to reduce the risk of further discrimination or harassment while the investigation is pending.
 6. The building administrator shall consult with the Superintendent or his designee concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
 7. The investigation shall be completed within 21 days of receiving the complaint, if practicable.
- D. If the building administrator 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 discrimination or harassment, if any; and
 3. Inform the student 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 student's parents/legal guardians are dissatisfied with the resolution, an appeal may be made in writing 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 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 Education Amendments of 1972 (20 SC § 1681
et seq.)
Title VI of the Civil Rights Act of 1964 (PL 88-352)
20 USC § 1232g;
34 CFR Part 99
5 MRSA §§ 4571; 4602; 4681 et seq.
20-A MRSA §§ 6001 et seq.

Cross Reference: AC - Nondiscrimination/Equal Opportunity and Affirmative
Action
ACAA - Harassment and Sexual Harassment of Students