

Public Notice of Meeting
WILTON-LYNDEBOROUGH COOPERATIVE
SCHOOL BOARD MEETING
Tuesday, August 27, 2024
Wilton-Lyndeborough Cooperative M/H School
6:30 p.m.

Videoconferencing: meet.google.com/kjs-ytdw-aqx

Audio: [+1 405-380-9018](tel:+14053809018) PIN: 855 756 680#

All videoconferencing options may be subject to modifications. Please check www.sau63.org for the latest information.

- I. CALL TO ORDER-Dennis Golding-Chair**
- II. PLEDGE OF ALLEGIANCE**
- III. ADJUSTMENTS TO THE AGENDA**
- IV. PUBLIC COMMENTS:** This is the public’s opportunity to speak to items on the agenda. In the interest of preserving individual privacy and due process rights, the Board requests that comments (including complaints) regarding individual employees or students be directed to the Superintendent in accord with the processes set forth in School Board Policies KE, KEB and BEDH.
- V. BOARD CORRESPONDENCE**
 - a. Reports**
 - i. Director of Student Support Services Report
- VI. POLICIES**
 - a. 2nd Reading**
 - i. BEC-Non-Public Sessions
 - ii. KB-Title I Family and Community Engagement
 - iii. EHB-Data/Records Retention
 - iv. JFABD-Admissions of Homeless Children and Unaccompanied Youth
 - v. EEAG-Use of Private Vehicles to Transport Children
 - b. Emergency Adoption**
 - i. AC-Nondiscrimination/Equal Opportunity and Affirmative Action
 - ii. ACAA-Harassment of Students
 - iii. ACAA-R1-Student Discrimination and Harassment Complaint Procedure
 - iv. ACAA-R2-Student Sex Discrimination/Harassment Complaint Procedure
 - v. ACAB-Harassment of Employees
 - vi. ACAB-R1-Employee Discrimination and Harassment Complaint Procedure
 - vii. ACAB-R2-Employee Sex Discrimination/Harassment Complaint Procedure
 - viii. JIE-Pregnant Students
- VII. ACTION ITEMS**
 - a. Approve Minutes of Previous Meeting**
- VIII. COMMITTEE REPORTS**
 - i. Strategic Planning Committee Scope & Direction
- IX. RESIGNATIONS/APPOINTMENTS/LEAVES**
 - a. FYI-New Hire-Shylar Michalski-RBT-WLC**
 - b. FYI-New Hire-Dayseanne Martinez-ABA-FRES**
- X. PUBLIC COMMENTS**

XI. SCHOOL BOARD MEMBER COMMENTS

XII. NON-PUBLIC SESSION RSA 91-A: 3 II (C)

- i. Review the nonpublic minutes

XIII. ADJOURNMENT

INFORMATION: Next School Board Meeting-September 10, 6:30 PM at WLC

The Wilton-Lyndeborough Cooperative School District does not discriminate on the basis of race, color, religion, national origin, age, sex, handicap, veteran status, sexual orientation, gender identity or marital status in its administration of educational programs, activities or employment practice.



Wilton-Lyndeborough Cooperative School District
School Administrative Unit #63

192 Forest Road Lyndeborough, NH 03082
603-732-9227

Peter Weaver
Superintendent of Schools

Ned Pratt
Director of Student Support Services

Kristie LaPlante
Business Administrator

Director of Student Support Services Report August 2024

The Student Support Services Department is excited to begin the new school year!

As you can imagine, we have had some additions and movement of our paraeducators and ABA staff. We often move our staff based upon the needs of the students in each of the programs, so this movement is not new. We have added 3 new staff members in the ABA/paraeducator ranks to replace those staff members who either retired or moved on to another position at another district. Our administrators and teaching staff are ready to support these new staff members throughout the district. We are still looking to fill 5 paraeducator positions as well as 1 ABA therapist position as we begin the school year. Our office is working with the administration in each school as well as Superintendent Weaver and the business office to develop alternative solutions for these openings.

Throughout the district, our staff is getting ready to welcome our students back to school. We had a very successful ESY program for over 35 of our students. This work over the summer will have the students ready to learn from day 1 of the new school year. We are all very excited to begin this new school year!

Our department has been busy over the summer in supporting the ESY programs as well as planning for not only this school year, but also the process for the 25-26 budget.

Prior to the staff leaving in June, we made sure that all requests for required supplies and teaching materials were sent to our office and ordered promptly. We have internally reviewed all expense line items against the actuals spent in the 23-24 budget as well as begin conversations with all building administrators and central office personnel regarding any new or changing staffing needs for the 25-26 school year. We will be prepared to present a fiscally responsible, student focused spending proposal forward as we begin the budget season.

Finally, we continue to navigate how to best support the increased number of students who have been identified as needing special education support since 2020. We are not alone in this endeavor as these trends are consistent not only in our state, but across the country. We will discuss this further during the school year.

Wilton-Lyndeborough Cooperative School District provides a safe and educational environment that promotes student exploration, critical thinking and responsible citizenship.

BEC - NON-PUBLIC SESSIONS

Category: REQUIRED

Related Policies: BEDG

The Board may meet in non-public session for any of the purposes set out in RSA 91-A:3. **Non-public sessions may only occur after a duly noticed public meeting has been called to order, and before that meeting is adjourned.** Once the public meeting has been convened, the Board may enter non-public session at any time during such meeting if a majority of the Board, by roll-call vote, find that sufficient grounds under 91-A:3, II exists. A non-public session may occur during a duly notice meeting irrespective of whether a non-public session appeared on either the meeting notice or meeting agenda.

The motion calling for a non-public session will state the matter(s) to be discussed and will state the statutory reason(s) for entering a non-public session.

The Board shall record minutes of all non-public sessions, and such minutes shall be made available and or “sealed”, in accordance with RSA 91-A:3. Required content and availability regarding minutes of non-public sessions are described in Board policy BEDG – Minutes.

The minutes of non-public session constitute the record of that session. Information discussed in non-public sessions shall remain confidential except to the extent the same is required to be disclosed subject to applicable law or court order, or as authorized by the Board.

The Board shall require the presence of the Superintendent or his/her designee (see N.H. Dept. of Education Rule Ed 303.01(f)), except those non-public sessions that pertain to the Superintendent’s employment.

Each year the Superintendent is directed to obtain and provide to each Board member copies of any NHSBA Non-Public Session Checklist, and update the same during the year as made available by NHSBA

District Policy History:

First reading: September 14, 2010, August 13, 2024

Second reading/adopted: October 10, 2010

District revision history:

Legal References:

NH Statutes

RSA 42:1-a

Oaths of Town Officers: Manner of Dismissal, Breach of Confidentiality

BEC - NON-PUBLIC SESSIONS

RSA 91-A:3

Non-Public Sessions

RSA 91-A:4

Minutes and Records Available for Public Inspection

NH Dept of Ed Regulation

NH Dept of Ed Rules Ed 303.01 (j) Substantive Duties of School Boards; Sexual Harassment Policy

Legal References Disclaimer: These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

DRAFT

KB - TITLE I FAMILY AND COMMUNITY ENGAGEMENT

Category: Required

The Wilton Lyndeborough Cooperative School Board endorses the family and community engagement goals of the Every Student Succeeds Act and encourages regular collaboration between family members, community members, and school leadership. The education of children is viewed as a cooperative effort among the parents, school, community, and other family members involved in supporting the child's development and education.

Pursuant to federal law, the District will develop jointly with distribute to parents of children participating in the Title I program a written family and community engagement policy.

The goal of this policy is to:

1. Honor and recognize families' funds of knowledge,
2. Connect family engagement to student learning,
3. Create welcoming, inviting cultures, and
4. Develop the capacity of families to negotiate the roles of supporters, advocates, and collaborators.

The District will implement at least one annual meeting that is available to all families of students attending Title I schools and/or for families that include a student who receives Title I services (Targeted Schools). These meetings will provide parents and family members opportunities to participate in the design, development, operation and evaluation of the program for the next school year. Additional meetings may be held at the will of the Superintendent or school board. These meetings will be used to:

1. Involve parents in the joint development of the Title I program plan, the process of reviewing the implementation of the plan, and suggesting overall school improvements goals.
2. Provide the coordination, technical assistance and other support necessary to assist participating schools in planning and implementing effective family and community engagement activities to improve student academic achievement and school performance.
3. Build the schools' and parents' capacity for strong family and community engagement.
4. Coordinate and integrate Title I family and community engagement strategies with those of other educational programs.
5. Conduct, with the involvement of families, an annual evaluation of the content of the family engagement policy and its effectiveness in improving the academic quality of the schools served. This will include identifying barriers to greater participation by parents in activities authorized by law, particularly by parents who are economically disadvantaged, have disabilities, have limited English proficiency, have limited literacy,

KB - TITLE I FAMILY AND COMMUNITY ENGAGEMENT

or are of any racial or ethnic minority background. The district will use the findings of such evaluation to design strategies for more effective parental involvement and to revise, if necessary, the parental involvement policies.

6. Involve families in the activities of the schools served.

Title I funding, if sufficient, may be used to facilitate parent attendance at meetings through payment of transportation, childcare costs, food for the event, and academic based supplies and activities during the event. In targeted assistance programs, the families of children identified to participate in Title I programs will receive from the school Principal and/or Title I staff an explanation of the reasons supporting each child's selection for the program, a set of objectives to be addressed, and a description of the services to be provided. Opportunities will be provided for the parents to meet with the classroom and Title I teachers to discuss their child's progress. Parents will also receive guidance as to how they can assist in the education of their children at home.

District Policy History:

Adopted/Revised: April 2003

Reviewed: October 2004

Adopted/Revised: April 2010, August 10, 2010

First reading: October 26, 2011, August 13, 2024

Second reading/adopted: November 8, 2011

District revision history: November 8, 2011

Legal References:

Federal Statute 20 U.S.C. §6318 Title I Parent Involvement

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EHB - DATA/RECORDS RETENTION

Category: REQUIRED

*Related Policies: GBCD
Appendix: EHB-R*

The Superintendent shall develop and maintain (a) a schedule for the minimum retention of various district records (“Record Retention Schedule”) as required under RSA 189:29-a, and (2) procedures for records retention and/or destruction. The procedures should ensure that all pertinent records are stored safely and are stored for such durations as are required by state or federal law. The Superintendent shall develop procedures necessary to protect individual rights and preserve confidential information.

This policy applies to all district records, irrespective of the specific medium of the record, i.e., paper, electronic, digital, cloud, etc..

A. Record Retention Schedule. Records of the District shall be retained no less than the time prescribed in District’s Record Retention Schedule EHB-R. The Superintendent shall update the Record Retention Schedule from time-to-time in accordance with legislative or regulatory changes, directives of the Board, as recommended by the New Hampshire School Boards Association, or upon advice of counsel. The Superintendent shall inform the Board of any revisions to EHB-R no later than the second School Board meeting after the changes were made.

B. Special Holding or Destruction Provisions. Notwithstanding the District’s Record Retention Schedule, (a) special destruction rules may apply to student special education records, and, (b) for other records, the normal retention periods may be suspended when the records are implicated by either a litigation hold or a request for records under the New Hampshire Right to Know law, RSA 91-A.

1. Special Education Records.

- a. Upon a student's graduation from high school, his or her parent(s)/guardian(s) may request in writing that the District destroy the student's special education records, including any final individualized education program.
- b. The District shall provide public notice of its document destruction policy at least annually.
- c. The District shall provide parents/guardians, or where applicable, the adult student, with a written notice of the District's document destruction policies upon the student's graduation with a regular high school diploma or at the transfer of rights, whichever occurs first.
- d. A permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. 34 CFR 300.624.
- e. Absent any request by a student's parents to destroy the records prior to the twenty-sixth birthday, or to retain such records until the student's thirtieth birthday, the District shall destroy a student's records and final individualized education program within a reasonable time after the student's twenty-sixth birthday, provided that all

EHB - DATA/RECORDS RETENTION

such records be destroyed by the student's thirtieth birthday.

- f. The parent(s)/guardian(s) may, at any time prior to the student's twenty-sixth birthday, request, in writing, that the records be retained until the student's thirtieth birthday.
2. **Litigation Hold.** On receipt of notice from legal counsel representing the District in that a litigation hold is required, the routine destruction of governmental records, including paper and electronic or digital records, which are or may be subject to the litigation hold shall cease. The destruction of records subject to a litigation hold shall not resume until the District has received a written directive from legal counsel authorizing resumption of the routine destruction of those records in accordance with the retention requirements of this policy and the associated procedures.
3. **Right-to-Know Request Hold.** On receipt of a Right-to-Know law request to inspect or copy governmental records, the Superintendent shall cease any destruction of governmental records which are or may be the subject of the request. The records shall be retained regardless of whether they are subject to disclosure under RSA Chapter 91-A, the Right-to-Know law. If a request for inspection is denied on the grounds that the information is exempt under this chapter, the requested material shall be preserved for no less than ninety (90) days and until any lawsuit pursuant to RSA 91-A:7-8 has been finally resolved, all appeal periods have expired, and a written directive from legal counsel representing the District authorizing destruction of the records has been received.

C. Disposal of Sensitive Information & Media Sanitization . District records which include “Sensitive Information” shall be destroyed as provided in this paragraph. All electronic devices with storage capacity shall be deemed to contain sensitive information. For purposes of this section, “Sensitive Information” shall mean and include:

- Records containing student or employee personally identifiable information (PII) as defined in RSA 189:65, VII and VII-a;
 - Criminal History Records Information (see Board policy GBCD);
 - Drug test records;
 - Child labor permits;
 - Cobra notices;
 - Accident reports;
 - Special education student records;
 - Records pertaining to civil rights investigations;
 - Bonds and continuation certificates;
 - Accident reports;
 - Banking records;
 - Business correspondence including confidential information such as account numbers, banking or digital transaction information;
 - Tax forms, unemployment records, etc. with confidential data; and
 - Any other information that would be exempt from disclosure under RSA 91-A:5 or deemed sensitive information by the Board, the Superintendent, Building Principal or their designees.
1. **Physical media** (i.e., “hard copies”, print-outs, etc.) including sensitive information shall be destroyed by one of the following:

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- shredding using District issued cross-cut shredders;
 - placed in locked shredding bins approved by the Superintendent to come on-site and shred, witnessed by District personnel throughout the entire process; or
 - incineration using District incinerators or if conducted by non-authorized personnel offsite, witnessed by the Superintendent or Superintendent's designee.
2. **Electronic media.** *All electronic media should be assumed to contain sensitive information. When no longer usable, hard drives, diskettes, tape cartridges, CDs, ribbons, hard copies, and other similar items used to process, store and/or transmit district records with sensitive data shall be disposed of as follows:*
- Overwriting (at least three times)
 - Degaussing (removal of magnetism)
 - Physical destruction (i.e., dismantling by methods of crushing, disassembling, etc., ensuring that the platter or other storage device has have been physically destroyed so that no data can be extracted).
3. Computers and other digital or electronic devices or systems that have been used to process, store, or transmit sensitive information shall not be released from the District's direct control until the equipment has been sanitized and all stored sensitive information has been destroyed using one of the above methods.

D. Destruction of District Records with No Sensitive Information. All records which do not include sensitive information should be destroyed as soon as practicable upon the expiration of the applicable retention period and in a manner deemed most efficient and practical.

District Policy History:

First reading: May 11, 2010, August 13, 2024

Second reading: July 13, 2010

Final adoption: August 10, 2010

District revision history: XXXX

Legal References:

NH Statutes

RSA 189:29-a

Records Retention and Disposition

RSA 91-A

New Hampshire Right To Know Law ("Access to Governmental Records and Meetings")

NH Dept of Ed Regulation

NH Code of Admin. Rules, Sect. Ed 306.04(a)(4)

Records Retention

NH Code of Admin. Rules, Sect. Ed 306.04(h)

Records Retention

NH Code of Admin. Rules, Sect. Ed. 1119.01

Confidentiality Requirements

Federal Statutes

20 U.S.C. §1232g

Family Educational Rights and Privacy Act (FERPA)

Legal References Disclaimer: These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

JFABD - ADMISSION OF HOMELESS CHILDREN AND UNACCOMPANIED YOUTH

Category: Required

It is the Wilton-Lyndeborough Cooperative School Board's intent to remove barriers to the identification, enrollment and retention in schools of homeless children and youth. All staff shall take reasonable steps to ensure that homeless students and children are not segregated or stigmatized and that educational decisions are made in the best interests of those students.

A. Homeless Students.

Under the federal McKinney-Vento Homeless Assistance Act (“McKinney-Vento”), and guidance provided by the New Hampshire Department of Education (“NHDOE”), the term “homeless children and youths” means “individuals who lack a fixed, regular and adequate nighttime residence.” Under both section 752(2) of McKinney-Vento and the NHDOE guidance*, the term includes children and youth who are:

1. sharing the housing of other persons due to loss of housing, economic hardship or a similar reason;
2. living in motels, hotels, trailer parks or camping grounds due to lack of alternative adequate accommodations;
3. living in emergency or transitional shelters;
4. abandoned in hospitals;
5. have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
6. living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
7. are migratory children who qualify as homeless because they are living in circumstances described above.

Additionally, as used in this policy, the terms “unaccompanied youth,” “school of origin,” “enrollment,” and “attendance area school” shall have the same meanings as set forth in the McKinney-Vento Homeless Assistance Act (“McKinney-Vento”) and guidance provided by the New Hampshire Department of Education (“NHDOE”). For purposes of this policy and its accompanying regulation, “homeless students” shall refer to and include “homeless children and youth” and “unaccompanied youth.”

*Note: under RSA 193:12, IV, the definition of “homeless children and youth” also includes children “awaiting foster care placement”, see RSA 193:12, IV (a). That criterion, however, was removed from McKinney-Vento in 2015 as well as NHDOE guidance documents regarding McKinney-Vento. Under both McKinney-Vento, and NHDOE guidance, children who are awaiting foster care may fall within the definition of a homeless student if they meet other criteria as set forth above.

Each homeless student shall have access to and shall be provided education services for which the student is eligible comparable to services provided to other students in the school, including career and technical education programs, gifted education programs, and school nutrition programs. Transportation services for homeless students shall be provided in accordance with applicable law and as generally described below.

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B. Enrollment and School Stability.

Enrollment of a homeless student shall be immediate even if the homeless student lacks records routinely required prior to enrollment or has missed application or enrollment deadlines (academic, immunization, etc.). The District shall make arrangements to obtain any necessary records and to have the student receive any necessary immunizations. When feasible, the District shall seek immunization through no- or low-cost health care providers. If an expense is incurred, the District shall seek reimbursement through Medicaid if possible.

If a homeless student becomes permanently housed during the school year, the student shall no longer be considered homeless and may only continue enrollment in the District for the remainder of that school year.

C. Homeless Liaison.

The Superintendent shall appoint a staff member to serve as the local liaison for homeless students and their families/guardians (the “Homeless Liaison” or the “District Homeless Liaison”). The District shall provide training and other technical assistance to Homeless Liaison and other appropriate District staff regarding the District’s obligations to homeless students. Duties of the District Homeless Liaison shall be as provided in state and federal law, as well as local policies and procedures. The duties shall include, among others: procedures for identification, enrollment, transportation, dispute resolution for homeless students, as well as direct assistance shall be made in accordance with the accompanying regulation and applicable law.

Among other things, the District Homeless Liaison shall:

- a. assist in requesting the student’s records;
- b. mediate and assist with disputes concerning school enrollment and homelessness determinations;
- c. assist in making transportation arrangements;
- d. ensure that homeless students receive the educational services for which they are eligible or entitled;
- e. coordinate with other Districts, entities, institutions and agencies to help assure that homeless children and youths are identified by school personnel;
- f. ensure that unaccompanied youth and/or parents of homeless students are informed of the educational and related opportunities available to homeless students;
- g. work to assure that parents/guardians of such students are provided with opportunities to participate in the education of their children (excepting instances when court or other protective orders indicate otherwise);
- h. ensure that unaccompanied youth and/or parents of homeless students are informed of all transportation services including transportation to the school of origin;
- i. assure that notice is publicly disseminated of the educational rights of homeless children and youths;
- j. coordinate with other Districts and with local social services agencies and other agencies or programs providing services to homeless students as needed;

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- k. assist any unaccompanied youth with enrollment, credit accrual, and career and college readiness decisions;
- l. work with the Superintendent or designee to monitor regulations and guidance related to this policy that may be issued by applicable state and federal agencies (e.g., DCYF, NHDOE, and the U.S. Department of Education).

D. Enrollment Determinations for Homeless Students.

Enrollment determinations shall be based upon the best interests of the homeless student, with the presumption that keeping the homeless student in the school of origin is in the homeless student's best interests, except when doing so is contrary to the request of the parent/guardian, or if applicable, unaccompanied youth.

E. Transportation of Homeless Students.

Under McKinney-Vento, homeless students are entitled to transportation to their school of origin or the school where they are to be enrolled. If the homeless student is located outside of District boundaries but a determination has been made that the student shall remain in the school of origin within the District, or, if a homeless student is located within this District, but a determination had been made that the student shall remain in the school of origin outside of the District, then the two Districts shall agree on a method to apportion cost and responsibility for the student's transportation or share the cost and responsibility equally.

F. Dispute Resolution.

For any decision in the enrollment process of a homeless student, including any determination whether a living situation meets the definition of homeless, if the decision is in conflict with the wishes of the homeless student's parent/guardian, or, if applicable, the unaccompanied youth, the District shall provide a written explanation, in a manner and form understandable to the student's parent, guardian or unaccompanied youth. District personnel receiving enrollment requests or information pertaining to homeless students should immediately refer those requests to the District Homeless Liaison and Superintendent's office.

In the event of a dispute, the District shall immediately enroll the student in the school in which the parent/guardian or unaccompanied youth seeks to enroll, which enrollment shall continue pending resolution of the dispute. Additionally, while enrollment disputes are pending, students have the right to participate fully in school and receive all services for which they would be eligible, as the definition of enrollment includes "attending classes and participating fully in school activities."

1. Notification of Appeal Process.

If the District seeks to place a homeless child in a school other than the school of origin or the school requested by the parent, or the District has determined that the living situation does not qualify as homeless ("eligibility decision"), the District shall inform the parent or the unaccompanied youth of the right to appeal. The District shall provide the parent or unaccompanied youth with written notice including:

- a. A succinct explanation of the child's placement/eligibility decision and contact information for the District Homeless Liaison, as well as the NHDOE State

JFABD - ADMISSION OF HOMELESS CHILDREN AND UNACCOMPANIED YOUTH

Coordinator for Education of Homeless Children and Youth;

- b. Notification of the parent's right to appeal(s);
 - c. Notification of the right to enroll in the school of choice pending resolution of the dispute;
 - d. A description of the dispute resolution process including a petition/appeal form that can be returned to the school to initiate the process and timelines; and
 - e. A summary of the McKinney-Vento Act.
2. While the Superintendent or Homeless Liaison may prepare and make available forms for the process, use of such forms is not required to initiate the appeal process.

3. Appeal to the District Homeless Liaison – Level I.

- a. If the parent or unaccompanied youth disagrees with the District's placement decision, he/she/they may appeal by filing a written request for dispute resolution/appeal ("appeal") with the school, the District Homeless Liaison, or Superintendent. The request for dispute resolution should be submitted within fifteen business days of receiving notification of the District's placement.
- b. If the appeal/request for dispute resolution is submitted to the school or Superintendent, it will be immediately forwarded to the Homeless Liaison.
- c. The District Homeless Liaison must log the complaint including a brief description of the situation and reason for the dispute and the date and time of the appeal was filed. Upon receipt, the District Homeless Liaison will forward a copy of the appeal document to the Superintendent.
- d. Within five business days of the receiving the appeal, the Homeless Liaison must provide the parent or unaccompanied youth with a written decision and notification of the parent's right to further appeal, with a copy to the Superintendent. At this time, the Homeless Liaison will also provide to the parent or unaccompanied youth an "appeals package" consisting of a copy of the written decision, a copy of the original appeal document, and copies of any additional materials provided to the Homeless Liaison by the parent or unaccompanied youth.

4. Appeal to the Superintendent – Level II.

The parent or unaccompanied youth may appeal the Level I decision to the Superintendent or the Superintendent's designee, using the appeals package provided at

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Level I.

- a. The Superintendent/designee will arrange for a personal conference to be held with the parent or unaccompanied youth within five business days of receiving the Level I appeals package. (Upon the request of the parent or unaccompanied youth, this conference may be held telephonically).
- b. Within five business days of the conference with the parent or unaccompanied youth, the Superintendent/designee will provide that individual with a written decision with supporting evidence and notification of their right to appeal to NHDOE.
- c. The Superintendent/designee shall provide a copy of the Superintendent's decision to the District's Homeless Liaison, as well as the NHDOE State Coordinator for Education of Homeless Children and Youth.

G. Records.

The District shall maintain copies of all written decisions, appeals and notifications concerning eligibility or enrollment requests made under this policy for the same period as it does for Title I records.

District Policy History:

First Reading: June 2, 2010, August 13, 2024

Second Reading: July 13, 2010

Final Adoption: August 10, 2010

Reviewed: November 28, 2017, December 12, 2017

District revision history: December 12, 2017

Legal References:

NH Statutes

RSA 193:12

Legal Residency Required

JFABD - ADMISSION OF HOMELESS CHILDREN AND UNACCOMPANIED YOUTH

NH Dept of Ed Regulation

*NH Code of Admin., Sect. Ed
306.04(a)(19)*

Homeless Students

Federal Statutes

20 U.S.C. §1232g

Family Educational Rights and Privacy Act (FERPA)

20 U.S.C. 1701-1758

Equal Educational Opportunities Act of 1974 – “EEOA”

20 U.S.C. 6313(c)(3)

Reservation of Title I funding for homeless children and youths

42 U.S.C. 11431

McKinney-Vento Homeless Assistance Act – Education for Homeless Children and Youth

42 U.S.C. 11432

McKinney-Vento Homeless Assistance Act – Education for Homeless Children and Youth

Federal Cases

457 U.S. 202 (1982)

Plyler v. Doe

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EEAG - USE OF PRIVATE VEHICLES TO TRANSPORT STUDENTS

Category: Recommended

Related Policies: EEAE

Any use of private vehicles to transport students to or from school, field trips, athletic events, or other school functions, must have prior authorization by the Superintendent or his/her designee. The Board specifically forbids any employee to transport students, except the teacher's own children, for school purposes without prior written authorization by the Superintendent or his/her designee. Individuals providing unauthorized student transportation do so at their own expense and liability.

Any employee or private citizen using their own or a rented vehicle to provide school-authorized student transportation must have automobile liability insurance of not less than \$500,000 Combined Single Limit and provide a Certificate of Insurance naming the District as an Additional Insured. The District will maintain liability insurance, which will be in excess of the owner's primary insurance for authorized student transportation.

Persons under contract with the school district to provide school transportation services must have a valid School Bus Driver Certificate/License in accordance with applicable rules and laws. All vehicles must be approved by the New Hampshire Department of Safety as meeting all applicable school bus safety standards. If operating a vehicle owned by a contracted carrier of passengers, and designed to transport 16 or more passengers (including the driver), the provisions of Policy EEAE apply in place of this paragraph. Parents transporting their own children are exempt from this paragraph, per Department of Safety regulations.

Persons providing transportation on an incidental basis, i.e., not specifically as part of a contract to transport, must have a valid driver's license, and the vehicle used must have a current New Hampshire inspection sticker. A commercial license is required for any vehicle that has a capacity of 16 or more.

No student shall be sent on school errands using any automobile. No student will transport another student for school authorized transportation

Reimbursement for use of private vehicles may be made, but only if the employee or other person has prior approval of the designated administrator.

District Policy History:

First reading: September 14, 2010, August 13, 2024

Second reading/adopted: October 12, 2010

District revision history: XXXXXX

EEAG - USE OF PRIVATE VEHICLES TO TRANSPORT STUDENTS

Legal References:

NH Statutes

RSA 376:2, VII

Motor Carriage of Passengers

NH Dept of Ed Regulation

N.H. Code of Admin. Rules, Saf-
C 1304.05

Exemption From School Bus Driver's Certificate

Legal References Disclaimer: These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

NOTE TO LOCAL BOARDS: THIS POLICY AND RELATED POLICIES/PROCEDURES (ACAA/ACAA-R1 AND R2, ACAB/ACAB-R1 and R2, AND JIE) HAVE BEEN REVISED TO REFLECT CHANGES IN THE FEDERAL TITLE IX REGULATIONS WHICH BECOME EFFECTIVE ON AUGUST 1, 2024. ANY PROPOSED CHANGES TO THIS POLICY SHOULD BE REVIEWED BY LEGAL COUNSEL.

ALL NOTES TO THE BOARD SHOULD BE REMOVED PRIOR TO ADOPTION.

NONDISCRIMINATION/EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

The school district does not discriminate on the basis of sex and other protected categories in its education programs and activities, as required by federal and state laws and regulations.

The school district prohibits discrimination, including harassment, of school employees on the basis of:

- Race;
- Sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions;
- Parental, family, or marital status;
- Color;
- Religion;
- Ancestry or national origin;
- Age;
- Disability; and
- Genetic information.

The school district prohibits discrimination, including harassment, of students on the basis of:

- Race (including traits associated with race involving hair texture, Afro hairstyles and protective hairstyles such as braids, twists, and locks);
- Sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions;
- Parental, family, or marital status;
- Color;
- Religion;
- Ancestry or national origin; and
- Disability.

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, programs, and activities.

The school district has designated and authorized a Title IX Coordinator who is responsible for ensuring compliance with all federal and state requirements prohibiting discrimination, including sexual/sex-based harassment. The Title IX Coordinator is a person with direct access to the Superintendent.

The school district has implemented complaint procedures for resolving complaints of discrimination and harassment under this policy. The school district provides required notices of non-discrimination policies and complaint procedures, how they can be accessed, and the school district's compliance with federal and state civil rights laws and regulations to all applicants for employment, employees, students, parents, and other interested parties.

Legal References: Equal Employment Opportunity Act of 1972 (P.L. 92-261), amending Title VII of the Civil Rights Act of 1965, 42 U.S.C. §§ 2000e to 2000e-17.
Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, as amended by 34 C.F.R. § 106.
Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7.
Age Discrimination in Employment Act, 29 U.S.C. §§ 623-634.
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, as amended by 34 C.F.R. § 104.7.
Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, as amended by 28 C.F.R. § 35.107.
Genetic Information Nondiscrimination Act of 2008, 29 U.S.C. §§ 2000ff to 2000ff-11.
Pregnant Workers Fairness Act, 42 U.S.C. §§ 2000gg to 2000gg-6.
New Hampshire Human Rights Act, RSA 354-A:7, 354-A:27-28

Cross References: **[Name of District]** Non-Discrimination Plan
ACAA- Harassment of Students
ACAA-R1 – Student Discrimination and Harassment Complaint Procedure
ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure
ACAB – Harassment of Employees
ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure
ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure
GBGB – Workplace Bullying
JICK – Bullying
JIE – Pregnant Students

DRAFT

NOTE TO LOCAL BOARDS: THIS POLICY HAS BEEN SUBSTANTIALLY REVISED FOR CLARITY AND TO REFLECT CHANGES IN THE TITLE IX REGULATIONS THAT BECOME EFFECTIVE ON AUGUST 1, 2024. ANY PROPOSED CHANGES TO THIS SAMPLE POLICY SHOULD BE DISCUSSED WITH LEGAL COUNSEL PRIOR TO ADOPTION TO ENSURE THAT THEY COMPLY WITH ALL APPLICABLE FEDERAL AND STATE LEGAL REQUIREMENTS.

ALL NOTES SHOULD BE REMOVED FROM THE SAMPLE PRIOR TO ADOPTION.

HARASSMENT OF STUDENTS

The school district prohibits harassment of students on the basis of:

- Race;
- Sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions;
- Parental, family, or marital status;
- Color;
- Religion;
- Ancestry or national origin; and
- Disability.

Such conduct is a violation of Board policy and may constitute illegal discrimination under state and/or federal laws.

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

A. Harassment

Harassment includes but is not limited to, verbal abuse and other unwelcome, offensive conduct based on the protected categories listed above. Harassment that rises to the level of physical assault, battery, and/or abuse, and/or bullying behavior are also addressed in Board Policies *JICIA – Weapons, Violence and School Safety* and *JICK – Bullying*.

B. Sexual/Sex-Based Harassment

Sexual Harassment and other forms of Sex-Based Harassment are addressed under federal and state laws/regulations. The scope and definitions of sexual/sex-based harassment under these laws differ, as described below.

1. Sex-Based Harassment Under Title IX

Under the federal Title IX law and its accompanying regulations, sex-based harassment includes harassment on the basis of sex, including sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions, that is:

- a. “Quid pro quo” harassment by a school employee, agent, or other person authorized by the school district to provide aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service (such as a better grade or college recommendation) on the individual’s participation in unwelcome sexual conduct.
- b. “Hostile environment” harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive that it limits or denies an individual’s ability to participate in or benefit from the school district’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors (identified in *ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure*).
- c. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined in applicable federal laws/regulations.

2. Sexual Harassment Under New Hampshire Law

Under New Hampshire law, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, non-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.

C. Reports and Complaints of Harassment

NOTE TO LOCAL BOARDS: DISTRICTS SHOULD SELECT A HUMAN RIGHTS OFFICER, IN ADDITION TO A TITLE IX COORDINATOR. THIS MAY OR MAY NOT BE THE SAME PERSON. IF THE SCHOOL DISTRICT HAS SEPARATED THE ROLES OF HUMAN RIGHTS OFFICER AND TITLE IX COORDINATOR, THE FOLLOWING PARAGRAPHS SHOULD BE CHANGED ACCORDINGLY. IF THE

ROLES ARE SEPARATED, WE RECOMMEND THAT INITIAL REPORTS BE MADE TO BOTH INDIVIDUALS TO ENSURE THAT THEY CAN DECIDE WHICH INDIVIDUAL SHOULD BE RESPONSIBLE FOR ADDRESSING THE REPORT.

All employees (except employees designated by the school district as “confidential employees” in regard to sexual/sex-based harassment complaints) are required to report possible incidents of harassment involving students to the Human Rights Officer/Title IX Coordinator. Failure to report such incidents may result in disciplinary action.

Students, parents/guardians, and other individuals are strongly encouraged to report possible incidents of harassment involving students to the Human Rights Officer/Title IX Coordinator so that they can be appropriately addressed.

The Human Rights Officer/Title IX Coordinator is also available to answer questions and provide assistance to any individual who is unsure whether harassment has occurred. Reports of discrimination and harassment of students shall be addressed through *ACAA-R1 – Discrimination and Harassment of Students Complaint Procedure*. Reports of sex discrimination, including sexual/sex-based harassment, are addressed in *ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure*.

Legal References: Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, as amended by 28 C.F.R. § 35.107.
Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, as amended by 34 C.F.R. § 104.7.
Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, as amended by 34 C.F.R. § 106.
Title IV of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c to 2000c-9.
New Hampshire Human Rights Act, RSA 354-A:7, RSA 354-A:27-28.

Cross Reference: ACAA-R1 – Student Discrimination and Harassment Complaint Procedure
ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure
AC – Nondiscrimination/Equal Opportunity and Human Rights
ACAB – Harassment of Employees
ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure
ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure
ACAD – Hazing
GBEB – Staff Conduct with Students
JFCK – Student Use of Cellular Telephones and Other Electronic Devices
JICIA – Weapons, Violence and School Safety
JICK – Bullying

DRAFT

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.

INSERT FULL HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR INFORMATION HERE:

**NAME, TITLE
PHYSICAL ADDRESS
TELEPHONE NUMBER
EMAIL ADDRESS**

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, *ACAA-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 a trained internal or external individual designated by the Superintendent and 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.
5. The investigator shall consult with the HRO/Title IX Coordinator 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 provide a written report and findings to the HRO/Title IX Coordinator.

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

NOTES TO LOCAL BOARDS: WE HAVE CREATED THIS SEPARATE PROCEDURE TO ADDRESS ALL TYPES OF SEX DISCRIMINATION AND SEXUAL/SEX-BASED HARASSMENT COMPLAINTS UNDER STATE AND FEDERAL LAWS IN RESPONSE TO CHANGES IN THE TITLE IX REGULATIONS. THESE REGULATIONS BECOME EFFECTIVE AUGUST 1, 2024 AND NOW ADDRESS BOTH SEX DISCRIMINATION AND SEX-BASED HARASSMENT, WHICH SIGNIFICANTLY BROADENS THEIR SCOPE.

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

SEVERAL NEW DEFINITIONS HAVE BEEN ADDED TO THIS PROCEDURE IN AN EFFORT TO ASSIST HUMAN RIGHTS OFFICERS/TITLE IX COORDINATORS IN IMPLEMENTATION.

THIS PROCEDURE IS WRITTEN WITH A SINGLE HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR, RATHER THAN WITH THE TITLE IX COORDINATOR AS A SEPARATE ROLE. IF A SCHOOL DISTRICT HAS SEPARATED THESE TWO ROLES, ALL REFERENCES TO THE HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR SHOULD BE CHANGED TO TITLE IX COORDINATOR.

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 SEX DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this student procedure in order to provide prompt and equitable resolution of reports and complaints of unlawful sex discrimination, including allegations of sexual harassment and other forms of sex-based harassment, as described in Policies AC – *Nondiscrimination/Equal Opportunity and Human Rights* and ACAA – *Harassment of Students*.

Although the specific provisions under Title IX and New Hampshire law differ somewhat in regard to sex discrimination and sexual/sex-based harassment, the Board has chosen to address all such complaints under this procedure, which meets all Title IX and New Hampshire law requirements.

Complaints alleging unlawful discrimination or harassment of a student on the basis of other protected categories (race, color, religion, ancestry or national origin, and disability) are addressed under *ACAA-R1 – Student Discrimination and Harassment Complaint Procedure*.

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.

INSERT FULL HRO/TITLE IX COORDINATOR INFORMATION HERE:

***NAME, TITLE
PHYSICAL ADDRESS
TELEPHONE NUMBER
EMAIL ADDRESS***

INSERT FULL INFORMATION FOR EACH CONFIDENTIAL EMPLOYEE HERE, INCLUDING:

***NAME, TITLE
PHYSICAL ADDRESS
TELEPHONE NUMBER
EMAIL ADDRESS***

Section 1. Definitions

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

- A. “Complainant” means: (1) the student victim of alleged sex discrimination (including sexual/sex-based harassment); or (2) other victim of alleged sex discrimination (including sexual/sex-based harassment) who was participating or attempting to participate in the school district’s education programs or activities at the time of the alleged sex discrimination.
- B. “Complaint” under the Title IX regulations: An oral or written request to the [school district] to investigate and make a determination about alleged discrimination under Title IX.” An oral request for investigation should be documented by the Human Rights Officer/Title IX Coordinator.

NOTE TO LOCAL BOARDS: THE FOLLOWING DEFINITION RE: CONFIDENTIAL EMPLOYEES HAS BEEN ADDED BECAUSE OF NEW REQUIREMENTS IN THE TITLE IX REGULATIONS.

- C. "Confidential employee" means: (1) an employee of the school district whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of Title IX, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (2) an employee of the school district designated as confidential for the purpose of providing services to persons related to sex discrimination (in which case the employee's confidential status applies only to information received about sex discrimination in connection with providing those services).
- D. "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.
- E. "Gender identity": The gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth."
- F. "Parental status": The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: (1) a biological parent; (2) an adoptive parent; (3) a foster parent; (4) a stepparent; (5) a legal custodian or guardian; (6) in loco parentis with respect to such a person; or (7) actively seeking legal custody, guardianship, visitation, or adoption of such a person."
- G. "Party": A complainant or respondent.
- H. "Pregnancy and related conditions" include "(1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions."
- I. "Respondent": A person who is alleged to have violated the school district's prohibition on sex discrimination.
- J. "Retaliation": Intimidation, threats, coercion, or discrimination against any person by the school district, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or services under the [school district's] education program or activity, for the purpose of interfering with any right or privilege secured by Title IX/regulations, or because the person has reported information, made a complaint, testified, assisted, or participating or refused to participate in any manner in an investigation, proceeding, or other action taken by a school district in regard to allegations of sex discrimination."

- K. "Sex-based harassment" under Title IX: Harassment on the basis of sex, including sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions, that meets one of the following:
1. "Quid pro quo" harassment by a school employee, agent, or other person authorized by the school district to provide aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service on the individual's participation in unwelcome sexual conduct.
 2. "Hostile environment" harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive that it limits or denies an individual's ability to participate in or benefit from the school district's education program or activity (i.e., creates a hostile environment). A school district is obligated to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity. Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors.
 - i. Factors to consider in regard to the creation of a "hostile environment": "(i) the degree to which the conduct affected the complainant's ability to access the [school district's] education program or activity; (ii) the type, frequency, and duration of the conduct; (iii) the parties' ages, roles within the [school district's] education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other sex-based harassment in the [school district's] education program or activity."
 3. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined below or in the Title IX regulations.
 - i. "Sexual assault" is an offense classified as a forcible or nonforcible sex offense under the uniform reporting system of the Federal Bureau of Investigation. Such offenses include but are not limited to rape, sodomy, sexual assault with an object, and fondling.
 - ii. "Dating violence" is violence committed by a person: (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship, (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship."

- iii. “Stalking”: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for the person’s safety or the safety of others; or (b) suffer substantial emotional distress.”
- L. “Sexual harassment” under New Hampshire law: Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature in the following situations:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of a student’s educational benefits;
 - 2. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or
 - 3. Such conduct has the purpose and effect of substantially interfering with a student’s academic performance, or creates an intimidating, hostile, or offensive environment.
- M. “Sexual orientation”: Under New Hampshire law means “having or being perceived as having an orientation for heterosexuality, bisexuality, or homosexuality.” Sexual orientation is also covered by Title IX.
- N. “Gender identity”: Under New Hampshire law, means “a person’s gender-related identity, appearance, or behavior, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth.
- O. “Student”: A person enrolled in the school district.

NOTE TO LOCAL BOARDS: THE TITLE IX REGULATIONS DO NOT INCLUDE A DEFINITION OF CONSENT. IF A BOARD WISHES TO INCLUDE SUCH A DEFINITION, WE SUGGEST DISCUSSING THIS WITH LEGAL COUNSEL.

Section 2. Complaint Procedure

This procedure should be used to address any report or complaint of sex discrimination or sexual/sex-based harassment of a student.

A. Reports of Alleged Sex Discrimination or Sexual/Sex-Based Harassment

- 1. Any school district employee (except for designated confidential employees) who receives a report or has reason to believe that a student may have been discriminated against or harassed on the basis of sex is required to promptly notify the Human Rights Officer/Title IX Coordinator.
- 2. Confidential employees who receive a report that a student may have experienced sex discrimination or sexual/sex-based harassment must inform the person making

the report that the employee is designated “confidential” and inform them of the circumstances in which the employee is not required to make a report to the Human Rights Officer/Title IX Coordinator. The confidential employee will provide the reporter with the Human Rights Officer/Title IX Coordinator’s contact information and explain that the Human Rights Officer/Title IX Coordinator may be able to offer and coordinate supportive measures, initiate an informal resolution process, or initiate an investigation under this complaint procedure.

3. Students (and others) who believe that they or another student has been discriminated against or harassed on the basis of sex should report their concern promptly to the Human Rights Officer/Title IX Coordinator. The report will be documented by the Human Rights Officer/Title IX Coordinator.
4. The individual making the report should provide basic, available information orally or in writing concerning the allegation (i.e., individuals involved, date, time, location, and type of allegation). If the information is conveyed orally, the Human Rights Officer/Title IX Coordinator will document it.
5. If an individual is unsure as to whether unlawful discrimination or harassment has occurred, they are encouraged to discuss the matter with the Human Rights Officer/Title IX Coordinator.
6. Individuals will not be retaliated against for reporting suspected discrimination or harassment or for participating in an investigation. Retaliation is illegal under federal/state nondiscrimination laws and Board policies, and any retaliation will result in disciplinary action, up to and including termination for employees and expulsion for students.
7. The Superintendent will be promptly notified of all reports of alleged discrimination or harassment of a student.
8. Students and others are encouraged to utilize this 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. Processing of Complaints

1. The Human Rights Officer/Title IX Coordinator will treat complainants and respondents equitably through the complaint procedure.

2. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the Human Rights Officer/Title IX Coordinator will meet with the alleged victim to discuss the allegations and supportive measures that may be appropriate in the particular circumstances and to explain the complaint procedure.

If the alleged victim is unknown to the Human Rights Officer/Title IX Coordinator, the person who made the report will be notified of the availability of the complaint procedure.

3. Supportive Measures

- a. Supportive measures are individualized measures designed to ensure the student can continue to access educational programs and activities (including but not limited to: requiring no contact between individuals, changing schedules, classes, extracurricular activities, etc.).
- b. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the school district's educational environment or to provide support during the complaint procedure or an informal resolution process. The school district may not impose such measures for punitive or disciplinary reasons.
- c. Supportive measures may be continued even if a complaint or informal resolution process is not initiated, or after the conclusion of such processes, if appropriate under the circumstances.
- d. Complainants and respondents must be provided with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of a decision to provide, deny, modify, or terminate supportive measures applicable to them. This employee must not be the Human Rights Officer/Title IX Coordinator and must have the authority to modify or reverse the decision.
- e. Complainants and respondents also have the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change.
- f. The school district will not disclose information about supportive measures to persons other than the person to whom they apply unless it is necessary to provide a supportive measure or to restore or preserve a party's access to education programs and activities.
- g. If a complainant or respondent is a student with a disability, the Human Rights Officer/Title IX Coordinator will consult with one or more members of the student's IEP team or Section 504 Team, if any, to determine how to comply with the requirements of the IDEA and Section 504 in implementing supportive measures.

4. If the Human Rights Officer/Title IX Coordinator reasonably determines that the conduct alleged does not involve illegal discrimination or harassment, the school district is not obligated to initiate the complaint process and may dismiss the complaint (See Subsection C.1. below). If the alleged conduct potentially violates other laws, Board policies/procedures, or professional expectations (in the case of employees), the matter may be referred to the Superintendent and/or other appropriate administrator(s) to address as deemed appropriate.
5. In response to a complaint alleging prohibited sex discrimination or sexual/sex-based harassment, the Human Rights Officer/Title IX Coordinator will initiate the complaint process or the informal resolution process (if available and appropriate) according to this procedure. When feasible, the decision to initiate an investigation or informal resolution process or dismiss the complaint will be made within ten (10) school days of receipt of the complaint.
6. In certain circumstances, the Human Rights Officer/Title IX Coordinator may initiate the investigation process, even when the alleged victim chooses not to, after any or all allegations are withdrawn by the alleged victim, or when an informal resolution process is not initiated or is terminated. To make this fact-specific determination, the Human Rights Officer/Title IX Coordinator will consider, at a minimum:
 - a. The complainant's request not to proceed with initiating a complaint;
 - b. The complainant's reasonable safety concerns regarding initiating a complaint;
 - c. The risk that additional acts of discrimination or harassment would occur if a complaint is not initiated;
 - d. The severity of the alleged discrimination or harassment, including whether the discrimination, if established, would require the removal of a respondent from school or imposition of another disciplinary sanction to end the discrimination or harassment and prevent its recurrence;
 - e. The age and relationship of the parties, including whether the respondent is an employee of the school district;
 - f. The scope of the alleged discrimination or harassment, including information suggesting a pattern, ongoing discrimination/harassment, or discrimination/harassment alleged to have impacted multiple individuals;
 - g. The availability of evidence to assist a decisionmaker in determining whether discrimination or harassment occurred; and
 - h. Whether the school district could end the alleged discrimination or harassment and prevent its recurrence without initiating the complaint procedure.

If, after considering these and any other factors that may be relevant, the Human Rights Officer/Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health or safety of the complainant or other

individuals or that the alleged conduct prevents the school district from ensuring equal access to its education programs and activities, the Human Rights Officer/Title IX Coordinator may initiate a complaint.

7. If the Human Rights Officer/Title IX Coordinator initiates a complaint, the complainant will receive prior notice and any reasonable safety concerns will be addressed.
8. The Human Rights Officer/Title IX Coordinator will confirm the initiation of an investigation or informal resolution process in writing to both parties. The communication will include: a) a copy of the complaint procedure; b) sufficient information available at the time to allow the parties to respond to the allegations (including the identities of the parties involved, the conduct alleged to constitute sex discrimination or sexual/sex-based harassment, and the date(s) and location(s) of the alleged incident(s); c) notice that retaliation is prohibited; and d) notice that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.
9. Regardless of whether an investigation is initiated, the Human Rights Officer/Title IX Coordinator will take appropriate, prompt, and effective steps to ensure that discrimination or harassment does not continue or recur. The Human Rights Officer/Title IX Coordinator will also coordinate supportive measures as appropriate.
10. If a complainant or respondent is a student with a disability, the Human Rights Officer/Title IX Coordinator will consult with one or more members of the student's IEP team or 504 Team, if any, to determine how to comply with the requirements of the IDEA and Section 504 during the course of the complaint procedure.
11. If the Human Rights Officer/Title IX Coordinator decides to investigate additional allegations of discrimination or harassment made by the complainant against the respondent after the parties receive notice of the complaint, the Human Rights Officer/Title IX Coordinator will notify the parties of the additional allegations in writing.
12. The Human Rights Officer/Title IX Coordinator may consolidate complaints of discrimination or harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances.
13. The school district will presume that the respondent is not responsible for alleged discrimination or harassment until a determination is made at the conclusion of the investigation.

14. The school district will take reasonable steps to protect the privacy of the parties and witnesses during the complaint procedure and will comply with applicable state and federal privacy laws. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family; confidential employees/resources; or otherwise prepare for and participate in the complaint procedure.

C. Dismissal of Complaints

1. The Human Rights Officer/Title IX Coordinator may dismiss a complaint in the following circumstances:
 - a. The school district is unable to identify a respondent after taking reasonable steps to do so;
 - b. The respondent is not participating in the school district's education programs and activities, or is not employed by the school district;
 - c. The complainant voluntarily withdraws any or all allegations in the complaint, the Human Rights Officer/Title IX Coordinator declines to initiate a complaint and determines that, without the complainant's withdrawn allegations, the alleged conduct remaining, if any, would not constitute discrimination or harassment even if proven; or
 - d. The Human Rights Officer/Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute discrimination or harassment under state/federal laws and regulations.
2. Upon dismissal, the Human Rights Officer/Title IX Coordinator will promptly notify the complainant (and the respondent, if they had received notice of the complaint allegations) of the basis for the dismissal, and provide the opportunity to appeal the dismissal.
3. Dismissals may be appealed on the following bases:
 - a. Procedural irregularity that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the dismissal [or determination in the case] was made; and
 - c. The Human Rights Officer/Title IX Coordinator, investigator, or decisionmaker had a conflict or bias for or against complainants or respondents generally, or the individual complainant or respondent that would change the outcome.
4. An appeal of a complaint dismissal must be made in writing to the Human Rights Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.

5. If the dismissal is appealed, the Human Rights Officer/Title IX Coordinator shall:
 - a. Notify the respondent of the appeal if they had received notice of the complaint allegations;
 - b. Implement the appeal procedure equally for the parties;
 - c. Ensure that the trained decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 - d. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 - e. Notify the parties in writing of the result of the appeal and the rationale for it within five (5) school days, if feasible.
6. When a complaint is dismissed, the Human Rights Officer/Title IX Coordinator will, at a minimum:
 - a. Offer supportive measures to the complainant and respondent if appropriate; and
 - b. Take other prompt and effective steps, as appropriate to ensure that discrimination or harassment does not continue or recur within the school district's program or activity.
7. The Human Rights Officer/Title IX Coordinator will document actions taken during the appeal process.

D. Emergency Removal of a Student

The Superintendent may remove a student from education programs and activities on an emergency basis during the complaint procedure, provided:

1. There is a determination, following an individualized safety and risk analysis, that a student respondent presents an imminent and serious threat to the health or safety of a complainant, or any students, employees, or other persons arising from the allegations of discrimination or harassment, that justifies emergency removal.
2. The respondent and the student's parent/legal guardian will be provided with an immediate opportunity to challenge the decision following the removal, and has the burden of demonstrating that such removal is unreasonable.
3. Any such removal shall be made in compliance with any applicable disability laws, including the IDEA, Section 504, and the Americans with Disabilities Act.
4. The Human Rights Officer/Title IX Coordinator will document actions taken during the emergency removal process.

[Note: An employee may be placed on administrative leave during a complaint procedure, pursuant to the school district's customary process regarding administrative leave of employees]

E. Informal Resolution Process

1. Informal resolution is not permitted in cases where a student is the complainant and an employee is the respondent to alleged sex discrimination or harassment.
2. The Human Rights Officer/Title IX Coordinator may, if appropriate, offer the parties the opportunity to resolve the complaint through an informal resolution process at any point prior to an investigation or determination of responsibility. Engaging in an informal resolution process is voluntary on the part of each party. The Human Rights Officer/Title IX Coordinator also may decline to pursue an informal resolution despite a party's request (for example, if the alleged conduct presents a future risk of harm to the complainant or others).
3. Both (or all) parties must voluntarily agree in writing to participate in an informal resolution process, and a party may withdraw from the process at any time. The parties will not be required to attend meetings together unless they voluntarily agree to do so.
4. Before initiating an informal resolution process, the Human Rights Officer/Title IX Coordinator will ensure that the parties receive notice of: i.) the allegations; ii.) the requirements of the informal resolution process; iii.) the right of any party to withdraw from the process and initiate or resume the investigation process; iv.) that the parties' agreement to an informal resolution would preclude them from initiating or resuming the investigation; v.) potential terms that may be requested or offered in an informal resolution agreement, including notice that an agreement is binding on the parties; and vi.) what information the school district will maintain regarding the informal resolution process.

[Note: Informal resolutions can take many forms depending on the particular case, including but not limited to: restrictions on contact between the parties; facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; restrictions on attendance or participation in programs and activities; disciplinary actions or requirements to engage in specific services; or supportive measures.]

5. The facilitator for the informal resolution process must be trained; cannot be the same person as the investigator or decisionmaker in the matter; and must not have a conflict of interest or bias regarding parties to such matters generally or to an individual complainant or respondent.

6. The Superintendent must agree to the terms of any informal resolution reached between the parties, considering whether the resolution is in the best interest of the parties and the school district in light of the particular circumstances, applicable laws/regulations, and Board policies.
7. If an informal resolution agreement is reached, it will be agreed to in writing by both parties and the Human Rights Office/Title IX Coordinator. Any such agreement is final and binding on the parties.

F. Investigation Process

NOTE TO LOCAL BOARDS: THE TITLE IX REGULATIONS DO NOT PROHIBIT THE HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR FROM INVESTIGATING COMPLAINTS OR BEING THE DECISIONMAKER. HOWEVER, WHEN IT IS FEASIBLE, LOCAL BOARDS MAY WANT TO ASSIGN INVESTIGATION AND DECISIONMAKING DUTIES TO OTHERS.

WE HAVE WRITTEN SECTIONS F AND G WITH THE INVESTIGATION ROLE SEPARATE FROM THE HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR ROLE, AND WITH FLEXIBILITY FOR THE SCHOOL DISTRICT TO UTILIZE A DECISIONMAKER SEPARATE FROM THE INVESTIGATOR. IF THE SCHOOL DISTRICT WISHES TO CONSOLIDATE ONE OR MORE OF THESE ROLES, OR TO HAVE FIXED ASSIGNMENTS FOR CERTAIN ROLES, WE RECOMMEND DISCUSSING THIS WITH LEGAL COUNSEL AND MAKING CHANGES AS NEEDED IN SECTIONS F AND G.

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the Human Rights Officer/Title IX Coordinator. The investigator shall not have a conflict of interest or bias against complainants or respondents generally, or an individual complainant or respondent, and will consult with the Human Rights Officer/Title IX Coordinator during the investigation process.
2. Any complaint about an employee who holds a supervisory position will be investigated by a person not subject to that supervisor's authority. Any complaint about the Superintendent will be submitted to the Board Chair, who will consult with legal counsel concerning the handling and investigation of the complaint.
3. The burden is on the school district, and not the parties, to gather sufficient evidence (through the investigation) in order to determine whether illegal discrimination or harassment occurred.
4. The investigator shall provide an opportunity for the complainant and respondent to be heard as part of the investigation. The parties will not be required to attend meetings together.

5. The parties may suggest witnesses be interviewed and/or submit materials that they believe are relevant to the allegations and complaint.
6. The investigator will evaluate evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
 - a. The Title IX regulations define "relevant" as "related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred."
7. The following types of evidence, and questions seeking that evidence, are impermissible:
 - a. Evidence that is protected under a privilege recognized by federal or state law, or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality in writing.
 - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the treatment to the party or witness, unless the school district obtains that party's or witness's voluntary, written consent for use in the complaint procedure; and
 - a. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed alleged sexual/sex-based harassment or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sexual/sex-based harassment. The fact of prior sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

NOTE TO LOCAL BOARDS: TITLE IX REGULATIONS PERMIT THE SCHOOL DISTRICT TO PROVIDE THE PARTIES WITH AN OPPORTUNITY TO REVIEW THE EVIDENCE OR TO PROVIDE THE PARTIES WITH "AN ACCURATE DESCRIPTION OF THE EVIDENCE." WE GENERALLY RECOMMEND THAT RELEVANT, PERMISSIBLE EVIDENCE BE REVIEWED BY THE PARTIES RATHER THAN PROVIDING THEM WITH A DESCRIPTION OF THE EVIDENCE BECAUSE, IF A DESCRIPTION IS PROVIDED, THE PARTIES MAY STILL REQUEST TO REVIEW THE EVIDENCE ITSELF. WE RECOMMEND

DISCUSSING THIS ISSUE WITH LEGAL COUNSEL IF A BOARD WANTS TO PROVIDE DESCRIPTIONS OF THE EVIDENCE INSTEAD.

8. The investigator will provide each party with the opportunity to review the evidence that is relevant to the allegations of discrimination or harassment (and not otherwise impermissible), and to respond to it.
9. The Human Rights Officer/Title IX Coordinator and investigator will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the complaint procedure. Disclosure of such information and evidence for the purposes of administering administrative proceedings or litigation related to the complaint is authorized.

NOTE TO LOCAL BOARDS: IF THE INVESTIGATOR ALSO MAKES DISCIPLINE/REMEDY DECISIONS, PARAGRAPH 16 SHOULD INCLUDE THIS INFORMATION.

10. The investigator will conclude the investigation and issue a written report to the Human Rights Officer/Title IX Coordinator within forty (40) school days, if feasible.
 - a. If the investigator has been charged with making a determination of responsibility/non-responsibility with respect to each allegation, such determination(s) and the reasons, therefore, shall be included in the report.
11. Extensions of time may be granted to complete the investigation if approved by the Human Rights Officer/Title IX Coordinator for reasonable cause. Notice of any extension and the reasons, therefore, will be provided to the parties.

G. Determinations of Responsibility

1. The standard used to determine whether illegal discrimination or harassment occurred is the preponderance of the evidence standard ("more likely than not").

NOTE TO LOCAL BOARDS: THE FOLLOWING PARAGRAPHS SHOULD BE ADAPTED AS NECESSARY TO REFLECT A SCHOOL DISTRICT'S PRACTICES IN REGARD TO WHO MAKES RESPONSIBILITY DETERMINATIONS AND/OR DISCIPLINARY DECISIONS.

2. The decisionmaker will review the investigation report, the evidence gathered (as appropriate), and will have the discretion to conduct additional interviews of parties and/or witnesses if needed to assess credibility.
3. The decisionmaker will make a written determination of responsibility/non-responsibility in regard to each allegation and the reasons therefore, which shall be shared with the Human Rights Officer/Title IX Coordinator and the parties.

4. In general, the Human Rights Officer/Title IX Coordinator will notify the parties of the determination decision(s) within five (5) school days of the determination being reached. Reasonable extensions of time may be approved by the Human Rights Officer/Title IX Coordinator for good reason. The notification will include the permissible bases for appeal and the deadline for receipt of appeals.
5. If there is a determination that the respondent is responsible for violations, the appropriate administrator will make decisions as to appropriate disciplinary action and remedies.
6. The Human Rights Officer/Title IX Coordinator shall, as appropriate:
 - a. Coordinate the provision and implementation of remedies to a complainant and any other persons if necessary to provide equal access to the school district's educational programs and activities that had been limited or denied by discrimination or harassment;
 - b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - c. Take other appropriate prompt and effective steps if necessary to ensure discrimination and harassment does not continue or recur.
7. A determination of responsibility becomes final on the date that the Human Rights Officer/Title IX Coordinator provides the parties with the written determination of the results of the appeal, if an appeal is filed. If an appeal is not filed, the determination of responsibility becomes final on the date on which the appeal would no longer be considered timely.
8. The school district will not discipline a party, witness, or others participating in the complaint procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination that sex discrimination or sexual/sex-based harassment occurred.

H. Remedies, Discipline, and Other Actions

NOTE TO LOCAL BOARDS: THE TITLE IX REGULATIONS CONTINUE TO REQUIRE SCHOOL DISTRICTS TO PROVIDE A RANGE OF REMEDIES AND DISCIPLINE THAT MAY BE UNDERTAKEN IN RESPONSE TO A FINDING OF RESPONSIBILITY FOR SEX-BASED HARASSMENT. THE LANGUAGE HERE REFLECTS TYPICAL RANGES, BUT THE SPECIFIC ACTIONS CAN BE MODIFIED TO REFLECT LOCAL PRACTICE.

1. Remedies

Remedies are measures used to ensure that the complainant has equal access to the school district's education programs and activities following the decisionmaker's determination(s). Such remedies may include supportive measures and may include other appropriate measures, depending on the determination(s) and the needs of the complainant. The Human Rights Officer/Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the complainant.

2. Discipline and Other Actions

Examples of disciplinary and other actions that may be imposed on a student when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include suspension, expulsion, restorative justice, required education or counseling, and other measures.

Examples of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include: written warning, probation, counseling, demotion, suspension without pay, termination.

I. Appeals

1. After the conclusion of the investigation and decisionmaker determination(s), the complainant or respondent may seek an appeal of the findings based on the following factors:
 - a. Procedural irregularity that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the determination was made; and
 - c. The Human Rights Officer/Title IX Coordinator, investigator, or decisionmaker had a conflict or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
2. The appeal must be made in writing to the Human Rights Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.
3. The Superintendent is responsible for making a determination on the appeal. The Superintendent will conduct an impartial review of the appeal, including consideration of the written record in the case, and may consult with legal counsel or other school district officials in making their decision.

4. The Superintendent will issue the appeal determination in writing within ten (10) school days of receipt of the appeal, if feasible.
5. The Superintendent's decision is final.

Section 3. Recordkeeping

The Human Rights Officer/Title IX Coordinator shall maintain a record of documents and action in each case, and records of trainings provided, for a period of seven (7) years.

Cross References: AC – Nondiscrimination/Equal Opportunity and Human Rights
 ACAA – Harassment of Students
 ACAA-R1 – Student Discrimination and Harassment Complaint Procedure
 ACAB – Harassment of Employees
 ACAB-R1 – Employee Discrimination and Harassment Complaint
 Procedure
 ACAB-R2 – Employee Sex Discrimination/Harassment Complaint
 Procedure
 JIE - Pregnant Students

NOTE TO LOCAL BOARDS: THIS POLICY HAS BEEN SUBSTANTIALLY REVISED FOR CLARITY AND TO REFLECT CHANGES IN THE TITLE IX REGULATIONS THAT BECOME EFFECTIVE ON AUGUST 1, 2024. ANY PROPOSED CHANGES TO THIS SAMPLE POLICY SHOULD BE DISCUSSED WITH LEGAL COUNSEL PRIOR TO ADOPTION TO ENSURE THAT THEY COMPLY WITH ALL APPLICABLE FEDERAL AND STATE LEGAL REQUIREMENTS.

ALL NOTES SHOULD BE REMOVED FROM THE SAMPLE PRIOR TO ADOPTION.

HARASSMENT OF EMPLOYEES

The school district prohibits harassment of employees on the basis of:

- Race;
- Sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions;
- Parental, family, or marital status;
- Color;
- Religion;
- Ancestry or national origin;
- Age;
- Disability; and
- Genetic information.

Such conduct is a violation of Board policy and may constitute illegal discrimination under state and/or federal laws.

A. Harassment

Harassment includes but is not limited to, verbal abuse, threats, physical assault/battery, and other unwelcome, offensive conduct based on the protected categories listed above. Harassment that rises to the level of physical assault, battery, and/or abuse is also addressed in Board Policy JICIA – Weapons, Violence and School Safety.

B. Sexual/Sex-Based Harassment

Sexual Harassment and other forms of Sex-Based Harassment are addressed under federal and state laws/regulations. The scope and definitions of sexual/sex-based harassment under these laws differ, as described below.

1. Sex-Based Harassment Under Title IX

Under the federal Title IX law and its accompanying regulations, sexual/sex-based harassment includes harassment on the basis of sex, including sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions, that is:

- a. “Quid pro quo” harassment by a school employee, agent, or other person authorized by the school district to provide aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service (such as a promotion or favorable evaluation) on the individual’s participation in unwelcome sexual conduct.
- b. “Hostile environment” harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offense, and is so severe or pervasive that it limits or denies an individual’s ability to participate in or benefit from the school district’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors (identified in *ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure*).
- c. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined in applicable federal laws/regulations.

2. Sexual Harassment Under New Hampshire Law

Under New Hampshire law, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, non-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 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 and effect of substantially interfering with an employee’s work performance or creates an intimidating, hostile, or offensive environment.

C. Reports and Complaints of Harassment

NOTE TO LOCAL BOARDS: IF THE SCHOOL DISTRICT HAS SEPARATED THE ROLES OF HUMAN RIGHTS OFFICER AND TITLE IX COORDINATOR, THE FOLLOWING PARAGRAPHS SHOULD BE CHANGED ACCORDINGLY. IF THE ROLES ARE SEPARATED, WE RECOMMEND THAT INITIAL

REPORTS BE MADE TO BOTH INDIVIDUALS TO ENSURE THAT THEY CAN DECIDE WHICH INDIVIDUAL SHOULD BE RESPONSIBLE FOR ADDRESSING THE REPORT/COMPLAINT.

Any employee who believes they have been harassed or sexually harassed is strongly encouraged to make a report to the Human Rights Officer/Title IX Coordinator. The Human Rights Officer/Title IX Coordinator is also available to answer questions and provide assistance to any individual who is unsure whether harassment has occurred.

All reports and complaints of discrimination/harassment of employees shall be addressed through *ACAB-R1 – Discrimination and Harassment of Employees Complaint Procedure* or *ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure*.

Legal References: Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, as amended by 28 C.F.R. § 35.107.
Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, as amended by 34 C.F.R. § 104.7.
Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, as amended by 34 C.F.R. § 106.
Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7.
Title VII of the Civil Rights Act of 1965, 42 U.S.C. §§ 2000e to 2000e-17, as amended by 29 C.F.R. § 1604.11.
Age Discrimination in Employment Act, 29 U.S.C. §§ 623-634.
Genetic Information Nondiscrimination Act of 2008, 29 U.S.C. §§ 2000ff to 2000ff-11.
Pregnant Workers Fairness Act, 42 U.S.C. §§ 2000gg to 2000gg-6.
New Hampshire Human Rights Act, RSA 354-A:7.

Cross Reference: ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure
ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure
AC – Nondiscrimination/Equal Opportunity and Affirmative Action
ACAA – Harassment of Students
ACAA-R1 – Student Discrimination and Harassment Complaint Procedure
ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure
GBGB – Workplace Bullying
ACAD – Hazing
JICIA – Weapons, Violence and School Safety
JIE – Pregnant Students

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 ACAB-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.

EMPLOYEE DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this employee 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; age; disability; and genetic information. Complaints of sex discrimination, including sexual/sex-based harassment, are addressed in *ACAB-R2 – Employee Sex Discrimination/Harassment Complaint Procedure*. In cases where allegations include sex discrimination or sexual/sex-based harassment and one or more other protected categories, *ACAB-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.

INSERT FULL HRO/TITLE IX COORDINATOR INFORMATION HERE:

***NAME, TITLE
PHYSICAL ADDRESS
TELEPHONE NUMBER
EMAIL ADDRESS***

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 an employee has been discriminated against or harassed on the basis of race, color, religion, ancestry, national origin, age, disability, or genetic information.

Section 2. Complaint Procedure

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

A. How to Make A Complaint

- 1. An employee who believes they have been unlawfully discriminated against or harassed 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 will not prevent the employee from making an immediate complaint to the Human Rights Officer/Title IX Coordinator.
- 2. Any employee who believes they have 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.
6. Employees are encouraged to utilize the school district's complaint procedure. However, employees 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 Human Rights Officer/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, *ACAB-R2* will be followed instead of this procedure.
2. The Human Rights Officer/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 Human Rights Officer/Title IX Coordinator may implement supportive measures for an employee to reduce the risk of further discrimination or

harassment of the employee while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals, temporarily moving work locations or changing schedules, etc.

4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the Human Rights Officer/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.
5. 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.
6. The investigator shall consult with the Human Rights Officer/Title IX Coordinator as appropriate during the investigation process.
7. The respondent will be provided with an opportunity to be heard as part of the investigation.
8. The complainant and the respondent may suggest witnesses to be interviewed and/or submit materials they believe are relevant to the complaint.
9. If the complaint is against an employee of the school district, any rights conferred under an applicable collective bargaining agreement will be applied.
10. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
11. The investigation will be completed within forty (40) school days of receiving the complaint, if practicable.
12. The investigator will provide a written report and findings to the Human Rights Officer/Title IX Coordinator.

C. Findings and Subsequent Actions

1. The Human Rights Officer/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 Human Rights Officer/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 effects, 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 Human Rights Officer/Title IX Coordinator will keep a written record of the complaint process and actions taken.

Cross References: AC – Nondiscrimination/Equal Opportunity and Human Rights
ACAB – Harassment of Employees

ACAB-R2 – Employee Sex Discrimination/Harassment Complaint
Procedure
JIE - Pregnant Employees

DRAFT

NOTES TO LOCAL BOARDS: WE HAVE CREATED THIS SEPARATE PROCEDURE TO ADDRESS ALL TYPES OF SEX DISCRIMINATION AND SEXUAL/SEX-BASED HARASSMENT COMPLAINTS UNDER STATE AND FEDERAL LAWS IN RESPONSE TO CHANGES IN THE TITLE IX REGULATIONS. THESE REGULATIONS BECOME EFFECTIVE AUGUST 1, 2024 AND NOW ADDRESS BOTH SEX DISCRIMINATION AND SEX-BASED HARASSMENT, WHICH SIGNIFICANTLY BROADENS THEIR SCOPE.

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

SEVERAL NEW DEFINITIONS HAVE BEEN ADDED TO THIS PROCEDURE IN AN EFFORT TO ASSIST HUMAN RIGHTS OFFICERS/TITLE IX COORDINATORS IN IMPLEMENTATION.

THIS PROCEDURE IS WRITTEN WITH A SINGLE HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR, RATHER THAN WITH THE TITLE IX COORDINATOR AS A SEPARATE ROLE. IF A SCHOOL DISTRICT HAS SEPARATED THESE TWO ROLES, ALL REFERENCES TO THE HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR SHOULD BE CHANGED TO TITLE IX COORDINATOR.

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.

EMPLOYEE SEX DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

The Board has adopted this employee procedure in order to provide prompt and equitable resolution of reports and complaints of unlawful sex discrimination, including allegations of sexual harassment and other forms of sex-based harassment, as described in Policies AC – *Nondiscrimination/Equal Opportunity* and *Human Rights and ACAB – Harassment of Employees*.

Although the specific provisions under Title IX and New Hampshire law differ somewhat in regard to sex discrimination and sexual/sex-based harassment, the Board has chosen to address all such complaints under this procedure, which meets all Title IX and New Hampshire law requirements.

Complaints alleging unlawful discrimination or harassment of an employee on the basis of other protected categories (race, color, religion, ancestry or national origin, age, disability, and genetic information) are addressed under *ACAB-R1 – Employee Discrimination and Harassment Complaint Procedure*.

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 and Sexual/Sex-Based 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.

INSERT FULL HRO/TITLE IX COORDINATOR INFORMATION HERE:

***NAME, TITLE
PHYSICAL ADDRESS
TELEPHONE NUMBER
EMAIL ADDRESS***

INSERT FULL INFORMATION FOR EACH CONFIDENTIAL EMPLOYEE HERE, INCLUDING:

***NAME, TITLE
PHYSICAL ADDRESS
TELEPHONE NUMBER
EMAIL ADDRESS***

Section 1. Definitions

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

- A. “Complainant” means: (1) the employee victim of alleged sex discrimination (including sexual/sex-based harassment); or (2) other victim of alleged sex discrimination (including sexual/sex-based harassment) who was participating or attempting to participate in the school district’s education programs or activities at the time of the alleged sex discrimination.
- B. “Complaint” under the Title IX regulations: An oral or written request to the [school district] to investigate and make a determination about alleged discrimination under Title IX.” An oral request for investigation should be documented by the Human Rights Officer/Title IX Coordinator.

NOTE TO LOCAL BOARDS: THE FOLLOWING DEFINITION RE: CONFIDENTIAL EMPLOYEES HAS BEEN ADDED BECAUSE OF NEW REQUIREMENTS IN THE TITLE IX REGULATIONS.

- C. "Confidential employee" means: (1) an employee of the school district whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of Title IX, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (2) an employee of the school district designated as confidential for the purpose of providing services to persons related to sex discrimination (in which case the employee's confidential status applies only to information received about sex discrimination in connection with providing those services).
- D. "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.
- E. "Gender identity": The gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth."
- F. "Parental status": The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: (1) a biological parent; (2) an adoptive parent; (3) a foster parent; (4) a stepparent; (5) a legal custodian or guardian; (6) in loco parentis with respect to such a person; or (7) actively seeking legal custody, guardianship, visitation, or adoption of such a person."
- G. "Party": A complainant or respondent.
- H. "Pregnancy and related conditions" includes "(1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions."
- I. "Respondent": A person who is alleged to have violated the school district's prohibition on sex discrimination.
- J. "Retaliation" under Title IX: Intimidation, threats, coercion, or discrimination against any person by the school district, an employee or other person authorized by the recipient to provide aid, benefit, or services under the [school district's] education program or activity, for the purpose of interfering with any right or privilege secured by Title IX/regulations, or because the person has reported information, made a complaint, testified, assisted, or participating or refused to participate in any manner in an

investigation, proceeding, or other action taken by a school district in regard to allegations of sex discrimination.”

- K. “Sex-based harassment” under Title IX: Harassment on the basis of sex, including sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions, that meets one of the following:
- a. “Quid pro quo” harassment by a school employee, agent, or other person authorized by the school district to provide aid, benefit, or service under an education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service on the individual’s participation in unwelcome sexual conduct.
 - b. “Hostile environment” harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies an individual’s ability to participate in or benefit from the school district’s education program or activity (i.e., creates a hostile environment). A school district is obligated to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient’s education program or activity. Whether a hostile environment has been created is a fact-based inquiry that includes consideration of a number of factors.
 - i. Factors to consider in regard to the creation of a “hostile environment”: “(i) the degree to which the conduct affected the complainant’s ability to access the [school district’s] education program or activity; (ii) the type, frequency, and duration of the conduct; (iii) the parties’ ages, roles within the [school district’s] education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other sex-based harassment in the [school district’s education program or activity.”
 - c. Sexual assault, dating violence, domestic violence, and stalking, as these terms are defined below.
 - i. “Sexual assault” is an offense classified as a forcible or nonforcible sex offense under the uniform reporting system of the Federal Bureau of Investigation. Such offenses include but are not limited to rape, sodomy, sexual assault with an object, and fondling.
 - ii. “Dating violence” is violence committed by a person: (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship, (2) the

type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.”

- iii. “Domestic violence” is defined in the Title IX regulations as “Felony or misdemeanor crimes committed by a person who: (a) is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situation to a spouse of the victim; (b) is cohabitating, or has cohabitated with the victim as a spouse or intimate partner; (c) shares a child in common with the victim; or (d) commits acts against a youth or adult who is protected from those acts under the family or domestic violence laws of the jurisdiction.”
 - iv. “Stalking”: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for the person’s safety or the safety of others; or (b) suffer substantial emotional distress.”
- L. “Sexual harassment” under New Hampshire law: Unwelcome sexual advances, requests for sexual favors, and other verbal, non-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 an employee’s educational benefits;
 - b. Submission to or rejection of such conduct by an employee is used as the basis for decisions on educational benefits; or
 - c. Such conduct has the purpose and effect of substantially interfering with an employee’s academic performance or creates an intimidating, hostile, or offensive environment.
- M. “Sexual orientation” under New Hampshire law means “having or being perceived as having an orientation for heterosexuality, bisexuality, or homosexuality.” Sexual orientation is also covered by Title IX.
- N. “Gender identity” under New Hampshire law means “a person’s gender-related identity, appearance, or behavior, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth.” Gender identity is also covered by Title IX.

NOTE TO LOCAL BOARDS: THE TITLE IX REGULATIONS DO NOT INCLUDE A DEFINITION OF CONSENT. IF A BOARD WISHES TO INCLUDE SUCH A DEFINITION, WE SUGGEST DISCUSSING THIS WITH LEGAL COUNSEL.

Section 2. Complaint Procedure

This procedure should be used to address any report or complaint of sex discrimination or sexual/sex-based harassment of an employee.

A. Reports of Alleged Sex Discrimination or Sexual/Sex-Based Harassment

1. Any school district employee (except for designated confidential employees) who receives a report or has reason to believe that an employee may have been discriminated against or harassed on the basis of sex is required to make a report to the Human Rights Officer/Title IX Coordinator.
2. Confidential employees who receive a report that an employee may have experienced sex discrimination or sexual/sex-based harassment must inform the person making the report that the employee is designated “confidential” and inform them of the circumstances in which the employee is not required to make a report to the Human Rights Officer/Title IX Coordinator. The confidential employee will provide the reporter with the Human Rights Officer/Title IX Coordinator’s contact information and explain that the Human Rights Officer/Title IX Coordinator may be able to offer and coordinate supportive measures, initiate an informal resolution process, or initiate an investigation under this complaint procedure.
3. Employees who believe that they have been discriminated against or harassed on the basis of sex should report their concern promptly to the Human Rights Officer/Title IX Coordinator. The report will be documented by the Human Rights Officer/Title IX Coordinator.
4. The individual making the report should provide basic, available information orally or in writing concerning the allegation (i.e., individuals involved, date, time, location, and type of allegation). If the information is conveyed orally, the Human Rights Officer/Title IX Coordinator will document it.
5. If an individual is unsure as to whether unlawful discrimination or harassment has occurred, they are encouraged to discuss the matter with the Human Rights Officer/Title IX Coordinator.
6. Individuals will not be retaliated against for reporting suspected discrimination or harassment or for participating in an investigation. Retaliation is illegal under federal/state nondiscrimination laws and Board policies, and any retaliation will result in disciplinary action, up to and including termination.
7. The Superintendent will be promptly notified of all reports of alleged discrimination or harassment of an employee.
8. An employee who believes they have been discriminated against or harassed on the basis of sex is encouraged to utilize this complaint procedure. However, employees 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. Processing of Complaints

1. The Human Rights Officer/Title IX Coordinator will treat complainants and respondents equitably through the complaint procedure.
2. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the Human Rights Officer/Title IX Coordinator will meet with the alleged victim to discuss the allegations and supportive measures that may be appropriate in the particular circumstances and to explain the complaint procedure.

If the alleged victim is unknown to the Human Rights Officer/Title IX Coordinator, the person who made the report will be notified of the availability of the complaint procedure.

3. Supportive Measures
 - a. Supportive measures are individualized measures designed to ensure the employee can continue to access and perform their work (including but not limited to: requiring no contact between individuals, temporarily moving work locations, and changing schedules).
 - b. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the school district's educational environment or to provide support during the complaint procedure or an informal resolution process. The school district may not impose such measures for punitive or disciplinary reasons.
 - c. Supportive measures may be continued even if a complaint or informal resolution process is not initiated, or after the conclusion of such processes, if appropriate under the circumstances.
 - d. Complainants and respondents must be provided with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of a decision to provide, deny, modify, or terminate supportive measures applicable to them. This employee must not be the Human Rights Officer/Title IX Coordinator and must have the authority to modify or reverse the decision.
 - e. Complainants and respondents also have the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change.

- f. The school district will not disclose information about supportive measures to persons other than the person to whom they apply unless it is necessary to provide a supportive measure or to restore or preserve a party's access to education programs and activities.
4. If the Human Rights Officer/Title IX Coordinator reasonably determines that the conduct alleged does not involve illegal discrimination or harassment, the school district is not obligated to initiate the complaint process and may dismiss the complaint (See Subsection C.1. below). If the alleged conduct potentially violates other laws, Board policies/procedures, or professional expectations (in the case of employees), the matter may be referred to the Superintendent and/or other appropriate administrator(s) to address as deemed appropriate.
5. In response to a complaint alleging prohibited sex discrimination or sexual/sex-based harassment, the Human Rights Officer/Title IX Coordinator will initiate the complaint process, or the informal resolution process (if available and appropriate), according to this procedure. When feasible, the decision to initiate an investigation or informal resolution process, or dismiss the complaint, will be made within ten (10) school days of receipt of the complaint.
6. In certain circumstances, the Human Rights Officer/Title IX Coordinator may initiate the investigation process, even when the alleged victim chooses not to, after any or all allegations are withdrawn by the alleged victim, or when an informal resolution process is not initiated or is terminated. To make this fact-specific determination, the Human Rights Officer/Title IX Coordinator will consider, at a minimum:
 - a. The complainant's request not to proceed with initiating a complaint;
 - b. The complainant's reasonable safety concerns regarding initiating a complaint;
 - c. The risk that additional acts of discrimination or harassment would occur if a complaint is not initiated;
 - d. The severity of the alleged discrimination or harassment, including whether the discrimination, if established, would require the removal of a respondent from school or imposition of another disciplinary sanction to end the discrimination or harassment and prevent its recurrence;
 - e. The age and relationship of the parties, including whether the respondent is an employee of the school district;
 - f. The scope of the alleged discrimination or harassment, including information suggesting a pattern, ongoing discrimination/harassment, or discrimination/harassment alleged to have impacted multiple individuals;
 - g. The availability of evidence to assist a decisionmaker in determining whether discrimination or harassment occurred; and

- h. Whether the school district could end the alleged discrimination or harassment and prevent its recurrence without initiating the complaint procedure.

If, after considering these and any other factors that may be relevant, the Human Rights Officer/Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health or safety of the complainant or other individuals, or that the alleged conduct prevents the school district from ensuring equal access to its education programs and activities, the Human Rights Officer/Title IX Coordinator may initiate a complaint.

7. If the Human Rights Officer/Title IX Coordinator initiates a complaint, the complainant will receive prior notice and any reasonable safety concerns will be addressed.
8. The Human Rights Officer/Title IX Coordinator will confirm the initiation of an investigation or informal resolution process in writing to both parties. The communication will include: a) a copy of the complaint procedure; b) sufficient information available at the time to allow the parties to respond to the allegations (including the identities of the parties involved, the conduct alleged to constitute sex discrimination or sexual/sex-based harassment, and the date(s) and location(s) of the alleged incident(s); c) notice that retaliation is prohibited; and d) notice that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.
9. Regardless of whether an investigation is initiated, the Human Rights Officer/Title IX Coordinator will take appropriate, prompt, and effective steps to ensure that discrimination or harassment does not continue or recur. The Human Rights Officer/Title IX Coordinator will also coordinate supportive measures, as appropriate.
10. If the Human Rights Officer/Title IX Coordinator decides to investigate additional allegations of discrimination or harassment made by the complainant against the respondent after the parties receive notice of the complaint, the Human Rights Officer/Title IX Coordinator will notify the parties of the additional allegations in writing.
11. The Human Rights Officer/Title IX Coordinator may consolidate complaints of discrimination or harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances.

12. The school district will presume that the respondent is not responsible for alleged discrimination or harassment until a determination is made at the conclusion of the investigation.
13. The school district will take reasonable steps to protect the privacy of the parties and witnesses during the complaint procedure and will comply with applicable state and federal privacy laws. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses, confidential employees/resources, or otherwise prepare for and participate in the complaint procedure.

C. Dismissal of Complaints

1. The Human Rights Officer/Title IX Coordinator may dismiss a complaint in the following circumstances:
 - a. The school district is unable to identify a respondent after taking reasonable steps to do so;
 - b. The respondent is not participating in the school district's education programs and activities, or is not employed by the school district;
 - c. The complainant voluntarily withdraws any or all allegations in the complaint, the Human Rights Officer/Title IX Coordinator declines to initiate a complaint and determines that, without the complainant's withdrawn allegations, the alleged conduct remaining, if any, would not constitute discrimination or harassment even if proven; or
 - d. The Human Rights Officer/Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute discrimination or harassment under state/federal laws and regulations.
2. Upon dismissal, the Human Rights Officer/Title IX Coordinator will promptly notify the complainant (and the respondent, if they had received notice of the complaint allegations) of the basis for the dismissal, and provide the opportunity to appeal the dismissal.
3. Dismissals may be appealed on the following bases:
 - a. Procedural irregularity that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the dismissal [or determination in the case] was made; and
 - c. The Human Rights Officer/Title IX Coordinator, investigator, or decisionmaker had a conflict or bias for or against complainants or respondents generally, or the individual complainant or respondent that would change the outcome.

4. An appeal of a complaint dismissal must be made in writing to the Human Rights Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.
5. If the dismissal is appealed, the Human Rights Officer/Title IX Coordinator shall:
 - a. Notify the respondent of the appeal if they had received notice of the complaint allegations;
 - b. Implement the appeal procedure equally for the parties;
 - c. Ensure that the trained decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 - d. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 - e. Notify the parties in writing of the result of the appeal and the rationale for it within five (5) school days, if feasible.
6. When a complaint is dismissed, the Human Rights Officer/Title IX Coordinator will, at a minimum:
 - a. Offer supportive measures to the complainant and respondent if appropriate; and
 - b. Take other prompt and effective steps, as appropriate to ensure that discrimination or harassment does not continue or recur within the school district's program or activity.
7. The Human Rights Officer/Title IX Coordinator will document actions taken during the appeal process.

D. Administrative Leave

1. 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.
2. 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.
3. The Human Rights Officer/Title IX Coordinator will document actions taken during the administrative leave process.

[Note: The Superintendent may remove a student from education programs and activities on an emergency basis during the complaint procedure in accordance with the procedures set forth in ACA-R2, Section 2.D]

E. Informal Resolution Process

1. Informal resolution is not permitted in cases where a student is the complainant and an employee is the respondent to alleged sex discrimination or harassment [such cases should be addressed under Procedure *ACAA-R2*].
2. The Human Rights Officer/Title IX Coordinator may, if appropriate, offer the parties the opportunity to resolve the complaint through an informal resolution process at any point prior to an investigation or determination of responsibility. Engaging in an informal resolution process is voluntary on the part of each party. The Human Rights Officer/Title IX Coordinator also may decline to pursue an informal resolution despite a party's request (for example, if the alleged conduct presents a future risk of harm to the complainant or others).
3. Both (or all) parties must voluntarily agree in writing to participate in an informal resolution process, and a party may withdraw from the process at any time. The parties will not be required to attend meetings together unless they voluntarily agree to do so.
4. Before initiating an informal resolution process, the Human Rights Officer/Title IX Coordinator will ensure that the parties receive notice of: i.) the allegations; ii.) the requirements of the informal resolution process; iii.) the right of any party to withdraw from the process and initiate or resume the investigation process; iv.) that the parties' agreement to an informal resolution would preclude them from initiating or resuming the investigation; v.) potential terms that may be requested or offered in an informal resolution agreement, including notice that an agreement is binding on the parties; and vi.) what information the school district will maintain regarding the informal resolution process.

[Note: Informal resolutions can take many forms, depending on the particular case, including but not limited to: restrictions on contact between the parties; facilitated discussions between the parties; restorative justice; acknowledgement of responsibility by a respondent; apologies; disciplinary actions against a respondent or requirements to engage in specific services; or supportive measures.]

5. The facilitator for the informal resolution process: must be trained; cannot be the same person as the investigator or decisionmaker in the matter; and must not have a conflict of interest or bias regarding parties to such matters generally or to an individual complainant or respondent.
6. The Superintendent must agree to the terms of any informal resolution reached between the parties, considering whether the resolution is in the best interest of the

parties and the school district in light of the particular circumstances, applicable laws/regulations, and Board policies.

7. If an informal resolution agreement is reached, it will be agreed to in writing by both parties and the Human Rights Office/Title IX Coordinator. Any such agreement is final and binding on the parties.

F. Investigation Process

NOTE TO LOCAL BOARDS: THE TITLE IX REGULATIONS DO NOT PROHIBIT THE HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR FROM INVESTIGATING COMPLAINTS OR BEING THE DECISIONMAKER. HOWEVER, WHEN IT IS FEASIBLE, LOCAL BOARDS MAY WANT TO ASSIGN INVESTIGATION AND DECISIONMAKING DUTIES TO OTHERS.

WE HAVE WRITTEN SECTIONS F AND G WITH THE INVESTIGATION ROLE SEPARATE FROM THE HUMAN RIGHTS OFFICER/TITLE IX COORDINATOR ROLE, AND WITH FLEXIBILITY FOR THE SCHOOL DISTRICT TO UTILIZE A DECISIONMAKER SEPARATE FROM THE INVESTIGATOR. IF THE SCHOOL DISTRICT WISHES TO CONSOLIDATE ONE OR MORE OF THESE ROLES, OR TO HAVE FIXED ASSIGNMENTS FOR CERTAIN ROLES, WE RECOMMEND DISCUSSING THIS WITH LEGAL COUNSEL AND MAKING CHANGES AS NEEDED IN SECTIONS F AND G.

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the Human Rights Officer/Title IX Coordinator. The investigator shall not have a conflict of interest or bias against complainants or respondents generally, or an individual complainant or respondent, and will consult with the Human Rights Officer/Title IX Coordinator during the investigation process.
2. Any complaint about an employee who holds a supervisory position will be investigated by a person not subject to that supervisor's authority. Any complaint about the Superintendent will be submitted to the Board Chair, who will consult with legal counsel concerning the handling and investigation of the complaint.
3. If the complaint is against an employee of the school district, any rights conferred under an applicable bargaining agreement will be applied, to the extent they do not conflict with the requirements of Title IX and accompanying regulations.
4. The burden is on the school district, and not the parties, to gather sufficient evidence (through the investigation) in order to determine whether illegal discrimination or harassment occurred.
5. The investigator shall provide an opportunity for the complainant and respondent to be heard as part of the investigation. The parties will not be required to attend meetings together.

6. The parties may suggest witnesses to be interviewed and/or submit materials that they believe are relevant to the allegations and complaint.
7. The investigator will evaluate evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
 - a. The Title IX regulations define "relevant" as "related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred."
8. The following types of evidence, and questions seeking that evidence, are impermissible:
 - a. Evidence that is protected under a privilege recognized by federal or state law, or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality in writing.
 - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the treatment to the party or witness, unless the school district obtains that party's or witness's voluntary, written consent for use in the complaint procedure; and
 - a. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed alleged sexual/sex-based harassment or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sexual/sex-based harassment. The fact of prior sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

NOTE TO LOCAL BOARDS: TITLE IX REGULATIONS PERMIT THE SCHOOL DISTRICT TO PROVIDE THE PARTIES WITH AN OPPORTUNITY TO REVIEW THE EVIDENCE OR TO PROVIDE THE PARTIES WITH "AN ACCURATE DESCRIPTION OF THE EVIDENCE." WE GENERALLY RECOMMEND THAT RELEVANT, PERMISSIBLE EVIDENCE BE REVIEWED BY THE PARTIES RATHER THAN PROVIDING THEM WITH A DESCRIPTION OF THE EVIDENCE BECAUSE, IF A DESCRIPTION IS PROVIDED, THE PARTIES MAY STILL REQUEST TO REVIEW THE EVIDENCE ITSELF. WE RECOMMEND

DISCUSSING THIS ISSUE WITH LEGAL COUNSEL IF A BOARD WANTS TO PROVIDE DESCRIPTIONS OF THE EVIDENCE INSTEAD.

9. The investigator will provide each party with the opportunity to review the evidence that is relevant to the allegations of discrimination or harassment (and not otherwise impermissible), and to respond to it.
10. The Human Rights Officer/Title IX Coordinator and investigator will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the complaint procedure. Disclosure of such information and evidence for the purposes of administering administrative proceedings or litigation related to the complaint are authorized.

NOTE TO LOCAL BOARDS: IF THE INVESTIGATOR ALSO MAKES DISCIPLINE/REMEDY DECISIONS, PARAGRAPH 16 SHOULD INCLUDE THIS INFORMATION.

11. The investigator will conclude the investigation and issue a written report to the Human Rights Officer/Title IX Coordinator within forty (40) school days, if feasible.
 - a. If the investigator has been charged with making a determination of responsibility/non-responsibility with respect to each allegation, such determination(s) and the reasons, therefore, shall be included in the report.
12. Extensions of time may be granted to complete the investigation if approved by the Human Rights Officer/Title IX Coordinator for reasonable cause. Notice of any extension and the reasons, therefore, will be provided to the parties.

G. Determinations of Responsibility

1. The standard used to determine whether illegal discrimination or harassment occurred is the preponderance of the evidence standard ("more likely than not").

NOTE TO LOCAL BOARDS: THE FOLLOWING PARAGRAPHS SHOULD BE ADAPTED AS NECESSARY TO REFLECT A SCHOOL DISTRICT'S PRACTICES IN REGARD TO WHO MAKES RESPONSIBILITY DETERMINATIONS AND/OR DISCIPLINARY DECISIONS.

2. The decisionmaker will review the investigation report, the evidence gathered (as appropriate), and will have the discretion to conduct additional interviews of parties and/or witnesses if needed to assess credibility.
3. The decisionmaker will make a written determination of responsibility/non-responsibility in regard to each allegation and the reasons therefore, which shall be shared with the Human Rights Officer/Title IX Coordinator and the parties.

4. In general, the Human Rights Officer/Title IX Coordinator will notify the parties of the determination decision(s) within five (5) school days of the determination being reached. Reasonable extensions of time may be approved by the Human Rights Officer/Title IX Coordinator for good reason. The notification will include the permissible bases for appeal and the deadline for receipt of appeals.
5. If there is a determination that the respondent is responsible for violations, the appropriate administrator will make decisions as to appropriate disciplinary action and remedies.
6. The Human Rights Officer/Title IX Coordinator shall, as appropriate:
 - a. Coordinate the provision and implementation of remedies to a complainant and any other persons if necessary to provide equal access to the school district's educational programs and activities that had been limited or denied by discrimination or harassment;
 - b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - c. Take other appropriate prompt and effective steps if necessary to ensure discrimination and harassment does not continue or recur.
7. A determination of responsibility becomes final on the date that the Human Rights Officer/Title IX Coordinator provides the parties with the written determination of the results of the appeal, if an appeal is filed. If an appeal is not filed, the determination of responsibility becomes final on the date on which the appeal would no longer be considered timely.
8. The school district will not discipline a party, witness, or others participating in the complaint procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination that sex discrimination or sexual/sex-based harassment occurred.

H. Remedies, Discipline, and Other Actions

NOTE TO LOCAL BOARDS: TITLE IX REGULATIONS CONTINUE TO REQUIRE SCHOOL DISTRICTS TO PROVIDE A RANGE OF REMEDIES AND DISCIPLINE THAT MAY BE UNDERTAKEN IN RESPONSE TO A FINDING OF RESPONSIBILITY FOR SEX-BASED HARASSMENT. THE LANGUAGE HERE REFLECTS TYPICAL RANGES, BUT THE SPECIFIC ACTIONS CAN BE MODIFIED TO REFLECT LOCAL PRACTICE.

1. Remedies

Remedies are measures used to ensure that the complainant has equal access to the school district's education programs and activities following the decisionmaker's determination(s). Such remedies may include supportive measures and may include other appropriate measures, depending on the determination(s) and the needs of the complainant. The Human Rights Officer/Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the complainant.

2. Discipline and Other Actions

Examples of disciplinary and other actions that may be imposed on a student when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include suspension, expulsion, restorative justice, required education or counseling, and other measures.

Examples of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations of sexual/sex-based harassment include: written warning, probation, counseling, demotion, suspension without pay, termination.

I. Appeals

1. After the conclusion of the investigation and decisionmaker determination(s), the complainant or respondent may seek an appeal of the findings based on the following factors:
 - a. Procedural irregularity that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the determination was made; and
 - c. The Human Rights Officer/Title IX Coordinator, investigator, or decisionmaker had a conflict or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
2. The appeal must be made in writing to the Human Rights Officer/Title IX Coordinator within five (5) school days and state the basis for the appeal.
3. The Superintendent is responsible for making a determination on the appeal. The Superintendent will conduct an impartial review of the appeal, including consideration of the written record in the case, and may consult with legal counsel or other school district officials in making their decision.

4. The Superintendent will issue the appeal determination in writing within ten (10) school days of receipt of the appeal, if feasible.
5. The Superintendent's decision is final.

Section 3. Recordkeeping

The Human Rights Officer/Title IX Coordinator shall maintain a record of documents and action in each case, and records of trainings provided, for a period of seven (7) years.

Cross References: AC – Nondiscrimination/Equal Opportunity and Human Rights
 ACAB – Harassment of Employees
 ACAB-R1 – Employee Discrimination and Harassment Complaint
 Procedure
 ACAB-R2 – Employee Sex Discrimination/Harassment Complaint
 Procedure
 JIE - Pregnant Students

NOTE TO LOCAL BOARDS: WE HAVE DEVELOPED THIS POLICY TO COMPLY WITH NEW REQUIREMENTS IN THE TITLE IX REGULATIONS (EFFECTIVE AUGUST 1, 2024) REGARDING PREGNANT STUDENTS. ANY PROPOSED CHANGES TO THIS POLICY SHOULD BE DISCUSSED WITH LEGAL COUNSEL TO ENSURE THAT THEY MEET THE APPLICABLE LEGAL REQUIREMENTS.

IF A SCHOOL DISTRICT HAS A COMBINED AFFIRMATIVE ACTION OFFICER/TITLE IX COORDINATOR POSITION, THE REFERENCES IN THIS POLICY SHOULD BE CHANGED ACCORDINGLY.

PREGNANT STUDENTS

The Board has adopted this policy to comply with its obligations not to discriminate in its education programs and activities against students based on a student's current, potential, or past pregnancy or related conditions. The Title IX Coordinator is responsible for implementing this procedure, in consultation with the Superintendent, Human Rights Officer, and others as appropriate.

For the purposes of this policy, pregnancy or related conditions include:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

A. Notifications

When a student or their parent/guardian informs any school district employee of a student's pregnancy or related condition(s), the employee must promptly provide the student or the parent/legal guardian with the Title IX Coordinator's contact information so that the Title IX Coordinator can take any necessary actions to ensure the student's equal access to the school district's education programs and activities. The employee should also notify the Title IX Coordinator of the pregnancy or related condition(s), unless the employee reasonably believes that the Title IX Coordinator has already been notified.

Once the Title IX Coordinator is informed of a student pregnancy, they shall inform the student (or the parent/legal guardian if they informed the Title IX Coordinator), of the school district's obligations (outlined below) and provide a copy of Board Policy AC.

B. Reasonable Modifications

1. Reasonable modifications to the school district's policies, procedures, and practices shall be made to prevent sex discrimination and ensure equal access to education programs and activities, based on the student's individualized needs. The Title IX Coordinator will consult with the student regarding any such modifications. Modifications that fundamentally alter the nature of an education program or activity are not considered "reasonable" under Title IX regulations.
2. The student has the discretion to accept or decline each reasonable modification offered. If a student accepts a modification, the Title IX Coordinator will see that it is implemented.
3. Reasonable modifications may include, but are not limited to:
 - a. Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions (such as eating, drinking, or using the restroom);
 - b. Intermittent absences to attend medical appointments;
 - c. Access to online or homebound education;
 - d. Change in schedule or course sequence;
 - e. Extensions of time for coursework and rescheduling of tests and examinations;
 - f. Allowing a student to sit or stand, or carry or keep water nearby;
 - g. Counseling;
 - h. Changes in physical space or supplies (such as access to a larger desk or a footrest);
 - i. Elevator access; and/or
 - j. Other reasonable changes in policies, procedures, or practices.

C. Voluntary Access to Separate and Comparable Portions of Education Programs or Activities

1. If the school district offers a separate and comparable portion of an education program or activity, the student must voluntarily agree to participate in such program or activity.

D. Voluntary Leave of Absence

1. The school district shall allow a student to voluntarily be absent from school to cover, at a minimum, the period of time deemed medically necessary by the student's licensed health care provider.

2. When the student returns to the school district's education programs and activities, they shall be reinstated to the academic status, and to the extent practical, any extracurricular status, that they held prior to the voluntary leave.

E. Lactation Space

1. The student shall be able to access a lactation space, other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by the student for expressing breast milk or breastfeeding as needed.

F. Limits on Requiring Documentation

1. The Title IX Coordinator shall not require supporting documentation from the student, except to the extent it is necessary and reasonable to determine the reasonable modifications to make or to determine whether additional specific actions are needed.
2. Examples of situations where requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action under this procedure is obvious, such as when a pregnant student needs a larger uniform or desk, needs break time, etc. Supporting documentation is also not necessary and reasonable if a specific action is available to other students who are not pregnant or have related conditions.
3. The Title IX Coordinator shall not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in a class, program, or extracurricular activity unless:
 - a. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
 - b. The school district requires such certification of all participating students; and
 - c. The information obtained is not used as a basis for discrimination against the student.

Legal References: Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688; 34 C.F.R. § 106.40.
RSA 193:38.
RSA 354-A:27-28.

Cross Reference: AC – Nondiscrimination/Equal Opportunity and Affirmative Action
ACAA – Harassment of Students
ACAA-R2 – Student Sex Discrimination/Harassment Complaint Procedure