

EMPLOYEE DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

The following procedure has been adopted by the Ellsworth School Committee (ESC) to provide a method of prompt and equitable resolution of employee complaints of discrimination and/or harassment as described in the Ellsworth School Department (ESD) policies cross referenced below.

How to Make a Complaint

- A. Any ESD employee who believes he/she has been 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 by requesting that the behavior stop. This shall not prevent the employee, however, from making an immediate formal complaint.
- B. Any ESD employee who believes he/she has been discriminated against or harassed should report their concern promptly to the Affirmative Action Officer (AAO). If the employee is uncomfortable reporting concerns to the AAO, he/she may report the concern to the Superintendent of Schools. The report must be made in writing. ESD employees who are unsure as to whether unlawful discrimination or harassment has occurred are encouraged to discuss their concerns with the AAO. ESD employees will not be retaliated against for reporting suspected discrimination or harassment.
- C. The AAO will promptly inform the Superintendent and the person who is the subject of the complaint that a complaint has been received.
- D. The AAO may pursue an informal resolution of the complaint with the agreement of the complainant and the person against whom the complaint is made. The AAO may pursue an informal resolution of the complaint with the agreement of the parties involved. The informal resolution is subject to the approval of the Superintendent, who shall consider the particular circumstances and applicable policies and laws.
- E. The complaint will be investigated by the AAO unless the Superintendent designates another person to investigate it on his/her behalf.
 1. The person who is the subject of the complaint will be provided with an opportunity to be heard as part of the investigation.
 2. If the complaint is against an employee of the ESD, any rights conferred under any applicable collective bargaining agreement shall be applied.
 3. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable State and Federal laws.
 4. The AAO shall keep a written record of the investigation process.
 5. The Building Administrator(s) and/or AAO may take interim remedial measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further harassment while the investigation is ongoing.
 6. The AAO shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions he/she recommends.

7. The investigation shall be completed within 15 school days of receiving the complaint, if practical.
- F. If the AAO determines that discrimination and/or harassment occurred, he/she shall, in consultation with the Superintendent:
1. Determine what remedial action is required, if any;
 2. Determine what disciplinary action should be taken against the person(s) who engaged in discrimination and/or harassment, if any; and
 3. In writing, inform the employee who made the complaint of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).
- G. If the ESD 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 final.
- H. In the case of a discrimination or harassment complaint against the Superintendent, the ESC Chair, or his/her designee, in consultation with Legal Counsel will act in place of the Superintendent in this policy.

Any ESD employee who believes he/she has been discriminated against or harassed is encouraged to utilize the ESD's complaint procedure. However, ESD employees are hereby notified that they also have the right to report incidents of discrimination or harassment to the Maine Human Rights Commission, State House Station 51, Augusta, ME 04333 (telephone: 207-624-6050) and/or to the Federal Office for Civil Rights, Region 1 Regional Director, U.S. Department of Education, John .W. McCormack POCH Room 222, Boston, MA 02109-4557 (telephone: 617-223-9622).

Legal Reference: Americans with Disabilities Act (28 CFR § 35.07)
Section 504 of the Vocational Rehabilitation Act (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)

Cross Reference: AC – Nondiscrimination/Equal Opportunity and Affirmative Action
ACAB – Employee Discrimination and Harassment

Adopted: **December 1991**

Revised: **November 9, 2004**
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