# A. Foundations and Basic Commitments

The District's legal role in providing public education and the basic principles underlying school board governance. These policies provide a setting for all of the school board's other policies and regulations.

- AC - Nondiscrimination/Equal Opportunity and Affirmative Action
- AC-R- GRIEVANCE PROCEDURE FOR PERSONS WITH DISABILITIES
- ACAA - Harassment and Sexual Harassment of Students
- ACAA-R - Student Discrimination and Harassment Complaint Procedure
- ACAB - Harassment and Sexual Harassment of School Employees
- ACAB-R - Employee Discrimination and Harassment of School Employees
- ACAC - Service Animals in Schools
- ACAD - Hazing
- AD - Educational Philosophy
- AD-R - Change Model
- ADA - School District Goals and Objectives
- ADAA - School System Commitment to Standards for Ethical and Responsible Behavior
- ADC - Use of Tobacco Products and Electronic Nicotine Delivery Systems
- ADF - CAPE ELIZABETH SCHOOL DEPARTMENT COMMITMENT TO LEARNING RESULTS

# AC - Nondiscrimination/Equal Opportunity and Affirmative Action

NONDISCRIMINATION/EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

The Cape Elizabeth School Department does not discriminate on the basis of sex or other protected categories in its education programs and activities, as required by federal and state laws/regulations.

Discrimination against and harassment of school employees because of race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locks), color, sex, sexual orientation, gender identity, religion, ancestry or national origin, age, familial status, disability, or genetic information are prohibited.

Discrimination against and harassment of students because of race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locks), color, sex, sexual orientation, gender identity, religion, ancestry or national origin, or disability are prohibited.

The Board directs the school administration to implement a continuing program designed to prevent discrimination against all applicants, employees, students, and other individuals having access rights to school premises and activities.

The Cape Elizabeth School Department has designated and authorized an Affirmative Action Officer/Title IX Coordinator who is responsible for ensuring compliance with all federal and state requirements relating to nondiscrimination, including sexual harassment. The Affirmative Action Officer/Title IX Coordinator is a person with direct access to the Superintendent.

The Cape Elizabeth School Department has implemented complaint procedures for resolving complaints of discrimination/harassment and sexual harassment under this policy. The Cape Elizabeth School Department provides required notices of these complaint procedures and how they can be accessed, as well as the Cape Elizabeth School Department's compliance with federal and state civil rights laws and regulations to all applicants for employment, employees, students, parents, and other interested parties.

## Legal Reference:

- Equal Employment Opportunity Act of 1972 (P.L. 92-261), amending Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000 (e) et seq.)
- Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); 34 C.F.R. Part 106 (Title IX regulations)
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
- Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621 et seq.)

- Equal Pay Act of 1963 (29 U.S.C. § 206)
- Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended
- Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), as amended
- Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
- Maine Human Rights Act (5 MRSA § 4551 et seq.), as amended

## Cross Reference:

- Cape Elizabeth School Department Affirmative Action Plan
- ACAA – Harassment and Sexual Harassment of Students
- ACAA-R – Student Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures
- ACAB – Harassment and Sexual Harassment of School Employees
- ACAB-R – Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures
- GBGB - Workplace Bullying

Adopted:

- September 8, 2020

Revised:

- March 8, 2022
- December 13, 2022

# AC-R- GRIEVANCE PROCEDURE FOR PERSONS WITH DISABILITIES

GRIEVANCE PROCEDURE FOR PERSONS WITH DISABILITIES

The Board has adopted this grievance procedure to provide a local avenue for persons with disabilities to raise concerns about whether the school unit is fully meeting its obligations under state and federal laws to protect persons with disabilities. This procedure is intended to meet the requirements of the federal Rehabilitation Act (34 CFR § 104.7(b)) and the federal Americans with Disabilities Act (28 CFR § 35.107 (b)).

Questions about this grievance procedure should be directed to the ADA/504 compliance coordinator as listed on the Cape Elizabeth School Department (CESD) website: https:www.cape.kl2.me.us

## Step One:

A person with an identifiable disability, or someone acting on that person's behalf, may file a written grievance regarding compliance with state or federal disabilities laws with the building principal where the grievance arose, or with the ADA/504 compliance coordinator. If filed with the ADA/504 compliance coordinator, that person shall forward it to the appropriate building principal. No grievance will be heard if it involves actions that occurred more than 60 days prior to the filing of the grievance.

The building principal, after consultation with the ADA/504 compliance coordinator, shall respond in writing to the grievance within 15 working days of its receipt. Extensions of 15 working days may be allowed when necessary to address fully the issues in the grievance. The principal's written response shall be forwarded to the grievant and to the ADA/504 compliance coordinator.

## Step Two:

If dissatisfied with the response, the grievant may obtain a review by the Superintendent of the principal's decision.

The grievant must request that review within 15 working days of the decision of the principal. The superintendent, after consultation with the ADA/504 compliance coordinator, shall respond in writing to the grievance within 15 working days. Extensions of 15 working days may be allowed when necessary to address full the issues in the grievance. The Superintendent's written response shall be forwarded to the grievant and the ADA/504 compliance coordinator.

Except for grievances regarding physical alterations to school buildings or grounds, the decision of the Superintendent shall be final. In the case of grievances regarding physical alterations to school buildings or grounds, a dissatisfied grievant may obtain a review by the School Board of the Superintendent's decision.

The grievant must request that review within 15 working days of the decision made by the Superintendent. The Board shall have a reasonable time to schedule a meeting on the grievance and to issue its decision.

Nothing in the grievance procedure in any way forecloses a person with a disability from seeking redress for their concerns at any time through other legal avenues, such as through the Office for Civil Rights, the Department of Justice, the Maine Human Rights Commission or the Maine Department of Education.

Questions about other legal avenues available for persons with disabilities to pursue compliance concerns under various disabilities laws should be directed to the ADA/504 compliance coordinator.

This notice is available in large print and on audio tape from the ADA/504 compliance coordinator.

## Reviewed:

November 13, 2018

## Adopted:

- December 11, 2018
- April 11, 2023

# ACAA - Harassment and Sexual Harassment of Students

HARASSMENT AND SEXUAL HARASSMENT OF STUDENTS

Harassment of students because of race, color, sex, sexual orientation, gender identity, 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.

School employees, fellow students, volunteers, visitors to the schools, and other persons with whom students may interact in order to pursue or engage in education programs and activities, are required to refrain from such conduct.

Harassment and sexual harassment of students by school employees is considered grounds for disciplinary action, up to and including discharge. Harassment and 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.

I. Harassment

Harassment includes, but is not limited to, verbal abuse and other offensive conduct based on race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locks), color, sex, sexual orientation, gender identity, religion, ancestry or national origin, or disability. Harassment that rises to the level of physical assault, battery and/or abuse, and/or bullying behavior are also addressed in Board Policies JICIA – Weapons, Violence, and School Safety and JICK – Bullying and Cyberbullying Prevention in Schools.

II. Sexual Harassment

Sexual harassment is addressed under federal and state laws/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 Cape Elizabeth School Department's education programs and activities:

I. "Quid pro quo" sexual harassment by a school employee: Conditioning a school aid, benefit, or service (such as a better grade or a college recommendation) on an individual's participation in unwelcome sexual conduct;

II. "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 Cape Elizabeth School Department's education programs and activities; or

III. Sexual assault, dating violence, domestic violence, and stalking as these terms are defined in federal laws.

2. Sexual Harassment Under Maine Law

Under Maine law, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:

I. Submission to such conduct is made either explicitly or implicitly a term or condition of a student's educational benefits;

II. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or

III. Such conduct has the purpose and effect of substantially interfering with a student's academic performance or creates an intimidating, hostile, or offensive environment.

I. Reports and Complaints of Harassment or Sexual Harassment

All school employees are required to report possible incidents of harassment or sexual harassment involving students to the Affirmative Action Officer/Title IX Coordinator. Failure to report such incidents may result in disciplinary action.

Students, parents/legal guardians, and other individuals are strongly encouraged to report possible incidents of harassment or sexual harassment involving students 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 of harassment or sexual harassment against students shall be addressed through ACAA-R – Student Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures.

## Legal Reference:

- Americans with Disabilities Act (42 U.S.C. §12101 et seq., as amended; 28 C.F.R. § 35.107)
- Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq., as amended; 34 C.F.R. § 104.7)
- Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.); 34 C.F.R. Part 106
- Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)
- Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)
- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)
- Maine Human Rights Act, 5 MRSA § 4551 et seq.
- 20-A MRSA § 6553
- MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

## Cross Reference:

- ACAA-R – Student Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures

- AC – Nondiscrimination/Equal Opportunity and Affirmative Action
- ACAD – Hazing
- GBEB – Staff Conduct with Students
- JICJ – Student Use of Cell Phones and Other Personal Electronic Devices
- JICIA – Weapons, Violence, and School Safety
- JICK - Bullying and Cyberbullying Prevention in Schools

## Adopted:

- September 8, 2020
- December 13, 2022

# ACAA-R - Student Discrimination and Harassment Complaint Procedure

The Board has adopted these student procedures in order to provide prompt and equitable resolution of reports and complaints of unlawful discrimination and harassment of students, including sexual harassment, as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAA – Harassment and Sexual Harassment of Students.

Complaints alleging unlawful harassment or discrimination against employees based on a protected category should be addressed through ACAB-R – Employee Discrimination/ Harassment and Title IX Sexual Harassment Complaint Procedures.

Any individual who is unsure about whether unlawful discrimination or harassment has occurred and/or which complaint procedure applies is encouraged to contact the Affirmative Action Officer/Title IX Coordinator.

Ryan Fairchild

Affirmative Action Officer/Title IX Coordinator Cape Elizabeth School Department

320 Ocean House Road Cape Elizabeth, ME 04102 (207) 799-2217

rfairchild@capeelizabethschools.org

I. DEFINITIONS

For purposes of these complaint procedures, the following definitions will be used. The Affirmative Action Officer (AAO)/Title IX Coordinator shall assess all reports and complaints to ensure that they are addressed under the appropriate policy and complaint procedure.

I. Discrimination/Harassment Complaint Procedure Definitions

1. "Discrimination or harassment": Discrimination or harassment on the basis of an individual's membership in a protected category, which, for students, includes race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locks), color, sex, sexual orientation, gender identity, religion, ancestry, national origin, or disability.

2. "Discrimination": 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 category.

3. "Harassment": Oral, written, graphic, electronic, or physical conduct relating to an individual's actual or perceived membership in a protected category that is sufficiently severe, pervasive, or persistent so as to interfere with or limit that individual's ability to participate in the Cape

Elizabeth School Department's programs or activities by creating a hostile, intimidating, or offensive environment.

4. "Sexual harassment": Under Maine law, this means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:

   a. Submission to such conduct is made either explicitly or implicitly a term or condition of a student's educational benefits;

   b. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or

   c. Such conduct has the purpose and effect of substantially interfering with a student's academic performance or creates an intimidating, hostile, or offensive environment.

5. "Sexual orientation": Under Maine law, this means a person's "actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression."

6. "Gender identity": Under Maine law, this means "the gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth."

7. "Complaint" is defined as an allegation that a student has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, gender identity, religion, ancestry, national origin, or disability (and not otherwise addressed in the Title IX regulations and Section 3 of ACAA-R).

8. Complaints of bullying not involving the protected categories or definitions described above may be addressed under Board Policy JICK – Bullying and Cyberbullying of Students.

II. Title IX Sexual Harassment Complaint Procedure Definitions

1. "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 Cape Elizabeth School Department'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 better grade or a college recommendation) 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 Cape Elizabeth School Department's education programs and activities; or

   c. Sexual assault, dating violence, domestic violence, and stalking as these terms are defined in federal laws.

2. "Report": Under the Title IX regulations, any individual may make a report of sexual harassment involving a student, whether the individual is the alleged victim or not. School employees are required to report possible incidents of sexual harassment involving a student. A report must be made to the AAO/Title IX Coordinator. A report triggers certain actions by the AAO/Title IX Coordinator for the alleged victim of sexual harassment, but an investigation is not conducted unless a "Formal Complaint" is filed.

3. “Formal Complaint”: Under the Title IX regulations, the alleged victim of sexual harassment can file a written complaint that triggers the complaint procedure in Section 3 of ACAA-R. Only a student and/or their parent/ legal guardian (and in certain circumstances, the AAO/Title IX Coordinator) may file a formal complaint.

4. “Student”: For the purposes of this procedure, a student is an individual who is enrolled or participating in the Cape Elizabeth School Department’s education programs and activities, or is attempting to enroll or participate.

## II. DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

This procedure should be used for any complaint of unlawful harassment or discrimination complaint based on a protected category that does not involve Title IX sexual harassment (which is addressed in Section 3).

### I. How to Make A Complaint

1. School employees are required to promptly make a report to the AAO/Title IX Coordinator if they have reason to believe that a student has been discriminated against or harassed.

2. Students (and others) who believe that they, or another student, has been harassed or discriminated against should report their concern promptly to the AAO/Title IX Coordinator.

3. The individual making the report must provide basic information in writing concerning the allegation of harassment or discrimination (i.e., date, time, location, individual(s) who allegedly engaged in harassment or discrimination, description of allegation) to the AAO/Title IX Coordinator.

4. If an individual is unsure as to whether unlawful discrimination or harassment has occurred, or who need assistance in preparing a written complaint, they are encouraged to discuss the matter with the AAO/Title IX Coordinator.

5. Individuals 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 action, up to and including discharge for employees, and expulsion for students.

6. Individuals are encouraged to utilize the Cape Elizabeth School Department’s complaint procedure. However, individuals 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, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone:617-289-0111).

### II. Complaint Handling and Investigation

1. The AAO/Title IX Coordinator will promptly inform the Superintendent and the person who is the subject of the complaint (respondent) that a complaint has been received.

2. The AAO/Title IX Coordinator 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. Any informal resolution is subject to the approval of the parties and the Superintendent, who shall consider whether the resolution is in the best interest of the Cape Elizabeth School Department and the parties in light of the particular circumstances and applicable policies and laws.

3. The AAO/Title IX Coordinator may implement supportive measures to a student to reduce the risk of further discrimination or harassment to a student while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals involved or changing classes.

4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the AAO/Title IX Coordinator. 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.

5. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.

6. The respondent 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 respondent, but may choose to do so as part of an informal resolution process.

7. The complainant and the respondent may suggest witnesses to be interviewed and/or submit materials they believe are relevant to the complaint.

8. If the complaint is against an employee of the Cape Elizabeth School Department, any rights conferred under an applicable collective bargaining agreement shall be applied.

9. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

10. The investigation shall be completed within 40 calendar days of receiving the complaint, if practicable. Reasonable extensions of time for good reason shall be allowed.

11. The investigator shall provide a written report and findings to the AAO/Title IX Coordinator. Complaint Handling and Investigation

III. Findings and Subsequent Actions

1. The AAO/Title IX Coordinator shall consult with the Superintendent concerning the investigation and findings.

2. If there is a finding that discrimination or harassment occurred, the AAO/Title IX Coordinator, in consultation with the Superintendent shall:

   a. Determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect, and prevent recurrence; and

   b. Determine what disciplinary action should be taken against the individual(s) who engaged in discrimination or harassment, if any.

3. Inform the complainant and the respondent in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).

IV. Appeals

1. After the conclusion of the investigation, the complainant or respondent may seek an appeal of the findings solely on the basis of either: (a) prejudicial procedural error; or (b) the discovery of previously unavailable relevant evidence that could significantly impact the outcome.

2. Appeals must be submitted in writing to the Superintendent within five calendar days after receiving notice of the resolution.

3. Upon receipt of a valid appeal, the Superintendent shall provide notice to the other party, along with an opportunity to provide a written statement within five calendar days.

4. The Superintendent shall review the available documentation and may conduct further investigation if deemed appropriate.

5. The Superintendent's decision on the appeal shall be provided to the parties within ten calendar days, if practicable. The Superintendent's decision shall be final.

V. Records

The AAO/Title IX Coordinator shall keep a written record of the complaint process.

# I. TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURE

This section should be used only for complaints of Title IX sexual harassment as defined in Section 1.B.1.

## I. How to Make A Report

1. School employees who have reason to believe that a student has been subjected to sexual harassment are required to promptly make a report to the AAO/Title IX Coordinator.

2. Students, parents/legal guardians or other individuals who believe a student has been sexually harassed are encouraged to make a report to the AAO/Title IX Coordinator.

3. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the AAO/Title IX Coordinator will meet with the alleged victim to discuss supportive measures that may be appropriate in the particular circumstances and explain the process for filing a formal complaint.

    a. Supportive measures are individualized measures designed to ensure the student can continue to access educational programs and activities (e.g., requiring no contact between individuals or changing classes).

    b. Supportive measures may be continued even if the alleged victim chooses not to file a formal complaint, if appropriate under the particular circumstances.

4. The Cape Elizabeth School Department cannot provide an informal resolution process for resolving a report unless a formal complaint is filed.

5. Individuals will not be retaliated against for reporting sexual harassment or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any

retaliation will result in disciplinary actions, up to and including discharge for employees, or expulsion for students.

6. Any student (or their parent/legal guardian) who believes they have been the victim of sexual harassment is encouraged to utilize the Cape Elizabeth School Department's complaint procedure. However, students (and their parents/legal guardians) are hereby notified that they also have the right to report sexual harassment to the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

7. The Superintendent shall be informed of all reports and formal complaints of sexual harassment.

II. How to Make A Formal Complaint

1. An alleged student victim and/or their parent/legal guardian may file a formal written complaint requesting investigation of alleged Title IX sexual harassment. The written complaint must include basic information concerning the allegation of sexual harassment (i.e., date, time, location, individual(s) who allegedly engaged in sexual harassment, description of allegation). Students who need assistance in preparing a formal written complaint are encouraged to consult with the AAO/Title IX Coordinator.

2. In certain circumstances, the AAO/Title IX Coordinator may file a formal complaint even when the alleged victim chooses not to. Examples include if the respondent (person alleged to have engaged in sexual harassment) has been found responsible for previous sexual harassment or there is a safety threat within the Cape Elizabeth School Department. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

3. In accordance with the Title IX regulations, the AAO/Title IX Coordinator must dismiss a formal complaint under this Title IX procedure if: a) the conduct alleged in the formal complaint does not constitute sexual harassment under the Title IX regulations and this policy; or b) if the conduct alleged did not occur within the scope of the Cape Elizabeth School Department's education programs and activities; or c) did not occur in the United States.

4. In accordance with the Title IX regulations, the AAO/Title IX Coordinator may dismiss a formal complaint under this Title IX procedure if: a) a complainant withdraws the formal complaint or withdraws particular allegations within the complaint; b) the respondent is no longer employed by or enrolled in the Cape Elizabeth School Department; or c) there are specific circumstances that prevent the Cape Elizabeth School Department from gathering evidence sufficient to reach a determination regarding the formal complaint. However, if the conduct potentially violates other policies or laws, it may be addressed through the applicable Board policy/procedure.

5. If a formal complaint is dismissed under this Title IX procedure, the AAO/Title IX Coordinator will promptly and simultaneously send written notices to the parties explaining the reasons. Parties have the opportunity to appeal dismissals in accordance with subsection I below.

6. If the conduct alleged in a formal complaint potentially violates other laws, Board policies, and/or professional expectations, the Cape Elizabeth School Department may address the conduct under Section 2 or another applicable Board policy/procedure.

III. Emergency Removal or Administrative Leave

1. The Superintendent may remove a student respondent from education programs and activities on an emergency basis during the complaint procedure:

    a. If there is a determination (following an individualized safety and risk analysis) that there is an immediate threat to the physical health or safety of an individual arising from the allegations of sexual harassment. Examples of such circumstances might include, but are not limited to, a continued threat of violence against a complainant by a respondent, or a respondent's threat of self-harm due to the allegations.

    b. The respondent (and their parent/legal guardian) will be provided notice of the emergency removal, and will be provided an opportunity to challenge the decision following the removal (this is an opportunity to be heard, not a hearing). The respondent has the burden to demonstrate why the emergency removal was unreasonable.

2. The Superintendent may place an employee respondent on administrative leave during the complaint procedure in accordance with any applicable State laws, school policies, and collective bargaining agreement provisions.

3. Any decision to remove a student respondent from education programs and activities on an emergency basis or place an employee on administrative leave shall be made in compliance with any applicable disability laws, including the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

## IV. Notice to Parties of Formal Complaint

1. The Title IX Coordinator will provide to the parties written notice of the formal complaint and allegations of sexual harassment potentially constituting prohibited conduct under the Title IX regulations and this procedure. The notice shall include:

    a. Notice regarding the complaint procedure and the availability of an informal resolution process;

    b. Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (not less than five calendar days);

    c. As required by the Title IX regulations, a statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the complaint;

    d. Notice that the parties may each have an advisor of their choice (who may be an attorney), and that the parties may inspect and review evidence;

    e. Notice that knowingly making false statements or submitting false information during the complaint process is prohibited and may result in disciplinary action;

    f. Notice of the name of the investigator, with sufficient time (no less than three calendar days to raise concerns of conflict of interest or bias).

2. If additional allegations become known at a later time, notice of the additional allegations will be provided to the parties.

3. The AAO/Title IX Coordinator will discuss supportive measures with each party and implement such measures as appropriate.

V. Informal Resolution Process

After a formal complaint has been filed, and if the AAO/Title IX Coordinator believes the circumstances are appropriate, the AAO/Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and determination process. Informal resolutions cannot be used to resolve a formal complaint where a student is the complainant and the respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; disciplinary actions against a respondent or a requirement to engage in specific services; or supportive measures. Both parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time. The Superintendent must agree to the terms of any informal resolution reached between the parties. If an informal resolution agreement is reached, it must be signed by both parties and the Cape Elizabeth School Department. Any such signed agreement is final and binding according to its terms.

If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the subsequent investigation or determination.

VI. Investigation

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and AAO/Title IX Coordinator. 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.

2. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.

3. If the complaint is against an employee of the Cape Elizabeth School Department, rights conferred under an applicable collective bargaining agreement shall be applied, to the extent they do not conflict with the Title IX regulatory requirements.

4. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

5. The investigator will:

    a. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.

    b. Allow parties to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process.

    c. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.

    d. Interview witnesses and conduct such other activities that will assist in ascertaining facts (e.g., site visits, review of documents).

e. Consider evidence that is relevant and directly related to the allegations in the formal complaint.

f. During the course of the investigation, provide both parties with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint (including evidence that the Cape Elizabeth School Department does not intend to rely upon in reaching a determination of responsibility), and favorable and unfavorable evidence.

g. Prior to completion of the investigation report, provide each party and advisor (if any) the evidence subject to inspection and review, and provide the parties with ten calendar days to submit a written response.

h. Consider the parties' written responses to the evidence prior to completing the investigation report.

i. Create an investigative report that fairly summarizes relevant evidence and send the report to the parties and advisors (if any), for their review and written responses within ten calendar days of receipt.

j. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned decision maker.

6. The investigation shall be concluded within 40 calendar days, if practicable. Reasonable extension of time for good reason shall be allowed.

## VII. Determination of Responsibility

1. The decision maker shall provide the parties with the opportunity to submit written, relevant questions that the party wants asked of another party or witness within five calendar days of when the decision maker received the investigation report and party responses.

   a. The decision maker shall explain to a party proposing questions if the decision maker excludes a question as not relevant.

2. Each party shall be provided the opportunity to review the responses of another party and/or witness, and to ask limited written follow-up questions within five calendar days of receiving the answers.

3. Each party will receive a copy of the responses to any follow-up questions.

4. The decision maker shall review the investigation report, the parties' responses and other relevant materials, applying the preponderance of the evidence standard ("more likely than not").

5. The decision maker shall issue a written determination, which shall include the following:

   a. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy;

   b. A description of the procedural steps taken from receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and meetings held;

c. A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;

d. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Cape Elizabeth School Department imposes on the respondent, and whether remedies designed to restore or preserve equal access to the Cape Elizabeth School Department's programs and activities will be provided to the complainant;

e. The Cape Elizabeth School Department's appeal procedure and permissible bases for the parties to appeal the determination.

6. The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that the Cape Elizabeth School Department provides the parties with the written determination of the results of the appeal, if an appeal is filed, or, if an appeal is not filed, the date on which the appeal would no longer be considered timely.

## VIII. Remedies, Discipline, and Other Actions

1. Remedies
   Remedies are measures used to ensure that the complainant has equal access to the Cape Elizabeth School Department's education programs and activities following the decision maker's determination. Such remedies may include supportive measures, and may include other appropriate measures, depending upon the determination and the needs of the complainant. The Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the complainant.

2. Discipline and Other Actions – Students
   The following are examples of the types of discipline and other actions that may be imposed on a student when there is a determination that they are responsible for one or more violations involving sexual harassment:

   a. In or out of school suspension;

   b. Expulsion;

   c. Restorative justice;

   d. Requirement to engage in education or counseling programs.

3. Discipline and Other Actions – Employees
   The following are examples of the types of discipline and other actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations involving sexual harassment:

   a. Written warning;

   b. Probation;

   c. Demotion;

   d. Suspension without pay;

e. Discharge;

f. Performance improvement plan;

g. Counseling;

h. Training;

i. Loss of leadership/stipend position.

IX. Appeals

The parties have the opportunity to appeal a determination regarding responsibility or dismissals of formal complaints. Under the Title IX regulations, appeals are allowed on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;

2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the formal complaint was made that could affect the outcome of the matter; or

   a. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent that affected the outcome of the matter.

An appeal must be filed in writing within five calendar days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

1. Appeals must be filed with the Superintendent, who will consider the appeal.

2. The Superintendent shall notify the other party in writing of the appeal and will allow both parties to submit a written statement in support of, or challenging, the determination of the decision maker.

3. The Superintendent shall conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with legal counsel or other Cape Elizabeth School Department officials in making their decision.

4. The Superintendent shall issue a written decision describing the result of the appeal and rationale for the result, and provide the written decision simultaneously to the parties. The decision will either deny the appeal; grant the appeal and remand to the decision maker for further consideration; or grant the appeal by revising the disciplinary or other action(s).

II. Records

Records in connection with sexual harassment reports and the complaint process shall be maintained for a minimum of seven years.

## Legal Reference:

- Americans with Disabilities Act (42 U.S.C. §12101 et seq., as amended; 28 C.F.R. § 35.107)
- Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq., as amended; 34 C.F.R. § 104.7)
- Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.); 34 C.F.R. Part 106
- Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)
- Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)
- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)
- Maine Human Rights Act, 5 MRSA § 4551 et seq. 20-A MRSA § 6553
- MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

## Cross Reference:

- AC – Nondiscrimination/Equal Opportunity and Affirmative Action ACAA – Harassment and Sexual Harassment of Students
- ACAD – Hazing
- ACAA - Harassment and Sexual Harassment of Students
- GBEB – Staff Conduct with Students
- JICJ – Student Use of Cellular Telephones and Other Electronic Devices
- JICIA –Weapons, Violence, and School Safety
- JICK - Bullying and Cyberbullying Prevention in Schools

## Adopted:

- September 8, 2020

## Revised:

- December 13, 2022
- September 20, 2020

# ACAB - Harassment and Sexual Harassment of School Employees

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, familial status, genetic information, 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.

I. Harassment

Harassment includes, but is not limited to, verbal abuse, threats, physical assault and/or battery based on race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locks), color, sex, sexual orientation, gender identity, religion, ancestry or national origin, age, genetic information, 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.

II. 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.

I. 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 Cape Elizabeth School Department's education programs and activities:

I. "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;

II. "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 Cape Elizabeth School Department's education programs and activities; or

III. Sexual assault, dating violence, domestic violence, and stalking as these terms are defined in federal laws.

II. 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:

I. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

II. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or

III. 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.

III. 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 ACAB-R – Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures.

## Legal Reference:

- Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); 34 C.F.R. Part 106
- Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)
- Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34
- U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C.
- §12291(a)(8) – definition of domestic violence)
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
- Americans with Disabilities Act (42 U.S.C § 12101 et seq.), as amended
- Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended
- Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, et. seq.; 29 C.F.R. § 1604.11)
- Age Discrimination in Employment Act (29 U.S.C. § 623 et seq.)
- Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
- 5 MRSA § 4551 et seq.
- MHRC Rule Chapter 94-348, ch. 3
- 26 MRSA §§ 806-807

## Cross Reference:

- ACAB-R – Employee Discrimination/Harassment and Title IX Sexual
- Harassment Complaint Procedures
- AC – Nondiscrimination/Equal Opportunity and Affirmative Action
- ACAD – Hazing
- GBGB - Workplace Bullying

## Adopted:

- September 8, 2020
- March 8, 2022
- December 13, 2022

# ACAB-R - Employee Discrimination and Harassment of School Employees

The Board has adopted these employee procedures in order to provide prompt and equitable resolution of employee complaints of discrimination and harassment, including sexual harassment, as described in policies AC – Nondiscrimination/Equal Opportunity and Affirmative Action and ACAB – Harassment and Sexual Harassment of School Employees.

The complaint procedure in Section 2 may also be used, to the extent applicable, by visitors, including parents, volunteers, and others having lawful access to the schools who wish to make a complaint of discrimination or harassment.

Complaints alleging harassment or discrimination against students based on a protected category should be addressed through the Board's Student Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures (ACAA-R ).

Any individual who is unsure about whether discrimination or harassment has occurred and/or which complaint procedure applies is encouraged to contact the Affirmative Action Officer/Title IX Coordinator.

**Michelle McClellan**

**Affirmative Action Officer/Title IX Coordinator Cape Elizabeth School Department**

**320 Ocean House Road Cape Elizabeth, ME 04107 (207) 799-2217**

mmcclellan@capeelizabethschools.org

# DEFINITIONS

For purposes of these complaint procedures, the following definitions will be used. The Affirmative Action Officer (AAO)/Title IX Coordinator shall assess all reports and complaints to ensure that they are addressed under the appropriate policy and complaint procedure.

I. Discrimination/Harassment Complaint Procedure Definitions

I. "Discrimination or harassment": Discrimination or harassment on the basis of an individual's membership in a protected category, which, for employees, includes race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists and locks), color, sex, sexual orientation, gender identity, age, familial status, religion, ancestry, national origin, genetic information, or disability.

II. "Discrimination": 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 category.

III. “Harassment”: Oral, written, graphic, electronic, or physical conduct relating to an individual’s actual or perceived membership in a protected category that is sufficiently severe, pervasive, or persistent so as to interfere with or limit that individual’s ability to participate in the Cape Elizabeth School Department’s programs or activities by creating a hostile, intimidating, or offensive environment.

IV. Under Title VII and under Maine law/regulations, sexual harassment is defined differently than under Title IX. Maine Human Rights Commission regulations define sexual harassment as conduct on the basis of sex which satisfies one or more of the following:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;

2. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or

3. 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.

V. “Sexual orientation”: Under Maine law, this means a person’s “actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression.”

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

VII. “Complaint” is defined as an allegation that an employee or other third party has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, gender identity, age, religion, ancestry, national origin, genetic information, or disability (and in regard to sex, conduct not otherwise addressed in the Title IX regulations and Section 3 of ACAB-R).

VIII. “Employee”: Whenever the term “employee” is used in Section 2, it includes visitors or others who have a lawful basis to make a complaint of discrimination or harassment.

IX. "Familial Status": Under Maine law, this means a family unit that contains:

1. One or more individuals who have not attained 18 years of age and are living with a parent or another person having legal custody of the individual or individuals or the designee of the parent or other person having custody with the written permission of the parent or other person; or

2. One or more individuals 18 years of age or older who lack the ability to meet essential requirements for physical health, safety or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions.

II. Title IX Sexual Harassment Complaint Procedure Definitions

I. “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 Cape Elizabeth School Department’s education programs and activities:

1. “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;

2. “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 Cape Elizabeth School Department’s education programs and activities; or

3. Sexual assault, dating violence, domestic violence, and stalking as these terms are defined in federal laws.

II. “Report”: Under the Title IX regulations, any individual may make a report of sexual harassment involving an employee, whether the individual is the alleged victim or not. A report must be made to the AAO/Title IX Coordinator. A report triggers certain actions by the AAO/Title IX Coordinator for the alleged victim of sexual harassment, but an investigation is not conducted unless a “Formal Complaint” is filed.

III. “Formal Complaint”: Under Title IX, the alleged victim of sexual harassment can file a written complaint that triggers the complaint procedure in Section 3 of ACAB-R. Only a school employee (and in certain circumstances, the AAO/Title IX Coordinator) may file a formal complaint.

IV. “Employee”: For the purpose of this procedure, “employee” means an applicant for employment or a current employee of the Cape Elizabeth School Department.

# DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

This procedure should be used for any complaint of unlawful harassment or discrimination based on a protected category that does not involve Title IX sexual harassment.

I. How to Make A Complaint

I. Any employee who believes they have been unlawfully harassed or discriminated against (as such terms are defined in Section 1.A.1-3) is encouraged to try to resolve the problem by informing the individual(s) that the behavior is unwelcome or offensive, and requesting that the behavior stop. This shall not prevent the employee from making an immediate complaint to the AAO/Title IX Coordinator.

II. Any employee who believes they have been harassed or discriminated against should report their concern promptly to the AAO/Title IX Coordinator. A written complaint must include basic information concerning the allegation of harassment or discrimination (i.e., date, time, location, individual(s) who alleged engaged in harassment or discrimination, description of allegation).

III. 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 the matter with the AAO/Title IX Coordinator.

IV. 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 discharge.

V. Any employee who believes they have been discriminated against or harassed is encouraged to utilize the Cape Elizabeth School Department'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, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

II. Complaint Handling and Investigation

I. The AAO/Title IX Coordinator will promptly inform the Superintendent and the person who is the subject of the complaint (respondent) that a complaint has been received.

II. The AAO/Title IX Coordinator 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. Any informal resolution is subject to the approval of the parties and the Superintendent, who shall consider whether the resolution is in the best interest of the Cape Elizabeth School Department and the parties in light of the particular circumstances and applicable policies and laws.

III. The AAO/Title IX Coordinator may implement supportive measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further discrimination or harassment while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals involved; changing a work location; or changing a work schedule.

IV. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the AAO/Title IX Coordinator. 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.

V. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.

VI. The respondent 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 respondent, but may choose to do so as part of an informal resolution process.

VII. The complainant and the respondent may suggest witnesses and/or submit materials they believe are relevant to the complaint.

VIII. If the complaint is against an employee of the Cape Elizabeth School Department, any rights conferred under an applicable collective bargaining agreement shall be applied.

IX. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

X. The investigation shall be completed within 40 calendar days of receiving the complaint, if practicable. Reasonable extensions of time for good reason shall be allowed.

XI. The investigator shall provide a written report and findings to the AAO/Title IX Coordinator.

III. Findings and Subsequent Actions

I. The AAO/Title IX Coordinator shall consult with the Superintendent concerning the investigation and findings.

II. If there is a finding that discrimination or harassment occurred, the AAO/Title IX Coordinator, in consultation with the Superintendent:

1. Shall determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect, and prevent recurrence; and

2. Determine what disciplinary action should be taken against the individual(s) who engaged in discrimination or harassment, if any.

III. Inform the complainant and the respondent in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).

IV. Appeals

I. After the conclusion of the investigation, the complainant or respondent may seek an appeal of the findings solely on the basis of either: (a) prejudicial procedural error; or (b) the discovery of previously unavailable relevant evidence that could significantly impact the outcome.

II. Appeals must be submitted in writing to the Superintendent within five calendar days after receiving notice of the resolution.

III. Upon receipt of a valid appeal, the Superintendent shall provide notice to the other party, along with an opportunity to provide a written statement within five calendar days.

IV. The Superintendent shall review the available documentation and may conduct further investigation if deemed appropriate.

V. The Superintendent's decision on the appeal shall be provided to the parties within ten calendar days, if practicable. The Superintendent's decision shall be final.

V. Records

The AAO/Title IX Coordinator shall keep a written record of the complaint process.

# TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURE

This section should be used only for complaints of Title IX sexual harassment as defined in Section 1.B.1.

I. How to Make A Report

I. Any individual who believes an employee has been sexually harassed (as this term is defined in Section 1.B.1) may make a report to the AAO/Title IX Coordinator.

II. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the AAO/Title IX Coordinator will meet with the alleged victim to discuss supportive measures that may be appropriate in the particular circumstances and explain the process for filing a formal complaint.

1. Supportive measures are individualized measures designed to ensure the employee can continue to access and perform their work (e.g., requiring no contact between individuals, temporarily moving work locations, or changing schedules).

2. Supportive measures may be continued even if the alleged victim chooses not to file a formal complaint, if appropriate under the particular circumstances.

III. The Cape Elizabeth School Department cannot provide an informal resolution process for resolving a report until a formal complaint is filed.

IV. Employees will not be retaliated against for reporting sexual harassment or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary actions, up to and including discharge.

V. Any employee who believes they have been the victim of sexual harassment is encouraged to utilize the Cape Elizabeth School Department's complaint procedures. However, employees are hereby notified that

they also have the right to report sexual harassment to the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

VI. The Superintendent shall be informed of all reports and formal complaints of sexual harassment.

II. How to Make A Formal Complaint

I. An alleged victim may file a formal written complaint requesting investigation of alleged Title IX sexual harassment. The written complaint must include basic information concerning the allegation of sexual harassment (i.e., date, time, location, individual(s) who alleged engaged in sexual harassment, description of allegation).

Employees who need assistance in preparing a formal written complaint, are encouraged to consult with the AAO/Title IX Coordinator.

II. In certain circumstances, the AAO/Title IX Coordinator may file a formal complaint even when the alleged victim chooses not to. Examples include if the respondent (person alleged to have engaged in sexual harassment) has been found responsible for previous sexual harassment or there is a safety threat within the Cape Elizabeth School Department. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

III. In accordance with the Title IX regulations, the AAO/Title IX Coordinator must dismiss a formal complaint under this Title IX procedure if: a) the conduct alleged in the formal complaint does not constitute sexual harassment under the Title IX regulations and this policy; b) the conduct alleged did not occur within the scope of the Cape Elizabeth School Department's education programs and activities; or c) the conduct did not occur in the United States.

IV. In accordance with the Title IX regulations, the AAO/Title IX Coordinator may dismiss a formal complaint under this Title IX procedure if: a) a complainant withdraws the formal complaint, or withdraws particular allegations within the complaint; b) the respondent is no longer employed by the Cape Elizabeth School Department; or c) there are specific circumstances that prevent the Cape Elizabeth School Department from gathering evidence sufficient to reach a determination regarding the formal complaint.

V. If a formal complaint is dismissed under this Title IX procedure, the AAO/Title IX Coordinator will promptly and simultaneously send written notices to the parties explaining the reasons. Parties have the opportunity to appeal dismissals in accordance with subsection I below.

VI. If the conduct alleged potentially violates other laws, Board policies, and/or professional expectations, the Cape Elizabeth School Department may address the conduct under Section 2 or another applicable policy/procedure.

III. Administrative Leave

I. The Superintendent may place an employee respondent on administrative leave during the complaint procedure in accordance with any applicable State laws, school policies, and collective bargaining agreement provisions.

II. Any decision to place an employee respondent on administrative leave shall be made in compliance with any applicable disability laws, including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

## IV. Notice to Parties of Formal Complaint

I. The Title IX Coordinator will provide to the parties written notice of the formal complaint and allegations of sexual harassment potentially constituting prohibited conduct under the Title IX regulations and this procedure. The notice will include:

1. Notice regarding the complaint procedure and the availability of an informal resolution process;

2. Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (not less than five calendar days);

3. As required by the Title IX regulations, a statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the complaint;

4. Notice that the parties may each have an advisor of their choice (who may be an attorney), and that the parties may inspect and review evidence;

5. Notice that knowingly making false statements or submitting false information during the complaint procedure is prohibited and may result in disciplinary action; and

6. Notice of the name of the investigator, with sufficient time (no less than three calendar days) to raise concerns of conflict of interest or bias.

II. If additional allegations become known at a later time, notice of the additional allegations will be provided to the parties.

III. The AAO/Title IX Coordinator will discuss supportive measures with each party and implement such measures as appropriate.

## V. Informal Resolution Process

After a formal complaint has been filed, and if the AAO/Title IX Coordinator believes the circumstances are appropriate, the AAO/Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and determination process. Informal resolutions cannot be used to resolve a formal complaint where a student is the complainant and the respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; disciplinary actions against a respondent or a requirement to engage in specific services;

or supportive measures. Both parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time. The Superintendent must agree to the terms of any informal resolution reached between the parties. If an informal resolution agreement is reached, it must be signed by both parties and the Cape Elizabeth School Department. Any such signed agreement is final and binding according to its terms.

If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the subsequent investigation or determination.

VI. Investigation

I. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and AAO/Title IX Coordinator. 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.

II. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process.

III. If the complaint is against an employee of the Cape Elizabeth School Department, rights conferred under an applicable collective bargaining agreement shall be applied, to the extent they do not conflict with the Title IX regulatory requirements.

IV. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

V. The investigator will:

1. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.

2. Allow parties to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process.

3. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.

4. Interview witnesses and conduct such other activities that will assist in ascertaining facts (e.g., site visits, review of documents).

5. Consider evidence that is relevant and directly related to the allegations in the formal complaint.

6. During the course of the investigation, provide both parties with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint (including evidence which the Cape Elizabeth School Department does not intend to rely upon in reaching a determination of responsibility), and favorable and unfavorable evidence.

7. Prior to completion of the investigation report, provide each party and advisor (if any) the evidence subject to inspection and review, and provide the parties with ten calendar days to submit a written response.

8. Consider the parties' written responses to the evidence prior to completing the investigation report.

9. Create an investigative report that fairly summarizes relevant evidence and send the report to the parties and advisors (if any), for their review and written responses within ten calendar days of receipt.

10. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned decision maker.

VI. The investigation shall be concluded within 40 calendar days, if practicable. Reasonable extension of time for good reason shall be allowed.

VII. Determination of Responsibility

I. The decision maker shall provide the parties with the opportunity to submit written, relevant questions that the party wants asked of another party or witness within five calendar days of when the decision maker received the investigation report and party responses.

1. The decision maker shall explain to a party proposing questions if the decision maker excludes a question as not relevant.

II. Each party shall be provided the opportunity to review the responses of another party and/or witness, and to ask limited written follow-up questions within five calendar days of receiving the answers.

III. Each party will receive a copy of the responses to any follow-up questions.

IV. The decision maker shall review the investigation report, the parties' responses, and other relevant materials, applying the preponderance of the evidence standard ("more likely than not").

V. The decision maker shall issue a written determination, which shall include the following:

1. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy;

2. A description of the procedural steps taken from receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and meetings held;

3. A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;

4. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Cape Elizabeth School Department imposes on the respondent, and whether remedies designed to restore or preserve equal access to the Cape Elizabeth School's Department's programs and activities will be provided to the complainant;

5. The Cape Elizabeth School Department's appeal procedure and permissible bases for the parties to appeal the determination.

VI. The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that the Cape Elizabeth School Department provides the parties with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

## VIII. Remedies, Discipline and Other Actions

### I. Remedies

Remedies are measures used to ensure that the complainant has equal access to the Cape Elizabeth School Department's education programs and activities following the decision maker's determination. Such remedies may include supportive measures, and may include other appropriate measures, depending upon the determination and the needs of the complainant. The Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the Complainant.

### II. Discipline and Other Actions

The following are examples of the types of discipline and other actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations involving sexual harassment:

1. Written warning;
2. Probation;
3. Demotion;
4. Suspension without pay;

5. Discharge;
6. Performance improvement plan;
7. Counseling;
8. Training;
9. Loss of leadership/stipend position.

IX. Appeals

The parties have the opportunity to appeal a determination regarding responsibility or dismissals of formal complaints. Under the Title IX regulations, appeals are allowed on the following grounds:

I. A procedural irregularity that affected the outcome of the matter;

II. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the formal complaint was made that could affect the outcome of the matter; or

III. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent that affected the outcome of the matter.

An appeal must be filed in writing within five calendar days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

I. Appeals must be filed with the Superintendent, who will consider the appeal.

II. The Superintendent shall conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with legal counsel or other Cape Elizabeth School Department officials in making their decision.

III. The Superintendent shall issue a written decision describing the result of the appeal and rationale for the result, and provide the written decision simultaneously to the parties. The decision will either deny the appeal; grant the appeal and remand to the decision maker for further consideration; or grant the appeal by revising the disciplinary action(s).

J. Records

Records in connection with sexual harassment reports and the complaint process shall be maintained for a minimum of seven years.

# Legal Reference:

- Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); 34 C.F.R. Part 106

- Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault)
- Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C.§12291(a)(8) – definition of domestic violence)
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
- Americans with Disabilities Act (42 U.S.C § 12101 et seq.), as amended
- Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended
- Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, et. seq.; 29 C.F.R. § 1604.11)
- Age Discrimination in Employment Act (29 U.S.C. § 623 et seq.)
- Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
- 5 MRSA § 4551 et seq.
- MHRC Rule Chapter 94-348, ch. 3
- 26 MRSA §§ 806-807

## Cross Reference:

- AC – Nondiscrimination/Equal Opportunity and Affirmative Action
- ACAB – Harassment and Sexual Harassment of School Employees
- GBGB - Workplace Bullying

## Adopted:

- September 8, 2020

## Revised:

- December 13, 2022
- March 8, 2022
- September 20, 2020

# ACAC - Service Animals in Schools

SERVICE ANIMALS IN THE SCHOOLS

The Board recognizes that service animals may be used to provide assistance to some persons with disabilities. This policy governs the presence of service animals in the schools, on school property, including school buses, and at school activities.

DEFINITION

As applied to schools, federal and Maine laws define a "service animal" as a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purpose of this definition.

The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.

USE OF SERVICE ANIMALS IN SCHOOLS

I. Use of a service animal by a qualified student with a disability will be allowed in school when it is determined that the student's disability requires such use in order to have equal access to the instructional program, school services and/or school activities.

II. Use of a service animal by a qualified employee with a disability will be allowed when such use is necessary to enable the employee to perform the essential functions of his/her job or to enjoy benefits of employment comparable to those of similarly situated non-disabled employees.

III. The parent/guardian of a student who believes the student needs to bring a service animal to school, or an employee who wishes to bring a service animal to school, must submit a written request to the building principal. The building principal, in consultation with the Section 504 Coordinator or Director of Special Services, as appropriate, and the Superintendent will determine whether or not to permit the service animal in school.

IV. Parents or animal handlers who will be present in school for the purpose of assisting a student with his/her service animal will be required to submit to a sex offender registry and criminal background check. In addition, parents and handlers must comply with all standards of conduct that apply to school employees and volunteers.

V. The school unit may impose additional conditions on the presence of a service animal, depending upon the circumstances.

VI. The District will not be responsible for the training, feeding, grooming or care of any service animal permitted to attend school. It shall be the responsibility of the individual with a disability or designated handler to ensure the proper care and supervision of the service animal.

VII. All service animals must be kept on a harness, leash, or tether unless this prevents the animal from performing the specific work or tasks with the individual with a disability. The animal must be under the control of the individual with a disability or designated handler at all times.

SERVICE ANIMALS AT SCHOOL-SPONSORED EVENTS

Individuals with service animals may access the same areas that individuals without disabilities are authorized to access. Individuals with disabilities may be accompanied by their service animals to events or activities open to the public that are held in schools or on school property. The use of a service animal may not be conditioned on the payment of a fee or security deposit, however the individual is liable for any damage done to the premises, facilities or personal property and any injuries to individuals caused by such an animal.

I. Administrative Review of Service Animals

I. Whenever a service animal is in school or on school property and it is not obvious that the dog qualifies as a service animal (e.g., guide dog for a blind person), a building administrator or other authorized school official may ask:

    I. Whether the service animal is required because of a disability;

    II. What work or task(s) the animal has been trained to perform.

II. When it is anticipated that a service animal is going to be in the school on a regular basis with an employee, student, volunteer, or other frequent visitor to the school, the individual using the service animal (or in the case of a student, the student's parent/guardian) is expected to notify the building administrator in advance.

I. The school shall not provide staff support to care for or control a service animal, but may provide support to a student using a service animal as needed in a particular instance (i.e., accompanying a young student who takes a service animal outside to relieve itself).

II. Any handler (parent or other person) accompanying the service animal must have approval to work in the school from the Maine Department of Education and undergo the State criminal background check.

III. Service animals must be properly licensed and vaccinated.

# II. Removal or Exclusion of Service Animals from School

The building principal or authorized school official may remove or exclude a service animal from the school or school property if the presence of the animal poses a direct threat to the health and safety of others or the student, employee or handler is unable to fully control the animal; or the animal fails to consistently perform the function(s)/service(s) for which it has been trained and brought to school.

A parent or employee whose service animal has been removed or excluded may appeal the decision to the Superintendent. If dissatisfied with the Superintendent’s decision, the parent or employee may appeal to the Board.

A building administrator or other authorized school official may require that a service animal be removed from the school or other school property under any of the following circumstances:

I. The service animal poses a direct threat to the safety of individuals at school, causes a significant disruption of school activities, or otherwise jeopardizes the safe operation of the school;

II. The service animal demonstrates that students are unable to perform reliably the work or tasks which students were represented as being able to perform;

III. The service animal is not under the full control of the person with a disability, or the authorized handler.

IV. The service animal is sick (i.e., vomiting, etc.), infested with parasites, has an infection of the skin, mouth, or eyes, or otherwise presents a threat to the public health;

V. The service animal demonstrates that it is not sufficiently trained to relieve itself outside the school building; and/or

VI. The service animal's presence significantly impairs the learning of students and/or fundamentally alters the nature of any school program.

Legal References:

- 42 U.S.C. § 12101 et seq.
- 36 C.F.R. §§ 104, 302
- 5 M.R.S.A. §§ 4553; 4592
- Maine Human Rights Commission Rule Chapter 7

Cross Reference:

- AC – Nondiscrimination/Equal Opportunity and Affirmative Action
- IMG - Animals in Schools
- IMGB - Service Animals in the Schools

Adopted:

- August 28, 2012
- April 11, 2023

# ACAD - Hazing

Maine statute defines injurious hazing as "any action or situation, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in a school or any activity expected of a student as a condition of joining or maintaining membership in a group that humiliates, degrades, abuses, or endangers the student regardless of the student's willingness to participate in the activity."

It is the policy of the Board that injurious hazing activities of any type, either on or off school property, by any student, staff member, group, or organization affiliated with the Cape Elizabeth School Department (CESD), are inconsistent with the educational process and shall be prohibited at all times.

No administrator, faculty member, or other employee of the CESD shall encourage, permit, condone, or tolerate injurious hazing activities. No student, including leaders of student organizations, shall plan, encourage, or engage in injurious hazing activities.

Persons not associated with the CESD who fail to abide by this policy may be subject to ejection from school property and/or other measures as may be available under the law.

Administrators, faculty members, students, and all other employees who fail to abide by this policy may be subject to disciplinary action which may include suspension, expulsion, or other appropriate measures. In the case of an organization affiliated with the CESD which authorizes hazing, penalties may include rescission of permission for that organization to operate on school property or to receive any other benefit of affiliation with the CESD.

These penalties shall be in addition to any civil or criminal penalties to which the violator or organization may be subject.

The Superintendent shall assume responsibility for administering this policy. In the event that an individual or organization disagrees with an action, or lack of action, on the part of the Superintendent as they carry out the provisions of this policy, that individual or organization may appeal to the Board. The ruling of the Board, with respect to the provisions of this policy, shall be final.

A copy of this policy shall be included in all school, parent, and employee handbooks or otherwise distributed to all school employees and students.

## Legal Reference:

- 20-A MRSA § 6553

## Cross Reference:

- ACAA - Harassment and Sexual Harassment of Students
- ACAB - Harassment and Sexual Harassment of Employees
- JICIA - Weapons, Violence, and School Safety
- JICK - Bullying and Cyberbullying in Schools

## Adopted:

- May 13, 2003

## Revised:

- October 12, 2004
- August 28, 2012
- November 12, 2019
- November 10, 2020

# AD - Educational Philosophy

## Our Mission

CAPE Schools open minds and open doors.

## Our Vision

We empower students with the academic, personal, and social knowledge and skills needed to build fulfilling and engaged lives.

## Our Values

### **C**ommunity:

We value the connections among our school, local, and global communities that foster meaningful participation in a dynamic and diverse world.

### **A**cademics:

We value rich and varied learning experiences that support critical thinking, perseverance, effective communication, and independent and collaborative work inside and outside of the classroom.

### **P**assion:

We value personal investment in learning in an environment that nourishes joy and creativity, protects risk-taking, and cultivates individual expression.

### **E**thics:

We value decision-making and actions guided by the principles of personal integrity, empathy, responsibility, and respect for self and others.

## ADOPTED:

- Prior to 1991

## REVIEWED AND ACCEPTED:

- 1991

## REVISED:

- October 12, 2004
- May 8, 2012
- November 13, 2012

# AD-R - Change Model

School improvement work brings about changes in policies, procedures and practices. Some changes will be significant steps toward alignment with the Strategic Plan. Others will be significant in their broad impact on students, staff, parents or the community. Significant change is most effective when it occurs through a process which ensures clarity of purpose, agreement as to who makes the decision, an articulation of expected results, a plan for accountability, an assessment of the capacity to do the work and the early involvement of stakeholders.

Therefore, when a significant change is being considered, Cape Elizabeth school leaders need to be consistent about requiring answers to the following questions.

I. Is there a compelling reason for this change? What is the real problem?
    I. A clear grasp that the problem needs to come first, possible solution second.
    II. Research may play a role in identifying the problem or need, determining the anticipated results of the change and measuring the success of the change.

II. How and by whom will the decision be made regarding whether or not to undertake this change?

III. What are the anticipated results of this change? Do we have the capacity to do the work?

IV. After implementation, how will we know whether the change produces the anticipated results? Who will be accountable?

V. Is there an opportunity for stakeholders to influence this change during its development? Will there be follow-up communication with stakeholders?

    Stakeholders may have any of the following characteristics:

    I. Responsible for the final decision
    II. In a position to implement or prevent implementation of the decision
    III. Likely to be affected by the outcome of the decision
    IV. Has information or expertise

## Cross Reference:

- AD - Educational Philosophy

## ADOPTED:

- February 11, 2014

# ADA - School District Goals and Objectives

The Board recognizes its responsibility to set goals for the efficient operation of the school unit. In discharging this responsibility, the Board will strive to ensure that the resources of the unit are directed toward meeting the educational needs of each eligible student.

The Board will develop annual goals based on input solicited from a variety of sources. These goals will be shared with the community, the staff, and the students. The administration shall develop appropriate objectives designed to achieve the stated priorities.

The Board will regularly evaluate progress toward meeting the goals and will adopt appropriate policies designed to facilitate their accomplishment.

## Legal Reference:

- 20-A MRSA § 4511.3, A

## Adopted:

- October 13, 1998

## Reviewed/Revised:

- October 12, 2004
- August 28, 2012
- December 12, 2023

# ADAA - School System Commitment to Standards for Ethical and Responsible Behavior

The School Board believes that promoting ethical and responsible behavior is an essential part of the school unit's educational mission. The Board recognizes that ethics, constructive attitudes, responsible behavior, and "character" are important if a student is to leave school as a "responsible and involved citizen," as described in the Guiding Principles of the Maine Learning Results. The Board also recognizes that Maine law requires the adoption of a district-wide student code of conduct consistent with statewide standards for student behavior developed by the Commissioner of the Department of Education in compliance with 20-A MRSA § 254(11 ).

The Board seeks to create and maintain a school climate in which ethical and responsible behavior can flourish. The Board believes that instilling a sense of ethics and responsibility in students requires setting positive expectations for student behavior as well as establishing disciplinary consequences for behavior that violates Board policy or school rules. Further, the Board believes that in order to teach ethical and responsible behavior, adults who interact with students must strive to model and reinforce ethical and responsible behavior. To that end, the Board supports an active partnership between schools and parents.

Recognizing that collaboratively identified core values are the foundation for a school culture that encourages and reinforces ethical and responsible student behavior, the Board is committed to the establishment and implementation of a process for identifying shared values and setting and enforcing standards for behavior, including prescription of consequences for unacceptable behavior. The process for identifying such shared values will invite and include the participation of Board members, school administrators, staff, parents, students, and the community. Core values will be reviewed periodically, with opportunity for public participation. The Board will direct the Superintendent/designee to develop a process to assess school system progress toward achievement of an ethical and responsible school culture.

Following the identification of core values, the Board, with input from administrators, staff, parents, students, and members of the community, will adopt a Student Code of Conduct consistent with statewide standards for student behavior[1] that shall, as required by law:

I. Define unacceptable student behavior;

II. Establish standards of student responsibility for behavior;

III. Prescribe consequences for violation of the Student Code of Conduct, including first-time violations, when appropriate;

IV. Describe appropriate procedures for referring students in need of special services to those services;

V. Establish criteria to determine when further assessment of a current Individual Education Plan (IEP) is necessary, based on removal of the student from class;

VI. Establish policies and procedures concerning the removal of disruptive or violent students from a classroom or a school bus, as well as student disciplinary and placement decisions, when appropriate; and

VII. Establish guidelines and criteria concerning the appropriate circumstances when the Superintendent/designee may provide information to the local police or other appropriate law enforcement authorities regarding an offense that involved violence committed by any person on school grounds or other school property.

VIII. Establish policies and procedure to address bullying, harassment, and sexual harassment.

The Board will review the Student Code of Conduct periodically, inviting input from administrators, staff, parents, students and members of the community.

When revising the prescribed consequences for violation of the Student Code of Conduct, the Board shall consider ( evaluate and revise, as deemed necessary or desirable) relevant existing district-wide school disciplinary policies and/or consider

adoption of new policies that:

I. Focus on positive interventions and expectations and avoid focusing exclusively on unacceptable student behavior;

II. Focus on positive and restorative interventions that are consistent with evidence-based practices rather than set punishments for specific behaviors, and avoid "zero tolerance" practices unless specifically required by federal or state laws, rules or regulations;

III. Allow administrators to use their discretion to fashion appropriate discipline that examines the circumstances pertinent to the case at hand; and

IV. Provide written notice to the parents of student when a student is suspended from school, regardless of whether the suspension is an in-school or out-of-school suspension.

"Positive interventions" and "restorative interventions" shall have the same meaning as provided in 20-A MRSA § 1001(15).

Students, parents, staff, and the community will be informed of the Student Code of Conduct and relevant district-wide school disciplinary policies through handbooks, the school unit's website, and/or other means selected by the Superintendent/designee.

## Ethics and Curriculum

The Board encourages integration of ethics into content areas of the curriculum, as appropriate. The Board encourages examination and discussion of ethical issues within content areas of the curriculum, as appropriate. The Board also encourages schools and school administrators and staff to provide students with meaningful opportunities to apply values and ethical and responsible behavior through activities.

## Legal Reference:

- 20-A MRSA §§ 254, 1001(15), 1001(15-A)

## Cross Reference:

- JKD - Suspension of Students

## Reading

- 1st Reading: 11/13/2018
- 2nd Reading: 12/11/2018

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*[1] The statewide standards are the "core values" identified in the report of the Commission for Ethical and Responsible Student Behavior, Taking Responsibility: Standards for Ethical and Responsible Behavior in Maine Schools and Communities. The core values are: Respect, Honesty, Compassion, Fairness, Responsibility and Courage. The Code of Conduct must be "consistent with," not identical to, the statewide standards developed under 20 M.R.S.A. § 254( 11 ). This provides an opportunity for communities to identify their own core values and articulate what they "look like" when applied to behavior. The core values serve as a basis for school system expectations for student conduct.*

# ADC - Use of Tobacco Products and Electronic Nicotine Delivery Systems

USE OF TOBACCO PRODUCTS AND ELECTRONIC NICOTINE DELIVERY SYSTEMS

The Cape Elizabeth School Department is a tobacco-free zone. The Board recognizes that research shows that tobacco continues to be the leading cause of preventable disease and death in Maine and the United States, for both users and those exposed to second-hand smoke. The Board is also aware that a growing body of evidence suggests that the chemicals present in the aerosols ("vapor") produced by electronic smoking devices, may pose significant long-term risks to health, as well the risk of addiction to nicotine. The Board is committed to providing a safe and healthy environment for students, staff, and visitors to the schools, including members of the community who use school facilities for recreational and other purposes

In order to promote the health, welfare, and safety of students, staff, and visitors and to promote the cleanliness of all facilities, the board prohibits smoking and all other use of tobacco products and electronic vaporizers commonly used for the delivery of nicotine and other inhaled substances (including but not limited to e-cigarettes, e-hookahs, vape pens, or similar devices) in school buildings, on school property, at school functions, on school buses or in any other school department owned or leased vehicles, at all times including days and times when school is not in session (24 hours per day, 365 days a year) and by all persons. This policy reflects and emphasizes the hazards of tobacco use, will assure compliance with laws, protect school community members from secondhand smoke, and role model tobacco-free lifestyles.

DEFINITIONS

For the purpose of this policy:

"Tobacco use" means smoking or the carrying or possession of a tobacco product (22 MRSA §1578-B (1)(D).

"Smoking" includes carrying or having in one's possession a lighted or heated cigarette, cigar or pipe or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or any form. "Smoking" includes the use of an electronic smoking device (22MRSA § 1541(6)).

"Tobacco product" means any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated chewed, absorbed, dissolved inhaled or ingested by any other means, including but not limited to, a, cigar, hookah, pipe tobacco, chewing tobacco, snuff or snus. "Tobacco product" also means an electronic smoking device and any component or accessory used in the consumption of a tobacco product such as filters, rolling papers, pipes and liquids used in electronic smoking devices whether or not they contain nicotine (22 MRSA § 1551(3)).

"Electronic smoking device" is defined as "a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation a device manufactured, distributed, marketed or sold as an electronic cigarette, or so-called vape-pen". (22 MRSA § 1541(1-A,)

Employees and all other persons (students, visitors, parents, and other adults) are also strictly prohibited, under law and Board policy, from selling, distributing or in any way dispensing tobacco products and electronic nicotine delivery systems to students in school buildings, on school grounds or at school-sponsored events at all times.

## CONSEQUENCES FOR VIOLATION

Students, all employees, parents, visitors, and other adults are required to comply with Cape Elizabeth Schools' tobacco-free policy. STUDENTS: The Superintendent/designee(s) shall be responsible for developing age-appropriate disciplinary

guidelines for students violating this policy and for employing strategies, as possible, to address prevention, education and information about community programs for cessation assistance. The Superintendent or designee reserves the right to refer students to a law enforcement agency, on a case-by-case basis, as may be deemed necessary. However, the Superintendent/designee shall refer to a law enforcement agency any student reasonably suspected of selling, dispensing or distributing tobacco products or vaping devices/products. Parents/guardians will be notified of all violations involving their student and action taken by the school.

STAFF: School unit employees who violate this policy will be subject to appropriate disciplinary measures up to and including dismissal. Any school unit employee suspected of selling, distributing or in any way dispensing tobacco products or vaping devices/products to students shall be referred to a law enforcement agency.

OTHER PERSONS IN VIOLATION: All other persons violating this policy, including parents, vendors/contractors, spectators at school events and other visitors shall be asked to refrain from use and reminded of the Board's policy. Persons who do not comply will be asked to leave school grounds. Failure to leave school grounds will be treated as trespassing and law enforcement personnel may be contacted. Persons suspected of selling, distributing or in any way dispensing tobacco products or vaping devices/products to students shall be referred to an appropriate law enforcement agency.

Enforcement of this policy will follow the standard procedure of the school. All school staff are expected to enforce the policy under the direction of the principal or an administrator. Any violation of this policy should be reported to the school administration.

## RESPONSIBILITY FOR ENFORCEMENT

The building principal/designee will be responsible for enforcing this policy at the school level.

## COMMUNICATION OF THE POLICY

This policy will be communicated through a variety of efforts to educate students, school staff, parents, visitors and other adults. Tobacco-free signs will be posted in highly visible areas at facilities entrances and throughout the school property, including athletic facilities. The policy will be posted on the school website and in student handbooks or staff communications which will be made available to students, parents and staff on an annual basis.

## EDUCATION

Age-appropriate tobacco/"vaping" prevention and awareness instruction will be incorporated into the school unit's health curriculum, in alignment with Maine's system of Learning Results and in support of the school unit's wellness policy goals, to educate students about the dangers of tobacco and vapor products and to encourage a tobacco and "vape-free"lifestyle. As feasible, information regarding treatment and cessation resources will be made available to students and school unit employees who want to quit.

## ADVERTISING OF TOBACCO PRODUCTS

Advertising of tobacco products is prohibited in school buildings, on school property, and in school publications.

Information regarding tobacco treatment resources, such as onsite counseling and the Maine Tobacco Helpline (1-800-207-1230) will be available for tobacco users who are interested in quitting.

## Legal Reference:

- 22 MRSA §§ 1541, 1551, 1578-B

- Me. PL Ch.61 (2019)(An Act to Prohibit the Possession and Use of Electronic Smoking Devices on School Grounds)
- 20 USC § 4301 et seq. (Pro-Children Act of 2001)

## Cross Reference:

JL - Student Wellness

## Adopted:

May 13, 2003

## Revised:

- October 12, 2004
- August 28, 2012
- November 18, 2014
- December 11, 2018
- April 11, 2023

# ADF - CAPE ELIZABETH SCHOOL DEPARTMENT COMMITMENT TO LEARNING RESULTS

The School Board hereby adopts Maine's system of *Learning Results*, including the *Guiding Principles*, and the Maine Department of Education's applicable rules. The *Learning Results* are intended to serve as a foundation for education reform, including the standard-based system of learning, and to provide assessment of student learning, accountability and equitable opportunities for all students to access the content standards. The Board recognizes that the legislative intent of the *Learning Results* is to provide children with schools that reflect high expectations and create conditions where these expectations can be met.

The Board understands that implementation of the *Learning Results* and the mandate to provide all students with equitable opportunities to meet the content standards have broad implications for the school department, including curriculum, budget, professional development, student assessment, professional evaluation, and graduation requirements. Therefore, the Board is committed to examining its policies and practices to ensure they are consistent with the intent and goals of the *Learning Results* system.

The Superintendent is responsible for implementing the system of *Learning Results* including any appropriate administrative procedures. The Board further directs the Superintendent to report to the Board annually on student achievement and progress toward implementing the *Learning Results*.

## Legal References:

- 20-A M.R.S.A. §§ 6208-6209
- L.D. 1536, Chapter 51 Resolves
- Chapters 127 §3; 131 and 132 (Maine Dept. of Ed. Rules)

## ADOPTED: October 12, 2004

## Revised:

- August 28, 2012
- December 10, 2024