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

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