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

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