

RSU #63

- a. NEPN/NSBA Code: AC
- b. Title: Nondiscrimination/Equal Opportunity and Affirmative Action
- c. Author: Superintendent/Board of Directors
- d. Replaces Policy:
- e. Date Approved: 02/25/2019 RSU #63
- f. Previously Approved: ~~02/25/2019~~ 11/18/2013
- g. Policy Expiration: Review as Needed
- h. Responsible for Review: Superintendent/Board of Directors
- i. Date Reviewed: ~~02/01/2021~~ 02/04/2019 Policy Committee
~~02/01/2021~~ 02/04/2019 Superintendent
- j. References: EEO 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 (~~P.L.88-352~~**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) ~~Vocational 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 of 1972~~ (5 MRSA § ~~4551~~ **71** et seq.), **as amended**
- Cross Reference:** **RSU 63 Affirmative Action Plan**
ACAA-Harassment and Sexual Harassment of Students
ACAA-R – Student Discrimination/Harassment and Title IX Sexual Harassment Compliant Procedures
ACAB – Harassment and Sexual Harassment of School Employees
ACAB-R – Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures

k. Narrative:

The RSU #63 Board of Directors (the Board) is committed to maintaining a workplace and learning environment that is free from illegal discrimination and harassment. **RSU #63 (the District) 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/regulation.

- I. In accordance with applicable Federal and/or State civil rights laws and regulations, ~~RSU #63 (the District)~~ prohibits discrimination and harassment of employees, candidates for employment, students, and others on the basis of race, color, sex, sexual orientation, **gender identity**, religion, ancestry or national origin, age, ~~or~~ disability, **or genetic information**. For the purpose of this policy, “sexual orientation” means a person’s actual or perceived bisexuality, homosexuality, gender identity, or expression.
- II. **The Board directs the Superintendent 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.**
- III. It is the responsibility of the Superintendent to implement this policy. The District’s Affirmative Action Plan will include designation of an Affirmative Action Officer/**Title IX Coordinator** who will be responsible for ensuring compliance with all Federal and State requirements related to nondiscrimination **including sexual harassment**. The Affirmative Action Officer/**Title IX Coordinator** will be appointed by the Superintendent, identified on the District website, and be a person with direct access to the Superintendent.
- IV. **The District implements complaint procedures for resolving complaints of discrimination/harassment and sexual harassment under this policy. The District provides required notices of these complaint procedures and how they can be accessed as well as the District’s compliance with federal and state civil rights laws and regulations to all applicants for employment, employees, students, parents, and other interested parties.**
- V. The Superintendent/Affirmative Action Officer/**Title IX Coordinator** ~~will be~~ **is** responsible for ensuring notice of compliance with applicable Federal and/or State civil rights laws and regulations is provided to all applicants for employment, employees, students, parents, and other interested persons, as appropriate.
- VI. The Board urges all staff members to be especially alert to and avoid the use of sexist or other discriminatory language in all communications, both oral and written.

RSU #63

- a. NEPN/NSBA CODE: ACAA
- b. Title: Harassment and Sexual Harassment of Students
- c. Author: Superintendent
- d. Replaces Policy:
- e. Date Approved: 01/27/2020 RSU #63
- f. Previously Approved: ~~01/27/2020~~ ~~02/25/2019~~
- g. Policy Expiration: Review as Needed
- h. Responsible for Review: Policy Committee
- i. Date Reviewed: ~~02/01/2021~~ ~~01/07/2020~~ Policy Committee
- j. References: 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. § 12291(a)(10) – dating violence; 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. 4602; 4681 et seq. 20-A MRSA § 6553
~~20-A MRSA §13025,~~
MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

Cross Reference:

~~Policy ACAA-R - Student Discrimination/Harassment and Title IX Sexual Harassment Complaints and Administrative Procedures;~~
~~AC – Nondiscrimination/Equal Opportunity and Affirmative Action~~
~~ACAD – Hazing~~
~~GBEBB – Staff Conduct with Students~~
~~JFCK – Student Use of Cellular Telephones and Other Electronic Devices~~
~~Policy JICIA – RSU #63 Weapons, Violence, and School Safety;~~
~~Policy GBEBB – RSU #63 Staff Conduct with Students~~
~~JICK - Bullying~~

k. Narrative:

Harassment of students because of race, color, sex, gender, sexual orientation, gender identity, religion, ancestry or national origin, age, physical or mental disability, or genetic information is prohibited. Such conduct is a violation of the RSU #63 Board of Directors (the Board) policy and may constitute illegal discrimination under Federal and State laws.

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

- I. Harassment and sexual harassment of students by school employees is considered grounds for disciplinary action, up to and including discharge. Harassment and sexual harassment of students by other students is considered grounds for disciplinary action, up to and including expulsion. The Superintendent will determine appropriate sanctions for harassment of students by persons other than school employees and students.
 - A. Harassment includes, **but is not limited to**, verbal abuse based on race, color, ~~sex, gender~~, sexual orientation, ~~gender identity~~, religion, ancestry or national origin, ~~age, physical or mental disability, or genetic information~~. Harassment that rises to the level of physical assault, battery, mental or physical abuse is also addressed in the Board policy JICIA – Weapons, Violence, and School Safety. ~~For the purpose of this policy, “sexual orientation” means a person’s actual or perceived bisexuality, homosexuality, gender identity, or expression.~~
 - B. Sexual Harassment is addressed under federal and state laws/regulations. The scope and definition of sexual harassment under these laws differ, as described below.

1. Title IX Sexual Harassment

Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit’s education programs and activities:

- a. “Quid pro quo” sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a better grade or a college recommendation) on an individual’s participation is 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 school unit’s education programs and activities; or
 - c. Sexual assault, dating violence, domestic violence, and stalking as these terms are defined in federal laws.

2. Sexual Harassment Under Maine Law

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

- 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.

~~II. Sexual harassment includes, but is not limited to, unwelcome sexual advances; requests for sexual favors, pressure to engage in sexual activity; unwelcome sexual or physical contact; gestures; comments; or other gender-based physical, written, or verbal conduct. District employees, students, volunteers, and visitors to the school, as well as other persons with whom students may interact, are required to refrain from such conduct.~~

III. Reports and Complaints of Harassment or Sexual Harassment

All school employees are required to report possible incidents of harassment or sexual harassment involving students to the Affirmative Action Officer/Title IX Coordinator. Failure to report such incidents may result in disciplinary action. Students, parents/legal guardians, and other individuals are strongly encouraged to report possible incidents of harassment or sexual harassment involving students to the Affirmative Action Officer/Title IX Coordinator. The Affirmative Action Officer/Title IX Coordinator is also available to answer questions and provide assistance to any individual who is unsure whether harassment or sexual harassment has occurred.

All reports and complaints of harassment or sexual harassment against students shall be addressed through the Student Discrimination/Harassment and Title IX Sexual Harassment Procedures (ACAA-R).

~~IV. The Superintendent, or the employee designated as the Affirmative Action Officer (identified on the District website), will investigate complaints of harassment in accordance with the Student Harassment Complaint Procedure (RSU #63 ACAA-R). District employees, students, and parents will be informed of this policy/procedure through handbooks and/or other means selected by the school administration.~~

RSU #63

- a. NEPN/NSBA Code: ACAB
- b. Title: ~~Anti-Harassment Policy~~ **Harassment and Sexual Harassment of School Employees**
- c. Author: Superintendent
- d. Replaces Policy:
- e. Date Approved: 02/25/2019 RSU #63
- f. Previously Approved: ~~11/18/2013~~ **02/25/2019**
- g. Policy Expiration: Review as Needed
- h. Responsible for Review: Policy Committee/Superintendent
- i. Date Reviewed: ~~02/04/2019~~ **02/01/2021** Policy Committee
~~02/04/2019~~ **02/01/2021** Superintendent

- j. References: 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)(8) – definition of domestic violence)
Title VI of the Civil Rights Act of 1964 (42 USC § 2000d), Americans with Disabilities Act (42 USC § 12101 et seq.), as amended
Section 504 of the Vocational Rehabilitation Act of 1973 (Section 504) (29 USC § 794 et seq.), as amended
Title VII of the Civil Rights Act of 1964 (42 USC § 2000e, et seq.; e-2; 29 CFR § 1604.11)
Age Discrimination in Employment Act (29 USC § 623(29)-5 MRSA §§4602; 4681 et seq. 20-A MRSA § 6553 26 MRSA §§ 806-807),
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: ~~Policy ACAB-R – School Employee Discrimination/Harassment and Harassment~~ **Title IX Sexual Harassment Complaint Procedure,**
~~Policy AC – Nondiscrimination/Equal Opportunity and Affirmative Action,~~
~~Policy ACAD - Hazing~~

- k. Narrative:

ACAB – RSU #63 ~~Anti-Harassment Policy~~ **Harassment and Sexual Harassment of School Employees**

Harassment of any school employee on account of race, color, sex, gender, sexual orientation, gender expression, gender identity, religion, ancestry, or national origin, age, genetic information, or physical or mental disability is prohibited by RSU #63. In addition, per the Maine Civil Rights Act, violence or threats of violence against a person or their property based on their sexual orientation is illegal. “Sexual Orientation” means a person’s actual or perceived heterosexuality, bisexuality, homosexuality, gender identity, or gender expression. Such conduct is a violation of RSU #63 Board of Directors (the Board) policy and may constitute illegal discrimination under state and federal laws.

~~The occurrence of any of the above forms of harassment is a violation of the RSU #63 Board of Directors’ (the Board) Anti-Harassment Policy and may constitute illegal discrimination under state and federal laws.~~

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

I. Definitions:

A. 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.

B. Sexual Harassment

~~Unwelcome sexual advances, suggestive or lewd remarks, request for sexual favors, and other verbal and/or unwelcome contact constitute sexual harassment when:~~

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.

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 school unit’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 school unit’s education programs and activities; or

- c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.
 2. 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:
 - 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.

II. 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/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 will be addressed through the Employee & Third-Party Unlawful Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedures (ACAB-R).

- ~~1. Submission to such conduct is made either explicitly or implicitly a term or condition of an employee's work environment or employee benefits;~~
- ~~2. Submission to or rejection of such conduct by an employee is used as the basis for decisions on employment benefits; and/or~~
- ~~3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.~~

~~II. Any employee who engages in harassment or sexual harassment will be subject to disciplinary action, up to and including termination of employment.~~

~~III. All complaints of harassment will be investigated in accordance with the Employee Discrimination and Harassment Complaint Procedure (ACAB-R).~~

~~IV. Notice and Training~~

- ~~A. Annually, each employee will receive a copy of this policy and the Employee Discrimination and Harassment Complaint Procedure (ACAB-R). This may be accomplished by including the policy/procedure with employee paychecks or by using other appropriate means to ensure that each employee receives a copy. All newly hired employees must attend training regarding sexual harassment, in accordance with Maine law.~~

- B. ~~The Superintendent is responsible for ensuring that all school units in RSU #63 (the District) comply with all legal requirements for posting, notification, and training of employees regarding harassment and sexual harassment.~~

- V. ~~Sexual or intimate relationships—whether regarded as consensual—between individuals in inherently unequal positions should in general be avoided and in many circumstances are strictly prohibited by this Anti-Harassment Policy. Since these relationships can occur in multiple contexts, this Policy addresses certain contexts specifically. However, the Policy covers all sexual and intimate relationships involving individuals in unequal positions, even if not addressed explicitly.~~
 - A. ~~Supervisor—Employee Relationships: RSU #63 does not wish to intrude upon employees’ personal lives. However, a personal relationship between a supervisor and an employee that reports to the supervisor has the potential to result in misunderstandings, actual or potential conflicts of interest, complaints of favoritism, sexual harassment, and/or dissension, and may negatively impact employee morale. Accordingly, supervisors are prohibited from dating or having sexual relationships and/or cohabitating with an employee supervised directly by them or anyone who is employed within their chain of command. This includes all employees within a supervisor’s functional area of control (i.e. the department, school, unit, team, etc.) or employees over whom they have responsibility for supervising, directing, evaluating, or influencing employment status or decisions. Whenever this type of relationship occurs, the supervisor must disclose the relationship to their supervisor or the superintendent. A supervisor who engages in this type of relationship with an employee and does not disclose the relationship may face disciplinary action up to and including termination of employment. In addition, any failure to disclose the relationship in a timely fashion will itself be considered a violation of this Policy. RSU #63 understands that sexual or intimate relationships are often private in nature and treats such information sensitively and (to the extent possible) confidentially.~~