

DOVER SCHOOL DISTRICT	POLICY CODE: ACAB-R
DATE OF ADOPTION:	PAGE 1 OF 3

## **Employee & Third Party Discrimination and Harassment Complaint Procedure**

This procedure has been adopted by the Board in order to provide a method of prompt and equitable resolution of employee complaints of discrimination and harassment as described in policies AC – Nondiscrimination/Equal Opportunity and ACAB – Harassment and Sexual Harassment of School Employees. *This procedure may also be used by other individuals (excluding students), such as parents, volunteers and visitors to the schools who wish to make a complaint of discrimination or harassment. Complaints alleging harassment or discrimination of students based on protected status should be addressed through the Board's Student Discrimination and Harassment Complaint Procedure (ACAA-R).*

### **Definitions**

For purposes of this procedure:

- A. "Complaint" is defined as an allegation that an employee *or other third party* has been discriminated against or harassed on the basis of age, sex, race, creed, color, marital status, familial status, physical or mental disability, national origin or sexual orientation.
- B. "Discrimination or harassment" means discrimination or harassment on the basis of age, sex, race, creed, color, marital status, familial status, physical or mental disability, national origin or sexual orientation. *"Discrimination" may include 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 class. "Harassment" may include oral, written, graphic, electronic or physical conduct relating to an individual's actual or perceived membership in a protected class that is sufficiently severe, pervasive or persistent so as to interfere with or limit that individual's ability to participate in the District's programs or activities by creating a hostile, intimidating or offensive environment.*
- C. *Whenever the term "employee" is used in this procedure it includes other third parties who are making a complaint of discrimination or harassment.*

### **How to Make a Complaint**

- A. Any employee who believes he/she has been harassed or discriminated against is encouraged to try to resolve the problem by informing the individual(s) that the behavior is unwelcome or offensive and by requesting that the behavior stop. This shall not prevent the employee, however, from making an immediate formal complaint.
- B. Any employee who believes he/she has been harassed or discriminated against should report their concern in writing promptly to the Building Administrator or the

~~Superintendent or superintendent's designee acting on behalf of the superintendent.~~ If the employee is uncomfortable reporting concerns to the Building Administrator, he/she may report the concern to another school administrator.

Employees who are unsure as to whether unlawful discrimination or harassment has occurred *or who need assistance in preparing a written complaint*, are encouraged to discuss their concerns with the Building Administrator or the Superintendent ~~or superintendents~~ /designee ~~acting on behalf of the superintendent~~. Employees will not be retaliated against for reporting suspected discrimination or harassment or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary measures, up to and including dismissal.

- C. Any employee who believes he/she has been discriminated against or harassed is encouraged to utilize the District's complaint procedure. However, employees are hereby notified that they also have the right to report incidents of discrimination or harassment to the New Hampshire Commission on Human Rights, 2 Chenell Drive, Concord, NH 03301-8501 (telephone: 603-271-2767) and/or to the federal Office for Civil Rights, Regional Director, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02110-1491 (telephone: 617-289-0111).

### **Complaint Handling and Investigation**

- A. The Building Administrator or Superintendent's designee ~~acting on behalf of the superintendent~~ will promptly inform the Superintendent and the person who is the subject of the Complaint that a Complaint has been received.
- B. The Building Administrator or the Superintendent ~~or superintendent's~~ /designee ~~acting on behalf of the superintendent~~ 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. The informal resolution is subject to the approval of the Superintendent who shall consider whether the resolution is in the best interest of the parties in light of the particular circumstances and applicable policies and law.
- C. The Complaint will be investigated by the Building Administrator or the Superintendent ~~or superintendent's~~/designee ~~acting on behalf of the superintendent~~. Any Complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any Complaint about the Superintendent should be submitted to the Chair of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.
1. The person who is the subject of the Complaint will be provided with an opportunity to be heard as part of the investigation. The Complainant shall not be required to attend meetings with the subject of the Complaint, but may choose to do so as part of the resolution process.

2. The Complainant and the subject of the Complaint may suggest witnesses and/or submit materials they believe are relevant to the Complaint.
  3. If the Complaint is against an employee of the District, any rights conferred under an applicable collective bargaining agreement shall be applied.
  4. Privacy rights of all parties to the Complaint shall be maintained in accordance with applicable state and federal laws.
  5. The Building Administrator or the Superintendent/designee shall keep a written record of the investigation process.
  6. The Building Administrator or the Superintendent ~~or superintendent's~~/designee ~~acting on behalf of the superintendent~~ may take interim remedial measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further discrimination or harassment while the investigation is pending. An example of a remedial measure is ordering no contact between the individuals involved.
  7. The Building Administrator or Superintendent's designee ~~acting on behalf of the superintendent~~ shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
  8. The investigation shall be completed within 21 calendar days of receiving the Complaint, if practicable.
- D. If the Building Administrator or the Superintendent's ~~or superintendent's~~ designee ~~acting on behalf of the superintendent~~ determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:
1. Determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect and prevent recurrence.
  2. Determine what disciplinary action should be taken against the person(s) who engaged in discrimination or harassment, if any; and
  3. Inform the employee who made the Complaint in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- E. If the employee who made the Complaint is dissatisfied with the resolution, he/she may appeal to the Superintendent within 14 calendar days after receiving notice of the resolution. The Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. *The Superintendent's decision shall be provided in writing to the complainant within 21 business days, if practicable.* The Superintendent's decision shall be final.

Legal Reference: Americans with Disabilities Act (28 CFR § 35.107)

Section 504 of the Vocational Rehabilitation Act (29 U.S.C. § 794); 34  
CFR § 104.7

Title IX of the Educational Amendments of 1972 (34 CFR § 106.8(b))  
Age Discrimination in Employment Act (34 CFR § 110.25)

NH Code Admin. R. Ed. 303.01(i) and (j)

Cross Reference: AC – Nondiscrimination/Equal Opportunity  
ACAB Harassment and Sexual Harassment of School Employees

## STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

This procedure has been adopted by the Board in order to provide a method of prompt and equitable resolution of student complaints of discrimination or discriminatory harassment as described in policies AC - Nondiscrimination/Equal Opportunity and ACAA - Harassment and Sexual Harassment of Students. *Complaints alleging discrimination or harassment of employees or other third parties (such as parents, volunteers, vendors, etc.) should be addressed through the Board's Employee Discrimination and Harassment Complaint Procedure (ACAB-R).*

### Definitions

For purposes of this procedure:

- A. A "Complaint" is defined as an allegation that a student has been discriminated against or harassed on the basis of sex, sexual orientation, religion, race, color, ancestry, national origin, age, marital status, familial status, pregnancy, physical or mental disability.
- B. "Discrimination or harassment" means discrimination or harassment on the basis of sex, sexual orientation, religion, race, color, ancestry, national origin, age, marital status, familial status, pregnancy, or physical or mental disability. *"Discrimination" may include 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 class. "Harassment" may include oral, written, graphic, electronic or physical conduct relating to an individual's actual or perceived membership in a protected class that is sufficiently severe, pervasive or persistent so as to interfere with or limit that individual's ability to participate in the District's programs or activities by creating a hostile, intimidating or offensive educational environment.*
- C. Complaints of bullying and cyberbullying not involving the protected classes described above may also be pursued under Board Policy JICK – Pupil Safety and Violence Prevention.

### How to Make a Complaint

- A. Any individual who believes a student has been discriminated against or harassed should report his/her concern in writing promptly to the Building Administrator or the Superintendent ~~or superintendent's/designee acting on behalf of the superintendent~~ and utilize this complaint procedure. ~~Students or parents~~ *Individuals* who are unsure whether discrimination or harassment has occurred *or who need assistance in preparing a written complaint*, are encouraged to discuss

the situation with the Building Administrator or the Superintendent /~~or superintendent's designee acting on behalf of the superintendent.~~

- B. School employees are expected to report possible incidents of discrimination or harassment of students to the Building Administrator or the Superintendent ~~or superintendent's designee acting on behalf of the superintendent.~~
- C. Students and others will not be retaliated against for making a Complaint or participating in an investigation. Retaliation is illegal under state and federal nondiscrimination laws and any retaliation by students or school staff will result in disciplinary measures, up to and including expulsion or dismissal.
- D. Students are encouraged to utilize this Complaint Procedure. However, students are hereby notified that they also have the right to report complaints to the New Hampshire Commission for Human Rights, 2 Chenell Drive, Unit 2, Concord, NH 03301-8501 (telephone: 603-271-2767) and/or to the federal Office for Civil Rights, Regional Director, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02110-1491 (telephone: 617-289-0111).

### **Complaint Handling and Investigation**

- A. The Building Administrator or Superintendent/~~designee acting on behalf of the superintendent~~ shall promptly inform the Superintendent and the person(s) who is the subject of the Complaint that a Complaint has been received.
- B. The Building Administrator or the Superintendent ~~or superintendent's designee acting on behalf of the superintendent~~ may pursue a prompt and equitable informal resolution of the Complaint with the agreement of the parties involved. Any party to the Complaint may decide to end an informal resolution process and pursue the formal process at any point. The informal resolution is subject to the approval of the Superintendent, who shall consider whether the informal resolution is in the best interest of the parties in light of the particular circumstances and applicable policies and laws.
- C. The Complaint will be investigated by the Building Administrator or the Superintendent ~~or superintendent's designee acting on behalf of the superintendent.~~ Any Complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any Complaint about the Superintendent should be submitted to the Chair of the School Board, who should consult with legal counsel concerning the handling and investigation of the Complaint.
  - 1. The person who is the subject of the Complaint will be provided with an opportunity to be heard as part of the investigation. The Complainant shall not be required to attend meetings with the subject of the complaint, but may choose to do so as part of the resolution process.

2. The Complainant and the subject of the Complaint may suggest witnesses and/or submit materials they believe are relevant to the Complaint.
  3. If the Complaint is against an employee of the District, any applicable individual or collective bargaining contract provisions shall be followed.
  4. Privacy rights of all parties to the Complaint shall be maintained in accordance with applicable state and federal laws.
  5. The Building Administrator or the Superintendent ~~or superintendent's~~/designee ~~acting on behalf of the superintendent~~ shall keep a written record of the investigation process.
  6. The Building Administrator or the Superintendent ~~or superintendent's~~/designee ~~acting on behalf of the superintendent~~ may take interim remedial measures to reduce the risk of further discrimination or harassment while the investigation is pending. Examples of interim measures include, but are not limited to, ordering no contact between individuals, changing schedules or classes, etc.
  7. The Building Administrator or Superintendent's designee ~~acting on behalf of the superintendent~~ shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
  8. The investigation shall be completed within 21 business days of receiving the Complaint, if practicable.
- D. If the Building Administrator or Superintendent's designee ~~acting on behalf of the superintendent~~ determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent:
1. Determine what remedial action, if any is needed to end the discrimination or harassment, remedy its effects, and prevent recurrence
  2. Determine what disciplinary action should be taken against the person(s) who engaged in discrimination or harassment, if any; and
  3. Inform the complainant in writing of the results of the investigation and its resolution  
(in accordance with applicable state and federal privacy laws).
- E. If the complainant is dissatisfied with the resolution, an appeal may be made in writing to the Superintendent within 14 business days after receiving notice of the resolution. The Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. *The Superintendent's decision shall be provided in writing to the complainant within 21 business days, if practicable.* The Superintendent's decision shall be final.

Legal Reference: Americans with Disabilities Act (28 CFR § 35.107), as amended  
Section 504 of the Vocational Rehabilitation Act (29 U.S.C. §  
794), as amended; 34 CFR § 104.7  
Title IX of the Education Amendments of 1972 (20 U.S.C. §  
1681 et seq.)  
Title VI of the Civil Rights Act of 1964 (P.L. 88-352)  
20 U.S.C. § 1232g; 34 CFR Part 99  
NH Code Admin R. Ed. 303.01(i) and (j)

Cross Reference: AC - Nondiscrimination/Equal Opportunity  
ACAA - Harassment and Sexual Harassment of Students  
*ACAB/ACAB-R – Harassment and Sexual Harassment of  
Employees/Discrimination and Harassment Complaint Procedure*  
JICFA - Hazing  
JICK – Pupil Safety and Violence Prevention