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# DRAFT-EEBB - USE OF PRIVATE VEHICLES FOR SCHOOL BUSINESS (Formatting)

The Cape Elizabeth School Board recognizes the need for some school employees to use their privately owned motor vehicles for school purposes either regularly or occasionally.

Privately owned vehicles may be used for student transportation when, in the opinion of the building principal and with the written approval of the Superintendent, this is the most practical or only possible method of transportation.

To safeguard Cape Elizabeth School Department employees and students in matters of liability, the following policy will be observed:

- I. Prior to use of a private vehicle for school purposes, the employee must have the written permission of the Superintendent/designee.

This permission may be in the form of a standing permit for employees who use their own vehicles regularly for school purposes. The permit will state the particular purpose and indicate whether it includes transportation of students.

For all special trips involving students, e.g., field trips, a special permit must be obtained in advance for the specific trip.

- I. No student may be sent on school errands with their own vehicle, an employee-owned vehicle, or a school-owned vehicle.
- II. Field trip and other off-campus school-sponsored activity transportation will be by school bus whenever practicable.

The Superintendent may approve the use of private vehicles in situations in which the small number of students or budget or schedule restrictions make bus use prohibitive or impractical.

- I. For student trips made in private vehicles, the owner must be properly licensed and carry a minimum liability insurance of \$100,000/\$300,000; minimum property damage of \$50,000; and minimum medical coverage of \$5,000. Proof of current license and insurance will be required.
- II. A Maine driving record check will be conducted on all prospective drivers. In the interest of safety, a prospective driver may be disqualified based on a review of information contained in the record.
- III. The vehicle must have a current registration and display a current inspection sticker.

The vehicle must have sufficient seat belts for the driver and each of the other persons being transported.

- I. No employee may transport students for school purposes without prior authorization by the Superintendent/designee.
- II. No student will be allowed to transport other students on field trips or for other school-sponsored activities without prior approval from the principal and notice to parents.
- III. Parents will be informed whenever private vehicles will be used to transport their child(ren) for a field trip or other school purpose and will be required to sign a permission form in advance.

## PARENT AND VOLUNTEER-OWNED VEHICLES

The above provisions apply to the use of private vehicles when the driver is a parent or other approved volunteer transporting students to or from school-sponsored events or activities or using a private vehicle for other school purposes.

The school will inform parent drivers and other approved volunteers that in the event of an accident, the parent or approved volunteer's liability insurance will be the primary coverage.

The school will not be responsible for any accident or injury arising from a parent's transportation of their own child(ren) to or from a school sponsored event or activity. Students are expected to travel by school-provided transportation when available.

#### DELEGATION OF RESPONSIBILITY

The Superintendent/designee will be responsible for developing administrative procedures, including those for accident reporting, and application, permit, permission and/or other forms, to implement this policy.

### Cross Reference:

- [IJOA – Field Trips And Other Student Travel](#)
- [IJOA - School Volunteers](#)

### Adopted:

- February 8, 2022

# xx--Draft EEBB- USE OF PRIVATE VEHICLES FOR SCHOOL BUSINESS AND STUDENT TRANSPORTATION (12-13-2021)

## DWM SUGGESTED DRAFT-12-13-21

The Cape Elizabeth School Board recognizes that some school employees may need to use their own vehicles for school purposes on either a regular or an occasional basis to conduct school business.

In general, school buses or other School Department vehicles will be used to transport students. However, when buses are not available or when there are other circumstances that make the use of buses impractical, employees, parents, volunteers or students may be authorized to transport students for school purposes such as approved extracurricular activities or field trips.

Requests to use private vehicles for school business must be approved in advance by the Superintendent/designee in writing and meet the applicable requirements in this policy. Employees or others who regularly use their private vehicles for school purposes may be issued a standing permit.

### I. Requirements For All Drivers

- I. The driver must have a valid Maine's driver's license; current registration and inspection sticker; and have the following insurance coverage: \$100,000/\$300,000 (liability), \$50,000 (property damage), and \$5,000 (medical coverage). Appropriate documentation must be provided.
- II. A driving record check will be conducted on all prospective drivers.
- III. Hands-free devices may be used only for necessary calls, checking directions on navigation system, etc. The use of hand-held electronic devices is prohibited while driving. If a hand-held device must be used, the driver must pull over and stop in a safe location.
- IV. The driver and all passengers must wear seat belts at all times while using a private vehicle for school purposes.
- V. All Board policies, administrative procedures and school rules are in effect while using a private vehicle for school purposes.
- VI. Any accident while using a private vehicle must be reported immediately to the appropriate law enforcement authority and to the Superintendent's Office.

# Draft - INJDD - Social Media Policy

## INJDD - Social Media Policy - Draft Example

File: INJDD

### POLICY ON SOCIAL MEDIA

Digital communication, which may include, but is not limited to electronic mail, social media, texting, and cellular communication, can provide both educational and professional benefits.

The Cape Elizabeth Schools is committed to ensuring that all District stakeholders who utilize digital or electronic communication for educational purposes, including employees and students, do so in a safe and responsible manner. As such, employees may utilize digital and electronic communication in their professional capacity to the extent that it supports the academic and extracurricular goals of the schools.

In recognition of the importance of maintaining proper decorum and appropriate communication in the online, digital world as well as in person, employees must conduct themselves in ways that do not disrupt or interfere with the educational process.

Employees are reminded that social media content is subject to electronic records requirements. Content shared on the District's public-facing social media platforms may be subject to the Maine Public Records Law.

The Superintendent of Schools and the School Principals shall annually remind employees and orient new employees concerning this policy. The orientation and reminders shall give special emphasis to the conduct expectations and prohibitions set forth below, and may include examples of behaviors to avoid.

#### I. General Expectations for Use of Social Media

- I. District employees are cautioned that speech on or off-duty, made pursuant to their official duties, being speech which owes its existence to the employee's professional duties and responsibilities, is not protected speech under the First Amendment and may form the basis for discipline if deemed detrimental to the District.
- II. When employees post information related to, or comment about the activities of their classrooms, school and District activities, including but not limited to students, student work, or classroom or school activities, they should assume that they "speak for the District" and are expected to conduct themselves accordingly and should do so with the appropriate permissions. Employees shall not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of the District, unless specifically authorized to do so by an appropriate administrator.
- III. Employees will be oriented about monitoring practices and penalties for improper use of District computers and technology.
- IV. Employees will be oriented about the possibility of penalties, including dismissal from employment, for failure to exercise good judgment in online conduct. Additionally, law enforcement officials may be notified if abuse, neglect, or other criminal conduct is suspected.

- II. Expectations for Use of Professional Social Media 5. Employees may maintain professional social media accounts for educational purposes and/or for the purpose of communicating about school and District-

related activities, as well as professional educator learning. The District reserves the right to monitor all content on professional social media accounts and to remove any inappropriate material. 6. Employees shall not post items with obscene, vulgar, sexually suggestive or explicit content; with false or defamatory information about the District, its employees or others who have a relationship to the District; which exhibit or advocate the use of drugs or alcohol; or which harass, threaten, demean, defame, bully, haze or otherwise violate the District's discrimination and/or harassment policies. Employees shall not post examples of inappropriate behavior, even as behavior to avoid. 7. Employees shall not use professional social media accounts for any commercial, political, or religious activity or for personal gain. 8. Employees who manage professional social media accounts on behalf of the district, school, or school group must share administrative privileges and passwords with an administrator/additional administrator. For security purposes, employees shall not otherwise share administrative privileges or passwords unless authorized by an appropriate administrator.

- III. Expectations for Use of Personal Social Media 9. District employees are free to express themselves as private citizens on social media sites and pages to the degree that their speech does not violate state or federal law or the policies of the District. 10. Employees should maintain separate personal social media accounts if they wish to post appropriate personal information, including information relating to out-of-school activities or political activities beyond those used for related classroom purposes. 11. The District expects employees to maintain clear boundaries between their personal and professional lives. Employees shall not post personnel information or student information, including photographs of students, student work, discussions about students, or other information that could be considered part of a student record, to personal social media accounts.
- IV. Contact with Students and Content of Social Media Posts 12. Employees shall not engage in improper fraternization with students using social media or other electronic means, including: 1. Employees may not "friend", "follow", "like", or use any similar method to link themselves with current students or their content on social media. 2. All electronic contacts with students should be through school-sanctioned modes of communication, except in emergency situations. 3. Electronic contacts with parents/guardians related to a student's academics or other school-related matters shall be through school-sanctioned modes of communication only. 4. Employees shall oversee all class, team or student organization pages and shall maintain administrative access to and control of these pages. 1. All contact and messages by employees with students through social media shall be sent to all members of the group (e.g. class, team, student organization). Employees shall not use the private message feature of social media to contact students. 2. Employees shall not give their private cell phone or home telephone number to students without prior approval of the Principal or District. 5. Inappropriate contact via phone or electronic means is prohibited.
- V. Privacy of Online Content 6. At all times, and in the use of any form of communication, employees may not disclose information that is confidential or proprietary to the District, its students, or employees that is protected by personnel, student, or other data privacy laws. 7. All photographs, videos, or work samples which may identify individual students require permission from the subject, or in the case of minor children, the parent or guardian. 8. Employees are reminded that items placed online are never fully private. The Superintendent or designee may periodically conduct Internet searches to see if employees have posted inappropriate content online. When inappropriate use of computers, websites, or social media is discovered, the School Principals and Superintendent will promptly bring that use to the attention of the employee and may consider and apply appropriate disciplinary action up to, and including termination. 9. In order to maintain safety, live-streaming video of students from classrooms and school spaces is prohibited without prior permission of the Principal or appropriate District administrator. 10. When utilizing professional social media accounts and/or the District's network, employees are responsible for following all applicable laws, regulations, District policies, school rules and codes of conduct, just as they are for other modes of communication. Employees should have no expectation of privacy with respect to electronic devices or digital media used in school or for school activities.
- VI. Use of Social Media during School/Work Time 11. Employees may use professional social media sites during school time to the extent that it does not interfere with the educational process and complies with the policies of the Cape Elizabeth Schools. 12. The use of personal social media sites during school and/or work time, and/or on the District's network, is expressly prohibited. This policy shall not be construed to limit communications protected under M.G.L. c.150E, specifically, comments which involve protected, concerted activities for the purpose of collective bargaining or other mutual aid or protection. Furthermore, this policy shall not be construed so as to limit the First Amendment rights of all employees to engage in free speech when such speech involves a matter of public

concern, is not made in the employee's official capacity as a District employee and does not possess the potential to affect the District's operations.

The provisions of Sections IV.A.1, IV.A.2, IV.A.3, IV.B.1, IV.B.2, and V.B of this policy shall not apply to communications that are exclusively among and/or between family members. Employees whose family includes students in the Cape Elizabeth Schools should take special care to avoid potential conflicts of interest and violations of this policy through inappropriate contact with non-familial students via social media.

## Legal Reference:

- Family Educational Rights and Privacy Act of 1974; 603 CMR 23.00 et seq.; M.G.L. c.149, §52C; M.G.L. c.150E; M.G.L. c.66, §10

## Cross Reference:

- AC-Discrimination/Harassment; GBAB-Acceptable Use for Students
- GBI-Political Activities of Staff
- IJNDB-Internet Terms and Conditions of Use
- JRA-Student Records
- JRA-R-Student Records
- JT - Electronic Device Policy
- JU - Electronic Device Policy Between Students and Staff/Teachers/Coaches/Student Photo/Video Release in Student Handbooks

Source:

Franklin Public Schools - Massachusetts.

<https://www.franklinps.net/district/school-committee-policy-manual/pages/injdd-social-media-policy>

# UPDATE: 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, 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, 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

# UPDATE: ACAB 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, 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:

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. 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:

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.

### 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
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# UPDATE: BBAB - STUDENT SCHOOL BOARD REPRESENTATIVE

## STUDENT SCHOOL BOARD REPRESENTATIVE

The Cape Elizabeth School Board recognizes the impact that its decisions have on the students who attend Cape Elizabeth schools. The School Board also recognizes the value of student voice in the governance of the school department. In order to provide for student input and involvement, the School Board may appoint up to two high school student representatives to the School Board each year. These representatives will serve in a nonvoting capacity. In order to serve as a student representative to the School Board, the student must be enrolled full time at Cape Elizabeth High School.

Student representatives shall serve two consecutive years (defined as two complete school years) starting in the Junior (11th grade) year. The terms shall overlap so that one new representative is appointed each school year. At its discretion, the School Board may, at the recommendation of the selection committee, appoint a student representative to a one year term. Student representatives shall be selected in accordance with procedures approved by the School Board.

Student representatives will attend business meetings and be invited to workshop and committee meetings. They will be excluded from executive sessions. Student representatives will act as liaisons between the school board and the student body and shall adhere to the rules for participation established by the School Board.

### Legal Reference:

- 20-A MRSA 1001 (IA)

### Cross Reference:

- BBAB-R - Student School Board Representative Policy Guidelines
- JIB - Student Involvement in Decision Making

### ADOPTED:

- April 10, 2007

### Revised:

March 12, 2013

# UPDATE: EEBB - USE OF PRIVATE VEHICLES FOR SCHOOL BUSINESS

The Cape Elizabeth School Board recognizes the need for some school employees to use their privately owned motor vehicles for school purposes either regularly or occasionally.

Privately owned vehicles may be used for student transportation when, in the opinion of the building principal and with the written approval of the Superintendent, this is the most practical or only possible method of transportation.

To safeguard Cape Elizabeth School Department\*\* \*\*employees and students in matters of liability, the following policy will be observed:

A. Prior to use of a private vehicle for school purposes, the employee must have the written permission of the Superintendent/designee.

This permission may be in the form of a standing permit for employees who use their own vehicles regularly for school purposes. The permit will state the particular purpose and indicate whether it includes transportation of students. For all special trips involving students, e.g., field trips, a special permit must be obtained in advance for the specific trip.

B. No student may be sent on school errands with his/her own vehicle, an employee-owned vehicle, or a school-owned vehicle.

C. Field trip and other off-campus school-sponsored activity transportation will be by school bus whenever practicable. The Superintendent may approve the use of private vehicles in situations in which the small number of students or budget or schedule restrictions make bus use prohibitive or impractical.

D. For student trips made in private vehicles, the owner must be properly licensed and carry a minimum liability insurance of \$100,000/\$300,000; minimum property damage of \$50,000; and minimum medical coverage of \$5,000. Proof of current license and insurance will be required.

E. A Maine driving record check will be conducted on all prospective drivers. In the interest of safety, a prospective driver may be disqualified based on a review of information contained in the record.

F. The vehicle must have a current registration and display a current inspection sticker.

The vehicle must have sufficient seat belts for the driver and each of the other persons being transported.

G. No employee may transport students for school purposes without prior authorization by the Superintendent/designee.

H. No student will be allowed to transport other students on field trips or for other school-sponsored activities without prior approval from the principal and notice to parents.

I. Parents will be informed whenever private vehicles will be used to transport their child(ren) for a field trip or other school purpose and will be required to sign a permission form in advance.

## PARENT AND VOLUNTEER-OWNED VEHICLES

The above provisions apply to the use of private vehicles when the driver is a parent or other approved volunteer transporting students to or from school-sponsored events or activities or using a private vehicle for other school purposes.

The school will inform parent drivers and other approved volunteers that in the event of an accident, the parent or approved volunteer's liability insurance will be the primary coverage.

The school will not be responsible for any accident or injury arising from a parent's transportation of his/her own child(ren) to or from a school sponsored event or activity. Students are expected to travel by school-provided transportation when available.

## DELEGATION OF RESPONSIBILITY

The Superintendent/designee will be responsible for developing administrative procedures, including those for accident reporting, and application, permit, permission and/or other forms, to implement this policy.

### Cross Reference:

- IJOA – Field Trips And Other Student Travel
- IJOC - School Volunteers

### Adopted:

- February 8, 2022

# GBGB - WORKPLACE BULLYING

The Board is committed to providing a respectful, safe, and inclusive workplace for employees, one that is free from bullying conduct. All employees and students in the school unit, as well as parents, community members and others involved with the schools are prohibited from engaging in workplace bullying as defined in this policy.

## DEFINITION

For the purposes of this policy, “workplace bullying” means intentional behavior that a reasonable person would expect to interfere with an employee’s work performance or ability to work. Generally, workplace bullying will involve repeated conduct. However, a single incident of egregious conduct could constitute workplace bullying. Examples of workplace bullying include, but may not be limited to:

- Humiliating, mocking, name-calling, insulting, maligning, or spreading rumors about an employee;
- Shunning or isolating an employee or encouraging others to do so;
- Screaming or swearing at an employee, slamming doors or tables, aggressively invading an employee’s personal space; placing an employee in reasonable fear of physical harm; or other types of aggressive or intimidating behavior;
- Targeted practical jokes;
- Damaging or stealing an employee’s property;
- Sabotaging an employee’s work or purposely misleading an employee about work duties (e.g., giving incorrect deadlines or intentionally destroying an employee’s work);
- Harassing and/or retaliating against an employee for reporting workplace bullying;
- Cyberbullying, which is defined in Maine law as bullying occurring through the use of technology or any electronic communication, including but not limited to, a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted by the use of any electronic device, including, but not limited to, a computer, telephone, cellular telephone, text messaging device, or personal digital assistant.

## EXCLUSIONS

Workplace bullying does not include the following:

- When supervisors set reasonable performance goals or provide verbal or written counseling, direction, feedback, or discipline to employees in the workplace when the intent is to address unsatisfactory work performance or violations of law or school policy.
- When supervisors make personnel decisions designed to meet the operational or financial needs of the school unit or the needs of students. Examples include, but are not limited to changing shifts, reassigning work responsibilities, taking steps to reduce overtime costs, transferring or reassigning employees to another building or position.
- Discrimination or harassment based on protected characteristics (race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, age, familial status, disability, or genetic information). Such conduct is prohibited under separate policies and complaints shall be addressed under ACAB-R – Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedure.

- Disrespectful conduct by students directed at school employees that can be addressed through enforcement of classroom rules, school rules, and applicable Board policies.

## REPORTS AND INVESTIGATIONS

Employees who believe they have been bullied in the workplace, and other persons who believe they have witnessed an incident of an employee being bullied in the workplace, are expected to report the issue to the building administrator.

If the report is about the building administrator, the report should be made to the Superintendent/designee.

The building administrator shall promptly notify the superintendent of all workplace bullying reports.

Any workplace bullying report about the Superintendent should be made to the Board Chair.

All reports of workplace bullying shall be investigated promptly and documented in writing. The person who was the subject of the alleged workplace bullying and the person alleged to have engaged in workplace bullying will be notified of the outcome of the investigation, consistent with confidentiality and privacy laws.

## DISCIPLINARY ACTION

Any employee who is found to have engaged in workplace bullying will be subject to disciplinary action up to and including termination of employment.

Students who are found to have engaged in bullying of an employee will be subject to disciplinary action in accordance with applicable student discipline procedures.

Parents and others who are found to have engaged in bullying of an employee will be dealt with in a manner appropriate to the particular circumstances.

## APPEALS

If dissatisfied with the resolution of the matter, the subject of the alleged workplace bullying or the person alleged to have engaged in workplace bullying may file a written appeal within five (5) business days with the Superintendent stating the reason for the appeal. The Superintendent will review the matter and issue a written decision within ten (10) business days. The Superintendent's decision shall be final.

If the matter involves employees covered by a collective bargaining agreement, any disagreement with the results of the investigation may be resolved through the agreement's dispute resolution process.

## RETALIATION PROHIBITED

Retaliation for reporting workplace bullying is prohibited. Employees and students found to have engaged in retaliation shall be subject to disciplinary action.

## SUPERINTENDENT'S RESPONSIBILITY

The Superintendent shall be responsible for implementing this policy and for the development of any necessary procedures to enforce it.

## Legal References:



- 20-A MRSA §1001(21); 6544(2)(C)

## Cross References:

- AC – Nondiscrimination, Equal Opportunity and Affirmative Action
- ACAB – Harassment/Sexual Harassment of School Employees
- ACAB-R – Discrimination/Harassment and title IX /SexualHarassment of School Employees

## Adopted:

- January 11, 2022
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# DRAFT UPDATE:GCSA-R - EMPLOYEE COMPUTER AND INTERNET USE RULES

As used herein, the term "Computer(s)" refers to any desktop, laptop, or other mobile computing device, including cellular phone, owned or issued by the Cape Elizabeth School Department (CESD) to any employee for school and/or home use. The term "Privately-Owned Computer(s)" refers to any privately-owned desktop, laptop, or other mobile computing device, including cellular phones. The term "Computer Services" refers to the School Department's network or Internet connections used to access school or Internet-based information.

The policy and accompanying rules apply to the use of computers and computer services whether in use at school or off school premises. Staff are allowed to privately-owned computers at school, provided that they comply with the policy and related rules and policies.

Each employee is responsible for their actions and activities involving computers and computer services, and for their computer files, passwords, and accounts. These rules provide general guidance concerning the use of computers and computer services and examples of prohibited uses. The rules do not attempt to describe every possible prohibited activity by employees. Employees who have questions about whether a particular activity or use is prohibited are encouraged to contact a building administrator or the ~~Technology Coordinator~~ [Director of Educational Technology](#). These rules apply to all computer and/or school computer services regardless of how they are accessed.

## I. Access to School Computers and Acceptable Use

The level of employee access to school computers and computer services is based upon specific job requirements and needs. Unauthorized access to secure areas of the school's computers and computer services is strictly prohibited.

All Board policies, school rules, and expectations for professional conduct and communications apply when employees are using computers and computer services whether in use at school or off school premises.

## II. Prohibited Uses Examples of unacceptable uses which are expressly prohibited include, but are not limited to, the following:

I. Any use that is illegal or which violates policy [GCSA](#) and/or other Board policies/procedures or school rules, including harassing, discriminatory, or threatening communications and behavior; violations of copyright laws, etc. The school district assumes no responsibility for illegal activities of employees while using school computers.

II. Any use involving materials that are obscene, pornographic, sexually explicit or sexually suggestive, harmful to minors, or intended to appeal to prurient interests.

III. Any communications with students or minors for non-school-related purposes.

IV. Any use for private financial, commercial, advertising, or solicitation purposes.

V. Any use as a forum for communication with school users or outside parties to solicit, proselytize, advocate, or communicate the views of an individual or non-school sponsored organization; to solicit membership in or support of any non-school sponsored organization; or to raise funds for any non-school sponsored purpose, whether profit or not-for-profit. Employees who are uncertain as to whether particular activities are acceptable should seek further guidance from the building administrator or other appropriate administrator.

VI. Any communication that represents an employee's personal views as those of the school district or that could be misinterpreted as such.

- VII. Sending mass emails to school users or outside parties for any purpose without the permission of the ~~Technology Coordinator~~ Director of Educational Technology or district administrator, except that the school district may, at its sole discretion, provide a forum for exchanging information that could be beneficial to its employees (e.g., Buy/Sell/Exchange, Google group/email).
- VIII. Any malicious use or disruption of the school district's computers, network and Internet services; any breaches of security features; any failure to report a security breach; or misuse of computer passwords or accounts (the employee's or those of other users).
- IX. Any attempt to delete, erase, or otherwise conceal any information stored on a school computer and school computer services that violates these rules or other Board policies or school rules, or refusing to return computer equipment issued to the employee upon request.
- X. Any attempt to access unauthorized web sites or any attempt to disable or circumvent the school district's filtering/blocking technology. **VPN's are prohibited.**
- III. Disclosure of Confidential Information Employees are expected to use appropriate judgement and caution in communications concerning students and staff to ensure that personal identifiable information remains confidential. Use of e-mail for sharing confidential information must comply with FERPA.
- IV. Employee Volunteer Responsibility to Supervise Student Computer Use Employees and volunteers who use school computers with students for instructional purposes have a duty to supervise such use and to enforce the school district's policies and rules concerning student computer use. When, in the course of their duties, employees or volunteers become aware of a student violation, they are expected to stop the activity and inform the building administrator consistent with the educational mission and curriculum and instructional goals.
- V. Compensation for Losses, Costs, and/or Damage  
An employee is responsible for compensating the school district for any losses, costs or damages incurred by the school district for violations of Board policies and school rules while the employee is using school district computers and school computer services, including the cost of investigating such violations. The school district assumes no responsibility for any unauthorized charges or costs incurred by an employee while using school district computers and school computer services. CESD will be responsible for accidental damage to employee computers that occur through normal use of their job functions.
- VI. Additional Rules for Use of Privately-Owned Computers by Employees
- I. Employees are permitted to use privately-owned computers in school provided that they comply with the policy and rules governing computer and Internet use, there is a suitable educational basis for the request, and the demands on the school district's network or staff are reasonable. In addition, if requested, the employee must provide to the Technology Coordinator such information as IP addresses and login passwords to enable enforcement of all policies and rules regarding use of computer services.
- II. The technology staff has the authority to determine whether use of an employee's privately-owned computer would place an undue burden on or could interfere with the computer services.
- III. The employee is responsible for proper care of their privately-owned computer including any costs of repair, replacement, or any modifications needed to use the computer at school.
- IV. The school district is not responsible for damage, loss, or theft of any privately-owned computer.
- V. Employees have no expectation of privacy in their use of computer services while using a privately-owned computer at school.

- VI. Employees are required to comply with all Board policies/procedures and school rules while using school computer services on privately-owned computers at school or elsewhere.
- VII. Violation of any Board policies, administrative procedures, or school rules involving an employee's use of computer services or a privately-owned computer may result in the revocation of the privilege of using the computer at school and/or disciplinary action.
- VIII. The school district may seize any privately-owned computer used by an employee in school without authorization as required by these rules and the contents of the computer may be searched in accordance with applicable laws and policies. The computer will be returned to the owner when it is no longer needed for investigatory or evidentiary purposes.

CESD may utilize all information provided in FI above to review, monitor, and/or have access to an employee's private computer at any time, without prior notice, to determine if an employee is using the school computer services on an employee's privately-owned computer in compliance with all applicable policies and rules of the school.

#### I. Violations

A violation by the employee of the school's policies and rules or use of school computer services shall subject the employee to such disciplinary action as the Superintendent believes is appropriate including, but not limited to, loss of use of school computers and/or school computer services.

## Cross Reference:

- [GCSA - Employee Computer and Internet Use](#)
- [GBEBB - Staff Conduct with Students](#)
- [JRA - Student Education Records and Information](#)

## Adopted:

- January 10, 2006

## Revised:

- February 8, 2011
  - January 14, 2014
-

# UPDATE: IHBAC - CHILD FIND

Cape Elizabeth School Department (CESD) seeks to ensure that all children within its jurisdiction are identified, located and evaluated who are school-age (5 years old and under the age of 22) and who are in need of special education and supportive assistance. This includes homeless children, state wards, state agency clients, students who have been suspended or expelled, children attending private schools receiving home instruction, children incarcerated in county jails, children who have the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year, highly mobile children (including migrant or homeless), and children who are suspected of being disabled and in need of special education and supportive assistance even though they are advancing from grade to grade.

The school unit's Child Find responsibility shall be accomplished through a unit-wide process which, while not a definitive or final judgment of a student's capabilities or disability, is a possible indicator of special education needs. Final identification of students with disabilities and programming for such students occurs only after an appropriate evaluation and a determination by the IEP team.

The school unit shall provide Child Find during the first 30 days of the school year or during the first 30 days of enrollment for transfer children, in addition to other Child Find activities provided by the school unit.

This Child Find process shall include obtaining data on each child through multiple measures, direct assessment, and parent information regarding the child's academic and functional performance, gross and fine motor skills, receptive and expressive language skills, vision, hearing and cognitive skill. CESD may schedule Child Find activities during its annual kindergarten enrollment to assist in planning for necessary special education and related services at the start of the school year. If screening occurs in the spring prior to school entry, CESD will refer the child to the regional CDS site within 10 school days.

If the Child Find process indicates that a student may require special education and supportive services in order to benefit from regular education, the student shall be referred to the IEP team to determine the student's eligibility for special education services.

School staff, parents, agency representatives or other individuals with knowledge of the child may refer children to the IEP if they believe that the student, because of a disability, may need special education and supportive services in order to benefit from regular education. Such a referral should follow the school unit's pre-referral and referral policy.

## Legal Reference:

- 34 C.F.R. § 300.111 (2006)
- Me. Dept. of Ed. Reg. Ch. 101, IV(2)(A), (C) (2015)
- *ME Department of Education Administrative Letter 1 (January 21, 2021)*

## Reviewed:

- February 12, 2019

## Adopted:

- March 12, 2019
  - January 11, 2022
-



# UPDATE: ACAB-R EMPLOYEE DISCRIMINATION/HARASSMENT AND TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

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.

[mmcclellan@capeelizabethschools.org](mailto:mmcclellan@capeelizabethschools.org)

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 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 04102**

**(207) 799-2217**

**[mmcclellan@capeelizabethschools.org](mailto:mmcclellan@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 employees, includes race, color, sex, sexual orientation, gender identity, age, familial status, religion, ancestry, national origin, genetic information, 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. 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:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
  - b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or
  - c. 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.
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 an employee or other third party has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, gender identity, age, familial status, 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).
8. “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.
9. “Familial Status”: Under Maine law, this means a family unit that contains:
  - a. 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
  - b. 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

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:
  - a. “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;
  - 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 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.
3. “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.
4. “Employee”: For the purpose of this procedure, “employee” means an applicant for employment or a current employee of the Cape Elizabeth School Department.

## II. 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

1. 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.
2. 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).
3. 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.
4. 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.
5. 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, 8<sup>th</sup> 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 (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.

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 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.

### 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:
  - a. Shall 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.

## II. 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, 8<sup>th</sup> 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.



1.

II.

III. 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.

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

- I. 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.
- II. 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).

## X. 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; 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:

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

## Adopted:

- September 8, 2020

## Revised:

- September 20, 2020

# UPDATE: BBAB-R - SCHOOL BOARD STUDENT REPRESENTATIVES PROCEDURE FOR SELECTION AND PARTICIPATION

The following procedure shall be used in the selection and participation of student representatives to the School Board.

## Selection Process

- I. Each April the Principal will notify sophomore students of the process for Student School Board Representative selection through advisory or other appropriate means.
- II. Applicants will submit a brief essay expressing their reasons for applying and the contribution they hope to make.
- III. All applications shall be reviewed by a selection committee composed of the Principal, the Superintendent, the School Board Chair and/or Vice Chair, one or both current Student Board members and a faculty member or members.
- IV. The selection committee may, in its discretion, choose to interview finalists before their decision is made.
- V. The selection committee may, in its discretion, choose to leave the position vacant.

School board students-elect are encouraged to attend School Board meetings and educate themselves on the role of board members in the months after they are elected before the end of the school year.

## Responsibilities:

- I. Beginning at the start of the school year, a School Board Student Representative will attend monthly business meetings and other workshops and committee meetings as designated and applicable.
- II. School Board student representatives are responsible for preparing any needed materials meetings, and for responding to and sending necessary emails. This could include presentations, research, or statements.
- III. School Board student representatives are responsible for keeping the student advisory council updated as to give updates on what is going on within the School Board and what the School Board has recently accomplished.

The rules of the substance abuse policy and academic eligibility apply. Student representatives will adhere to School Board rules for conduct and board policy and procedure.

## Legal Reference:

- 20-A MRSA, r 1001 (IA)

## Cross Reference:

- BBAB: Student School Board Representative

## Adopted:

- April 10, 2007

## Revised:

- March 8, 2022
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# EEBB - USE OF PRIVATE VEHICLES FOR SCHOOL BUSINESS (draft-2022)

The Cape Elizabeth School Board recognizes the need for some school employees to use their privately owned motor vehicles for school purposes either regularly or occasionally.

Privately owned vehicles may be used for student transportation when, in the opinion of the building principal and with the written approval of the Superintendent, this is the most practical or only possible method of transportation.

To safeguard Cape Elizabeth School Department employees and students in matters of liability, the following policy will be observed:

- I. Prior to use of a private vehicle for school purposes, the employee must have the written permission of the Superintendent/designee.

This permission may be in the form of a standing permit for employees who use their own vehicles regularly for school purposes. The permit will state the particular purpose and indicate whether it includes transportation of students.

For all special trips involving students, e.g., field trips, a special permit must be obtained in advance for the specific trip.

- II. No student may be sent on school errands with his/her own vehicle, an employee-owned vehicle, or a school-owned vehicle.

- III. Field trip and other off-campus school-sponsored activity transportation will be by school bus whenever practicable.

The Superintendent may approve the use of private vehicles in situations in which the small number of students or budget or schedule restrictions make bus use prohibitive or impractical.

- IV. For student trips made in private vehicles, the owner must be properly licensed and carry a minimum liability insurance of \$100,000/\$300,000; minimum property damage of \$50,000; and minimum medical coverage of \$5,000. Proof of current license and insurance will be required.

- V. A Maine driving record check will be conducted on all prospective drivers. In the interest of safety, a prospective driver may be disqualified based on a review of information contained in the record.

- VI. The vehicle must have a current registration and display a current inspection sticker.

The vehicle must have sufficient seat belts for the driver and each of the other persons being transported.

- VII. No employee may transport students for school purposes without prior authorization by the Superintendent/designee.

- VIII. No student will be allowed to transport other students on field trips or for other school-sponsored activities without prior approval from the principal and notice to parents.

IX. Parents will be informed whenever private vehicles will be used to transport their child(ren) for a field trip or other school purpose and will be required to sign a permission form in advance.

## PARENT AND VOLUNTEER-OWNED VEHICLES

The above provisions apply to the use of private vehicles when the driver is a parent or other approved volunteer transporting students to or from school-sponsored events or activities or using a private vehicle for other school purposes.

The school will inform parent drivers and other approved volunteers that in the event of an accident, the parent or approved volunteer's liability insurance will be the primary coverage.

The school will not be responsible for any accident or injury arising from a parent's transportation of his/her own child(ren) to or from a school sponsored event or activity. Students are expected to travel by school-provided transportation when available.

## DELEGATION OF RESPONSIBILITY

The Superintendent/designee will be responsible for developing administrative procedures, including those for accident reporting, and application, permit, permission and/or other forms, to implement this policy.

## Cross Reference:

- [IJOA – Field Trips and Other Student Travel](#)
- [IJOE - School Volunteers](#)

## Adopted:

February 8, 2022

# af draft\_IJOA - FIELD TRIPS AND OTHER STUDENT TRAVEL

## **FIELD TRIPS AND OTHER STUDENT TRAVEL**

The Board recognizes the educational value of school-sponsored trips as a means of supplementing the curriculum and as a vehicle for encouraging and supporting student participation in academic, artistic, and athletic activities, performances and competitions. In addition, some school-sponsored trips may provide social experiences and contribute to the development of a positive school culture.

This policy provides guidance for the various kinds of trips that may be sponsored by the Cape Elizabeth School Department (CESD).

### **Field Trips**

“Field trip” means a trip that takes place during the school day and is organized and conducted by one or more CESD employees as a means of accomplishing particular curriculum objectives. All students within the class or grade, or curriculum related subgroup within a class, will be eligible to participate.

Field trips must be approved in advance by the building principal.

Teachers and principals will be expected to consider the following factors in the planning and approval of field trips:

- I. Objectives of the proposed trip and the anticipated learning outcomes;
- II. Specific learning activities to be experienced during the trip;
- III. Suitability of the activity and distance traveled to the age of students;
- IV. Mode and availability of transportation;
- V. Parents/guardians are provided with clear information that communicates the trip activities, risks and safety measures being taken. Such information shall be communicated in a language and process that parents/guardians can understand;
- VI. Arrangements for meals (if applicable); and
- VII. Availability of funding for all necessary expenses through the school budget or other appropriate sources.

In addition, the Board requires that:

- I. Parents/guardians give written permission for field trip participation;
- II. Adequate supervision be provided to maintain discipline and safety and to respond to emergencies;
- III. Students participating in field trips conduct themselves in a manner consistent with Board policies and school rules; and
- IV. Any overnight curriculum-related trip must be approved by the Board.

### **Competition Trips**

“Competition trip” means any trip related to an academic, artistic, athletic, or other student competition or performance that involves individual students or teams. Any competition trip that is outside of those scheduled for the year must be approved

in advance by the Superintendent. Approval may be contingent upon availability of funding through the school budget or other sources.

### **Other School-Sponsored Trips**

Other school-sponsored trips are those that are organized and conducted by one or more employees of CESD as a supplement to the curriculum, as a class social activity, or as an activity planned by a student club or organization. Such trips may include overnight, long-distance in-state or out-of-state travel, or foreign travel. To be school-sponsored, the trip must relate directly to the curriculum or to activities for which the student club is organized.

Participation in such trips is entirely voluntary. There shall be no extra credit awarded for participation and no loss of credit for not taking a trip.

Participation may be limited to students taking courses related to the purpose of the trip or to students who are affiliated with the student club or organization planning the trip.

The Board must approve, in advance, any trips involving out-of-state travel distance of 125 or more miles to destination and all overnight and foreign trips. Approval may be contingent upon availability of funding from the school budget and other sources, including student fundraising.

Staff or administrators seeking approval for school-sponsored trips must furnish the following information:

- I. Objective of the trip and anticipated outcomes;
- II. Specific experience to be provided;
- III. Number and grade(s) of students;
- IV. Criteria for student participation;
- V. Maximum number of students who may participate;
- VI. Cost per student, including funds requested from CESD and from individual students;
- VII. Fundraising plans (if applicable);
- VIII. Transportation arrangements;
- IX. Itinerary;
- X. Arrangements for meals and lodging;
- XI. Arrangements for adult supervision/chaperones, with a minimum ratio 1:10 students at elementary level and 1:12 students at secondary level.
- XII. Plans for safety and emergencies;
- XIII. Plans for communicating information to parents and obtaining parental permission; and
- XIV. Accountability for student conduct.

Adequate supervision must be provided to maintain discipline and safety and to respond to emergencies.

Students participating in field trips and other school-sponsored trips must conduct themselves in a manner consistent with Board policy and school rules. Students who violate Board policy or school rules will be subject to disciplinary consequences.

### **Non-School-Sponsored Travel**



Travel organized by Cape Elizabeth School employees, parents or others that is not an extension of the instructional program or school-sponsored activities and has not been approved as a school-sponsored trip in compliance with this policy will be considered a non-school-sponsored trip.

All responsibility for non-school-sponsored trips lies with the individual(s) or group(s) organizing them. The Board accepts no responsibility for non-school-sponsored trips, and organizers should be aware that such trips or excursions are not covered by the CESD's liability insurance.

To minimize the impact of these trips on the instructional program and operation of the schools, the Board strongly encourages organizers/sponsors to schedule non-school-sponsored trips during weekends and/or vacation periods. Staff members planning or participating in non-school-sponsored travel must notify the building principal of such plans. Student absences due to participation in non-school-sponsored travel will be considered unexcused absences.

Instructional time may not be used to promote the trip or distribute materials. Individuals or groups who wish to use the schools for the purpose for publicizing trips or recruiting participants and parents/chaperones may do so in accordance with the Board's facilities use policy. Individuals or groups wishing to distribute promotional materials may do so only in accordance with Board policy. Non-school-sponsored trips must not be represented as school functions or as related to, or an extension of, the CESD's instructional, co-curricular or extracurricular programs.

It is the responsibility of any staff engaging in such trips or activities to notify the parents of prospective and participating students that this is not a school activity, but an independent voluntary trip organized or led by that teacher or staff member. To minimize any risk of misunderstanding, the following statement must be made in any informational meetings or materials promoting the trip:

"This trip is not approved or sponsored by the Board. It has not been reviewed, approved or endorsed by authorized CESD administrators and it is not covered by any of the CESD's insurance policies".

## Cross Reference:

[EEBB-Use of Private Vehicles for School Business \[inc. forms EEBB-E1, EEBB-E2 and Permit\]](#)

[KHB-Advertising in the School](#)

[KHC-Distribution/Posting of Non-School Materials](#)

[JEA-Compulsory School Attendance](#)

JEAA-Student Attendance

[KF-Community Use of School Facilities](#)

## Adopted:

February 12, 2019

## Reviewed:

January 8, 2019

January 11, 2022



# Procedure to Outline Example

## Procedure to Outline

### 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.

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# Procedure ACAA-R Clean

## STUDENT DISCRIMINATION/HARASSMENT AND

### TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

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 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 04102**

**(207) 799-2217**

**[mmcclellan@capeelizabethschools.org](mailto:mmcclellan@capeelizabethschools.org)**

## I. DEFINITIONS

### II. 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: 5. Submission to such conduct is made either explicitly or implicitly a term or condition of a student's educational benefits; 6. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or 7. Such conduct has the purpose and effect of substantially interfering with a student's academic performance or creates an intimidating, hostile, or offensive environment. 8. "Sexual orientation": Under Maine law, this means a person's "actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression." 9. "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." 10. "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).

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

#### IV. Title IX Sexual Harassment Complaint Procedure Definitions

V. "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:

VI. "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;

VII. "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

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

IX. "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.

X. "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. \

XI. "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.

#### 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

- II. 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.
- III. 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.
- IV. 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.
- V. 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.
- VI. 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.
- VII. 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, 8<sup>th</sup> Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

## VIII. 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 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.
- 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 to be interviewed 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.

#### IX. Findings and Subsequent Actions

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

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

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

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

XII. 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).

#### XIII. Appeals

XIV. 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.

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

XVI. 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.

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

XVIII. 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.

#### XIX. Records

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

### III. 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

II. 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.

III. 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.

IV. 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.

I. 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).

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

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

VI. 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.

VII. 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, 8<sup>th</sup> Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

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

IX. How to Make A Formal Complaint

X. 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.

XI. 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.

XII. 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.

XIII. 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.

XIV. 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.

XV. Emergency Removal or Administrative Leave

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

I. 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. \

II. 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.

VII. Notice to Parties of Formal Complaint

VIII. 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: \

- I. Notice regarding the complaint procedure and the availability of an informal resolution process; \
- II. 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); \
- III. 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; \
- IV. 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; \
- V. Notice that knowingly making false statements or submitting false information during the complaint process is prohibited and may result in disciplinary action; \
- VI. 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.

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

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

XI. 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.

## XII. Investigation

- XIII. 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.
- XIV. The investigator shall consult with the AAO/Title IX Coordinator as agreed during the investigation process. \
- XV. 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.
- XVI. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
- XVII. The investigator will:
  - I. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.
  - II. 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.
  - III. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.
  - IV. Interview witnesses and conduct such other activities that will assist in ascertaining facts (e.g., site visits, review of documents).
  - V. Consider evidence that is relevant and directly related to the allegations in the formal complaint.
  - VI. 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.

- VII. 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.
  - VIII. Consider the parties' written responses to the evidence prior to completing the investigation report. \
  - IX. 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.
  - X. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned decision maker.
- VIII. The investigation shall be concluded within 40 calendar days, if practicable. Reasonable extension of time for good reason shall be allowed.
- XIX. Determination of Responsibility
- XX. 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.
- I. The decision maker shall explain to a party proposing questions if the decision maker excludes a question as not relevant.
- XXI. 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.
- XII. Each party will receive a copy of the responses to any follow-up questions.
- XIII. 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").
- XIV. The decision maker shall issue a written determination, which shall include the following:
- XV. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy;
  - XVI. 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;
  - XVII. A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;
  - XVIII. 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;**
  - XIX. The Cape Elizabeth School Department's appeal procedure and permissible bases for the parties to appeal the determination.
  - XL. 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.

#### XLI. Remedies, Discipline, and Other Actions

##### LII. 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.

##### LIII. 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.

##### LIV. 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.

#### LV. 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:

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

.VII. 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

VIII. 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.

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

L. 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.

LI. 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.

LII. 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).

LIII. 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

☐GBEB – Staff Conduct with Students

☐FCK – Student Use of Cellular Telephones and Other Electronic ☐☐☐☐ Devices

☐ICIA – Weapons, Violence, and School Safety

☐ICK - Bullying and Cyberbullying Prevention in Schools

Adopted: September 8, 2020

Revised: September 20, 2020