

NOTES TO LOCAL BOARDS: WE HAVE CREATED A SEPARATE PROCEDURE TO ADDRESS ALL TYPES OF DISCRIMINATION AND HARASSMENT COMPLAINTS OTHER THAN SEX DISCRIMINATION AND SEXUAL/SEX-BASED HARASSMENT (WHICH ARE NOW ADDRESSED IN ACAA-R2).

LOCAL BOARDS COULD CHOOSE TO ADDRESS ALL DISCRIMINATION AND HARASSMENT COMPLAINTS UNDER A SINGLE PROCEDURE, BUT ANY SUCH PROCEDURE WOULD NEED TO COMPLY WITH THE DETAILED REQUIREMENTS IN THE TITLE IX REGULATIONS, WHICH ARE MORE EXTENSIVE THAN REQUIRED UNDER OTHER DISCRIMINATION LAWS. WE SUGGEST CONSULTING WITH LEGAL COUNSEL BEFORE ADOPTING A CONSOLIDATED COMPLAINT PROCEDURE.

THIS PROCEDURE IS WRITTEN WITH A SINGLE HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR. IF A SCHOOL DISTRICT HAS SEPARATED THESE TWO ROLES, THE PROCEDURE SHOULD BE REVISED AS NECESSARY TO REFLECT THE DIFFERENT ROLES.

THIS SAMPLE IS INTENDED TO PROVIDE GENERAL GUIDANCE TO LOCAL SCHOOL DISTRICTS IN DEVELOPING THEIR OWN COMPLAINT PROCEDURE. IF CHANGES ARE MADE TO THIS PROCEDURE, WE RECOMMEND CONSULTING WITH LEGAL COUNSEL TO ENSURE THAT ANY CHANGES ARE COMPLIANT WITH APPLICABLE LAWS/REGULATIONS.

ALL NOTES TO THE LOCAL BOARDS SHOULD BE REMOVED FROM THE PROCEDURE PRIOR TO ADOPTION.

STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this student procedure in order to provide prompt and equitable resolution of complaints of unlawful discrimination and harassment based on race, color, religion, ancestry or national origin, and disability. Complaints of sex discrimination, including sexual/sex-based harassment, are addressed in ACAA-R2 – *Student Sex Discrimination/Harassment Complaint Procedure*. In cases where allegations include sex discrimination or sexual/sex-based harassment and one or more other protected categories, ACAA-R2 will be used.

Complaints alleging unlawful discrimination and harassment of an employee are addressed under ACAB-R1 - *Employee Discrimination and Harassment Complaint Procedure* or ACAB-R2 – *Employee Sex Discrimination/Harassment Complaint Procedure*.

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

HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR INFORMATION:
Jennifer Noyes, Coordinator of Special Services
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Section 1. Definitions

For purposes of this complaint procedure, the following definitions will be used.

- A. "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.
- B. "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 or pervasive so as to interfere with or limit that individual's ability to participate in the school district's education program or activities by creating a hostile, intimidating, or offensive environment.
- C. "Complaint" is defined as an allegation that a student has been discriminated against or harassed on the basis of race, color, religion, ancestry, national origin, or disability.

Section 2. Complaint Procedure

This procedure should be used to address any report or complaint of unlawful discrimination or harassment based on membership in a protected category which does not involve sex discrimination or sexual/sex-based harassment.

A. How to Make a Complaint

- 1. School employees are required to promptly make a report to the Human Rights Officer/Title IX Coordinator if they have reason to believe that a student has been discriminated against or harassed.
- 2. Students (and others) who believe that they or another student has been harassed or discriminated against should report their concern promptly to the Human Rights Officer/Title IX Coordinator.
- 3. The individual making the report must provide basic information concerning the allegation of discrimination or harassment (i.e., date, time, location, individuals involved, nature of the allegation(s)) to the Human Rights Officer/Title IX

Coordinator. If the report is made orally, the Human Rights Officer/Title IX Coordinator will document it.

4. If the individual is unsure as to whether unlawful discrimination or harassment has occurred, or needs assistance in preparing a complaint, they are encouraged to discuss the matter with the Human Rights Officer/Title IX Coordinator.
5. Individuals will not be retaliated against for reporting suspected discrimination or harassment or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary action, up to and including termination for employees and expulsion for students.
6. Individuals are encouraged to utilize the school district's complaint procedure. However, individuals are hereby notified that they also have the right to report incidents of discrimination or harassment to:
 - New Hampshire Commission for Human Rights, 2 Industrial Park Drive, Concord, NH 03301; telephone 603-271-2767; and/or
 - Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

B. Complaint Handling and Investigation

1. The HRO/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.
 - a. If the allegations include sex discrimination or sexual/sex-based harassment, ACAAA-R2 will be followed instead of this procedure.
2. The HRO/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 school district and the parties in light of the particular circumstances and applicable policies and laws.
3. The HRO/Title IX Coordinator may implement supportive measures for a student to reduce the risk of further discrimination or harassment of the student while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals involved, changing class schedules, or other steps.

4. The complaint will be investigated by the HRO/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 Board Chair, who should consult with legal counsel concerning the handling and investigation of the complaint. In the event of a conflict of interest between the HRO/Title IX Coordinator and either party, an alternate trained investigator will be assigned by the HRO/Title IX Coordinator.
5. The investigator shall consult with the school principals as appropriate during the investigation process.
6. The respondent will be provided with an opportunity to be heard as part of the investigation.
7. The complainant and the respondent may suggest witnesses to be interviewed and/or submit materials they believe are relevant to the complaint.
8. If the complaint is against an employee of the school district, any rights conferred under an applicable collective bargaining agreement will 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 will be completed within forty (40) school days of receiving the complaint, if practicable.
11. The investigator will complete a written report and findings.

C. Findings and Subsequent Actions

1. The HRO/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 HRO/Title IX Coordinator, in consultation with the Superintendent, shall:
 - a. Determine what remedial action(s), if any, are required to end the discrimination or harassment, remedy its effect, and prevent recurrence; and
 - b. Determine what disciplinary action(s) 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).

D. 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 (5) school 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 (5) school days.
4. The Superintendent shall review the available documentation and may conduct further investigation if deemed appropriate.

NOTE TO LOCAL BOARDS: THE BOARD MAY CONSIDER WHETHER TO ALLOW APPEALS OF THE SUPERINTENDENT'S DECISIONS TO THE BOARD. WE RECOMMEND DISCUSSING THIS OPTION WITH LEGAL COUNSEL BEFORE DRAFTING SUCH LANGUAGE.

5. The Superintendent's decision on the appeal will be provided to the parties within ten (10) school days, if practicable. The Superintendent's decision is final.

E. Records

The HRO/Title IX Coordinator will keep a written record of the complaint process and actions taken.

Cross References: AC – Nondiscrimination/Equal Opportunity district and Human Rights
 ACAA – Harassment of Students
 ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure
 JIE - Pregnant Students

