

**BANGOR SCHOOL DEPARTMENT
NONDISCRIMINATION AND AFFIRMATIVE ACTION**

It is the policy of the Bangor School Department to provide an employment and educational environment that is free from discrimination and harassment based on race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information.

I. NONDISCRIMINATION IN EMPLOYMENT

A. Equal Employment Opportunity

Discrimination against school employees because of race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information is prohibited.

The Bangor School Department shall not discriminate against any employee or applicant for employment because of race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information. The Bangor School Department shall:

1. Recruit, hire, assign, train and promote persons in all job titles on the basis of merit and fitness, without regard to race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information.
2. Ensure that promotion decisions are in accord with principles of equal employment opportunity by imposing only strictly job-related requirements for promotional opportunities.
3. Ensure that all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, department-sponsored training, education, tuition assistance, social and recreation programs will be administered without regard to race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information.

B. Harassment and Sexual Harassment

Harassment of school employees because of race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information is prohibited. Such conduct is a violation of Bangor School Department policy and also may constitute unlawful discrimination under state and federal laws.

Harassment

Harassment includes but is not limited to verbal abuse, threats, physical assault and/or battery based on race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information. Under the Maine Civil Rights Act, violence or threats of violence against a person or their property based on their sexual orientation are also illegal.



Sexual Harassment

Sexual harassment is addressed under federal and state laws and regulations. The scope and definitions of sexual harassment under these laws differ, as described below.

1. Title IX Sexual Harassment

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

- a. "Quid pro quo" sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a promotion or favorable evaluation) on an individual's participation in unwelcome sexual conduct;
- b. "Hostile environment" sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual's equal access to the school unit's education programs and activities; or
- c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.

2. Sexual Harassment Under Title VII and Maine Law

Under another federal law, Title VII, and under Maine law/regulations, sexual harassment is defined differently. Maine Human Rights Commission regulations define sexual harassment as conduct on the basis of sex which satisfies one or more of the following:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature

Examples of sexually harassing behavior include, but are not limited to, the following:

- Offensive sexual flirtations
- Suggestive or lewd remarks
- Sexually suggestive gestures
- Advances or propositions
- The display of sexually suggestive objects, pictures or written materials
- Lewd names
- Sexual practical jokes or horseplay

Consequences of Harassment

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



Reporting Harassment

Employees who believe that they have been subjected to harassment or sexual harassment are expected to comply with the Discrimination and Harassment Complaint Procedure described in Section I(C) of this Policy. Complaints of unlawful harassment and sexual harassment also may be filed with the Maine Human Rights Commission, State House Station 51, Augusta, Maine 04333.

C. Discrimination and Harassment Complaint Procedure

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

All reports and complaints regarding harassment or sexual harassment of employees shall be addressed through the Discrimination & Harassment Complaint Procedure (Regulation AC).

Employees are expected to report incidents of discrimination or harassment as soon as possible after an incident occurs to a Principal or Assistant Principal, the Superintendent or Assistant Superintendent, or the Department's Affirmative Action Officer/Title IX Coordinator. (See attached Schedule A.) Should the employee's supervisor be involved in the incident, the report can be made directly to any of the other administrators listed above. Employees who are uncertain whether unlawful discrimination or harassment has occurred are encouraged to discuss their concerns with any administrator.

Retaliation Prohibited

Employees shall not be retaliated against for reporting suspected discrimination or harassment or for participating in any part of the complaint process.

Investigation and Resolution of Complaint

Upon notification of a charge of harassment or discrimination, the Superintendent or Assistant Superintendent will designate the Affirmative Action Officer/Title IX Coordinator or other appropriate person to initiate an immediate investigation into the complaint. The complaint will be investigated and resolved in accordance with the following guidelines:

1. The investigator shall gather relevant information, through interviews and other necessary means, to objectively assess the exact nature of the alleged misconduct.
2. The investigator shall provide the individual who is the subject of the complaint an opportunity to be heard as part of the investigation.
3. The investigator shall keep a written record of the investigation.
4. Confidentiality shall be maintained to the extent possible, and in accordance with applicable state and federal laws.
5. The investigator shall consult with the Superintendent or Assistant Superintendent concerning the investigation, conclusions, and any remedial or disciplinary actions.
6. If the investigator determines that discrimination or harassment occurred, the investigator shall so report to the Superintendent or other appropriate administrator, who shall determine the appropriate remedial and disciplinary action to be taken.
7. The employee who made the complaint shall be informed of the results of the investigation and its resolution, subject to applicable state and federal laws.

D. Implementation and Enforcement

Ultimate responsibility for implementation and enforcement of the Nondiscrimination and Affirmative Action Policy rests with the Bangor School Committee. Initial inquiries should be directed to the Affirmative Action Officer/Title IX Coordinator or the Superintendent of Schools.



Appointment of Affirmative Action Officer/Title IX Coordinator

The Superintendent shall appoint and authorize an Affirmative Action Officer/Title IX Coordinator who shall have direct access to the Superintendent. The Affirmative Action Officer/Title IX Coordinator shall:

1. Ensure compliance with all federal and state requirements relating to nondiscrimination, including sexual harassment.
2. Investigate complaints alleging unlawful discrimination,
3. Coordinate or direct nondiscrimination and equal employment opportunity activities,
4. Assist persons through the Discrimination and Harassment Complaint Procedure,
5. Advise the Superintendent and other staff on policy and procedures, and
6. Prepare Affirmative Action plans and monitor compliance with same.

Policy Distribution and Training

All employees shall receive a copy of this policy on an annual basis. All newly hired employees shall be provided training about sexual harassment within one year of commencing employment, and all newly hired supervisory and administrative employees shall be provided training in addressing sexual harassment complaints within one year of commencing employment as a supervisor or administrator.

Policy Statement

The following statement shall be included in all written publications of the Department:

The Bangor School Department shall not discriminate and shall comply with applicable laws prohibiting discrimination on the grounds of race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information. Questions and complaints should be directed to the Superintendent of Schools, Bangor School Department, 73 Harlow Street, Bangor ME 04401, 992-4150.

E. Affirmative Action**Recruitment**

The Bangor School Department shall secure application from qualified individuals. A conscientious effort will be made to secure applications from men, women, and persons representing minority groups for employment in areas within the Department where representation of that sex or group is lacking or is in imbalance.

Implementation

1. Include reference to “equal opportunity employer” in advertisements.
2. Notify staff members of vacancies in accordance with labor agreements.
3. Consider referrals of applications from placement offices and programs whose concerns are the employment of minorities, and encourage such applications when imbalances exist.

Affirmative Action Program

The Affirmative Action Officer/Title IX Coordinator shall be responsible for preparing affirmative action plans and ensuring compliance with all legal requirements relating to discrimination and harassment.

II. NONDISCRIMINATION IN EDUCATION**A. Equal Educational Opportunity**

All policies and practices of the Bangor School Department shall be consistent with equal educational opportunities for all students entitled to attend the schools of the Department and will comply with all federal and state laws, rules and regulations regarding civil and human rights.



There shall be no unlawful discrimination based upon such factors as race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information.

The Bangor School Committee directs the school administration to implement a continuing program designed to prevent discrimination against all applicants, employees, students and other individuals having access rights to school premises and activities.

B. Harassment and Sexual Harassment of Students

Harassment of students because of race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information is prohibited. Such conduct is a violation of Bangor School Department policy and may also constitute illegal discrimination under state and federal laws.

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

Harassment

Harassment includes but is not limited to verbal abuse, threats, physical assault and/or battery, based on race, color, sex, sexual orientation, gender expression, gender identity, physical or mental disability, religion, age, ancestry, national origin, or genetic information. Harassment that rises to the level of physical assault, battery and/or abuse, and/or bullying behavior are also addressed in Policies JICIA Weapons, Violence and School Safety and JICK Bullying in Schools.

Sexual Harassment

Sexual Harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors or pressure to engage in sexual activity, and other verbal, nonverbal or physical conduct of a sexual nature that interferes with a student's education. School employees, fellow students, volunteers and visitors to the school activities are required to refrain from such conduct. Sexual harassment is addressed under federal and state laws/regulations. The scope and definitions of sexual harassment under these laws differ, as described below.

1. Title IX Sexual Harassment

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

- a. "Quid pro quo" sexual harassment by a school employee: Conditioning a school aid benefit or service (such as a better grade or a college recommendation) on an individual's participation in unwelcome sexual conduct;
- b. "Hostile environment" sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual's equal access to the school unit's education programs and activities; or
- c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.



2. Sexual Harassment Under Maine Law

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

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of a student's educational benefits;
- b. Submission to or rejection of such conduct by a student is used as the basis for decisions on educational benefits; or
- c. Such conduct has the purpose and effect of substantially interfering with a student's academic performance or creates an intimidating, hostile or offensive environment.

Consequences of Harassment

Harassment and sexual harassment of students by school employees is considered grounds for disciplinary action, up to and including discharge. Harassment and sexual harassment of students by other students is considered grounds for disciplinary action, up to and including expulsion. The Principal or Superintendent will determine appropriate sanctions for harassment of students by persons other than school employees and students.

Investigation and Resolution of Complaints

The Affirmative Action Officer/Title IX Coordinator or other appropriate administrator will investigate complaints of harassment in accordance with the Student Harassment Complaint Procedure. School employees, students, and parents shall be informed of this procedure through handbooks or other means selected by the school administration.

C. Student Harassment Complaint Procedure

All school employees are required to report possible incidents of harassment or sexual harassment involving students to the Affirmative Action Officer/Title IX Coordinator. Failure to report such incidents may result in disciplinary action.

Students or parents are expected to report incidents of discrimination or harassment as soon as possible after an incident occurs to the Building Principal, Assistant Principal, or the Department's Affirmative Action Officer/Title IX Coordinator. Students, parents/legal guardians and other individuals are strongly encouraged to report possible incidents of harassment or sexual harassment involving students to the Affirmative Action Officer/Title IX Coordinator. Upon notification of a complaint of harassment or discrimination by a student or parent, the Principal or Assistant Principal shall initiate an investigation into the complaint. If the investigation indicates that discrimination or harassment occurred, the Principal or Assistant Principal shall determine the appropriate remedial and disciplinary action to be taken.

The Affirmative Action Officer/Title IX Coordinator is also available to answer questions and provide assistance to any individual who is unsure whether harassment or sexual harassment has occurred.

All reports and complaints of harassment or sexual harassment against students shall be addressed through the Discrimination & Harassment Complaint Procedure (Regulation AC).

D. Student Scholarships

Student scholarships shall be awarded on a basis that prohibits discrimination by sex. The opportunity for scholarship awards will be equal for males and females in each graduating class.



Legal Reference: Equal Employment Opportunity Act of 1972 (P.L. 92-261), amending Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000 (e) et seq.)
Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); 34 C.F.R. Part 106 (Title IX regulations)
Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621 et seq.)
Equal Pay Act of 1963 (29 U.S.C. § 206)
Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended
Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), as amended
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
Maine Human Rights Act (5 MRSA § 4551 et seq.), as amended
Clery Act (20 U.S.C. § 1092(f)(6)(A)(v) - definition of sexual assault)
Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. § 12291(a)(3) – definition of stalking; 34 U.S.C. § 12291(a)(8) – definition of domestic violence)
20-A MRSA § 6553
MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

Cross Reference: AC-R – Discrimination and Harassment Complaint Procedure
ACAD – Hazing
GBEB – Staff Conduct with Students
JICIA – Weapons, Violence, and School Safety
JICJ – Student Use of Cell Phones
JICK – Bullying in Schools

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