

MSAD #49 Affirmative Action Training

Suanne M. Giorgetti

Affirmative Action/ADA Officer

453-4240



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Equal Educational Opportunity Laws

- ➔ Title VI of the Civil Rights Act of 1964
- ➔ Title IX of the Education Amendments of 1972
- ➔ Section 504 Rehabilitation Act 1973
- ➔ Age Discrimination Act 1987
- ➔ Title 5 M.R.S.A. Maine Human Rights Act, Sections 4601-4604
- ➔ Title 20A M.R.S.A., Sections 6, 254, 256, 4502, 6553, 13011, 13019-A, 13019-B

MSAD #49 Policies

AC:	Nondiscrimination/Equal Opportunity and Affirmative Action
ACA:	Non-Sexist Language
ACAB:	Harassment and Sexual Harassment of School Employees
ACB:	Harassment
ACC:	Elimination of Discrimination on the Basis of Disability
ACAA:	Harassment and Sexual Harassment of Students
ACAA-R:	Student Discrimination and Harassment of Complaint Procedure
ACAB:	Harassment and Sexual Harassment of School Employees
ACAB-R:	Employee Discrimination and Harassment Complaint Procedure
ACAD:	Hazing
JICK	Bullying and Cyberbullying in Schools

NOTICE: The reader should take notice that while every effort is made to ensure the accuracy of the information provided herein MSAD49 reserves the right to make changes at any time without prior notice. The District provides the information herein solely for the convenience of the reader and, to the extent permissible by law, expressly disclaims any liability which may otherwise be incurred.

Revised 5/5/14

POLICY ACB: HARASSMENT

The board recognizes the right of each employee to work in an atmosphere, which is free of intimidation, hostility, and offensiveness. In order to ensure such an atmosphere, employees are not to engage in harassment. Acts of harassment based upon race, color, sex, religion, age, national origin, or handicap are not only a violation of this policy but also constitute illegal discrimination under state and federal laws.

Examples of prohibited harassment:

1. Unwelcome sexual advances, gestures, comments, or contact;
2. Threats;
3. Vulgar language or offensive jokes;
4. Ridicule, slurs, derogatory action or remarks; and
5. Basing employment decisions on practices of submission to harassment.

Individuals should also be advised of the importance of informing the harasser that his/her behavior is unwelcome, offensive, in poor taste, or highly inappropriate. Individuals who believe that they are victims of harassment should report such occurrences to the Affirmative Action Officer. The Affirmative Action Officer shall advise the person who has allegedly been harassed of the various options available to the person:

- Human Rights Commission complaint
- Title IX civil action
- Formal request for discipline by the Superintendent and/or Board

Legal Reference: Title IX of the Education Amendments of 1972
Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)
Guidelines of Equal Employment Opportunity Commission

Cross Reference: AC - Nondiscrimination

Approved: January 4, 2007

POLICY ACA: NON-SEXIST LANGUAGE

The school board urges that all staff members be especially alert to and avoid the use of sexist or other discriminatory language in all communications, both oral and written.

Cross Reference: AC – Nondiscrimination

Approved: January 4, 2007

**POLICY AC: NONDISCRIMINATION/EQUAL OPPORTUNITY
AND AFFIRMATIVE ACTION**

M.S.A.D. #49 endorses the concept of providing equal opportunity.

M.S.A.D. #49 does not discriminate in admission to, access to, operations of its programs, services and activities or employment practices on the basis of race, color, religion, age, marital or parental status, national origin, gender, or disability.

It is also the policy of M.S.A.D. #49 that all persons enjoy an environment free from sexual harassment.

The Board directs the administration to provide notice of compliance with federal and state civil rights laws to all applicants for employment, employees, students, parents, and other interested persons, as appropriate.

M.S.A.D. #49 will require all persons, agencies, vendors, contractors, and other persons and organizations doing business with or performing services for M.S.A.D. #49 to subscribe to all applicable federal and state laws pertaining to contract compliance.

Legal Reference: Equal Employment Opportunities 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.)
 Title VI of the Civil Rights Act of 1964 (P.L. 88-352)
 Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621 et seq.)
 Equal Pay Act of 1963 (29 U.S.C. § 206)
 Vocational Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.)
 Americans with Disabilities Act (42 U.S.C. § 12101 et seq.)
 Maine Human Rights Act of 1972 (5 MRSA § 4571), as amended

Approved: December 7, 2006



POLICY ACAB: HARASSMENT AND SEXUAL HARASSMENT OF SCHOOL EMPLOYEES

Harassment of school employees because of race, color, sexual orientation, gender, socio-economic class, religion, ancestry or national origin, age, or disability is prohibited. Such conduct is a violation of Board policy and may constitute illegal 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, sexual orientation, gender, socio-economic class, religion, ancestry or national origin, age, or disability. 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

Unwelcome sexual advances, suggestive or lewd remarks, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an employee's work environment or employee benefits;
- B. Submission to or rejection of such conduct by an employee is used as the basis for decisions on employment benefits; and/or
- C. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Any employee who engages in harassment or sexual harassment will be subject to disciplinary action, up to and including discharge. Any student who engages in harassment or sexual harassment of a school employee will be subject to disciplinary action up to and including expulsion.

All complaints of harassment will be investigated in accordance with the School Employee Discrimination and Harassment Complaint Procedure.

Notice and Training

Annually, each employee shall receive a copy of this policy and the School Employee Discrimination and Harassment Complaint Procedure. This may be accomplished by including the policy/procedure with employee paychecks or by using other appropriate means to ensure that each employee receives a copy. All newly hired employees shall be provided training about sexual harassment in accordance with Maine law.

Individuals should also be advised of the importance of informing the harasser that his/her behavior is unwelcome, offensive, in poor taste, or highly inappropriate. Individuals who believe that they are victims of harassment should report such occurrences to the Affirmative Action Officer. The Affirmative Action Officer shall advise the person who has allegedly been harassed of the various options available to the person:

- Human Rights Commission complaint
- Title IX civil action
- Formal request for discipline by the Superintendent and/or Board

The Superintendent is responsible for ensuring that the school unit complies with all legal requirements for posting, notification and training of employees regarding harassment and sexual harassment.

Legal Reference: Title IX of the Education Amendments of 1972 (20 USC § 1681 et seq.)
Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)
Americans with Disabilities Act (42 USC § 12101 et seq.)
Section 504 of the Vocational Rehabilitation Act of 1973 (29 USC § 794 et seq.)
Title VII (42 USC § 2000c-2; 29 CFR § 1604.11)
Age Discrimination in Employment Act (29 USC § 623)
5 MRSA §§ 4602; 4681 et seq.
20-A MRSA § 6553
26 MRSA §§ 806-807

First Reading: September 5, 2013

POLICY ACAB-R: EMPLOYEE DISCRIMINATION AND 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 Affirmative Action and ACAB – Harassment and Sexual Harassment of School Employees.

Definitions

For purposes of this procedure:

- “Complaint” is defined as an allegation that an employee has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, age, religion, ancestry, national origin or disability.
- “Discrimination or harassment” means discrimination or harassment on the basis of race, color, sex, sexual orientation, age, religion, ancestry, national origin or disability.

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 promptly to the district affirmative action officer. If the employee is uncomfortable reporting concerns to the district affirmative action officer, he/she may report the concern to Superintendent. The report should be made in writing.

Employees who are unsure as to whether unlawful discrimination or harassment has occurred are encouraged to discuss their concerns with the district affirmative action officer. Employees will not be retaliated against for reporting suspected discrimination or harassment.

Any employee who believes he/she has been discriminated against or harassed is encouraged to utilize the school unit's complaint procedure. However, employees are hereby notified that they also have the right to report incidents of discrimination or harassment to the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333 (telephone: 207-624-6050) web site: <http://www.state.me.us/mhrc/>; and/or to the federal Office for Civil Rights, Regional Director, U.S. Department of Education, 33 Arch Street, Suite 900, Boston, MA 02110-1491 (telephone: 617-289-0111; TDD: 877-521-2172) <http://www.hhs.gov/ocr/office/about/rgn-hqaddresses.html>.

Complaint Handling and Investigation

- A. The district affirmative action officer will promptly inform the Superintendent and the person who is the subject of the complaint that a complaint has been received.
- B. The district affirmative action officer 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 whether the resolution is in the best interest of the school unit in light of the particular circumstances and applicable policies and law.
- C. The complaint will be investigated by the district affirmative action officer, unless the Superintendent chooses to investigate the complaint or designates another person to investigate it on his/her behalf. 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.

2. If the complaint is against an employee of the school unit, any rights conferred under an 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 district affirmative action officer shall keep a written record of the investigation process.
 5. The district affirmative action officer 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.
 6. The district affirmative action officer shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
 7. The investigation shall be completed within 30 calendar days of receiving the complaint, if practicable.
- D. If the district affirmative action officer determines that discrimination 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 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.
- F. If the employee is dissatisfied with the decision of the Superintendent, he/she may appeal to the School Board within 14 calendar days after receiving notice of the Superintendent's decision.

The Board will consider the appeal in executive session, at its next regular meeting or a special meeting. The Superintendent shall submit to the Board his/her decision, the complaint, any responses, the investigation report and related documents. The complainant shall be allowed to be heard. If present, the complainant's representative and the representative of the person(s) against whom the complaint was made will also be given the opportunity to be heard.

After reviewing the Superintendent's submissions and hearing from the parties, the Board shall make a decision as to whether to affirm or modify the Superintendent's conclusions. The Board's decision shall be final.

Legal Reference: Americans with Disabilities Act (28 CFR § 35.07), as amended
Rehabilitation Act of 1973 (Section 504) (34 CFR § 35.07), as amended
Title IX of the Educational Amendments of 1972 (34 CFR § 106.8(b))
Age Discrimination in Employment Act (34 CFR § 110.25)
Maine Human Rights Act (5 M.R.S.A. § 4571 et seq., 4681 et seq.), as amended

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

Approved: January 21, 2010



POLICY ACAA: HARASSMENT AND SEXUAL HARASSMENT OF STUDENTS

Harassment of students and staff because of race, color, sexual orientation, gender, socio-economic class, religion, ancestry or national origin, or disability is prohibited. Such conduct is a violation of M.S.A.D. #49 Board policy and may constitute illegal discrimination under state and federal laws.

Harassment

Harassment includes but is not limited to verbal abuse based on race, color, sexual orientation, gender, socio-economic class, religion, ancestry or national origin, or disability.

Sexual Harassment

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors or pressure to engage in sexual activity, physical contact of a sexual nature, gestures, comments, or other physical, written or verbal conduct that is gender-based that interferes with a student's education. School employees, fellow students, volunteers and visitors to the school, and other persons with whom students may interact in order to pursue school activities are required to refrain from such conduct.

Harassment/sexual harassment by school employees are considered grounds for disciplinary action, up to and including discharge. Harassment/sexual harassment of students by other

students are considered grounds for disciplinary action, up to and including expulsion. The Superintendent will determine appropriate sanctions for harassment of students by persons other than school employees and students.

Individuals should also be advised of the importance of informing the harasser that his/her behavior is unwelcome, offensive, in poor taste, or highly inappropriate. Individuals who believe that they are victims of harassment should report such occurrences to the Affirmative Action Officer. The Affirmative Action Officer shall advise the person who has allegedly been harassed of the various options available to the person:

- Human Rights Commission complaint
- Title IX civil action
- Formal request for discipline by the Superintendent and/or Board

The Superintendent or the designated employee will investigate complaints of harassment in accordance with the Student Harassment Complaint Procedure. School employees, students, and parents shall be informed of this policy/procedure through handbooks and/or other means selected by the school administration.

Legal Reference: Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.)
Title VI of the Civil Rights Act of 1964 (42 USC § 2000(d))
5 MRSA §§ 4602; 4681 et seq.
20-A MRSA § 6553

Cross Reference: AC - Nondiscrimination/Equal Opportunity and Affirmative Action
ACAD - Hazing

Approved: January 4, 2007

POLICY ACAA-R: 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 Affirmative Action and ACAA - Harassment and Sexual Harassment of Students.

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 race, color, sex, sexual orientation, religion, ancestry, national origin, or disability.
- B. “Discrimination or harassment” means discrimination or harassment on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, or disability.

How to Make a Complaint

- A. Any student who believes he/she has been discriminated against or harassed should report their concern promptly to an administrator. Students who are unsure whether discrimination or harassment has occurred are encouraged to discuss the situation with an administrator.
- B. School staff is expected to report possible incidents of discrimination or harassment of students. Parents and other adults are also encouraged to report any concerns about possible discrimination or harassment of students to an administrator.
- C. Students and others will not be retaliated against for making a Complaint. 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 the school unit's Complaint Procedure. However, students are hereby notified that they also have the right to report Complaints to the Maine Human Rights Commission, State House Station 51, Augusta, ME 04333 (telephone: 207-624-6050), web site: <http://www.state.me.us/mhrc/>; and/or to the federal Office for Civil Rights, Regional Director, U.S. Department of Education, 33 Arch Street, Suite 900, Boston, MA 02110-1491 (telephone: 617-289-0111; TDD: 877-521-2172), web site: <http://www.hhs.gov/ocr/office/about/rgn-hqaddresses.html>

Complaint Handling and Investigation

- A. The school administrator shall promptly inform the Superintendent and the person(s) who is the subject of the Complaint that a Complaint has been received.
- B. The school administrator 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 whether the informal resolution is in the best interest of the school unit in light of the particular circumstances and applicable policies and laws.
- C. The Complaint will be investigated by the district affirmative action officer, unless the Superintendent chooses to investigate the complaint or designates another person to investigate it on his/her behalf. 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 chairperson 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.
 - 2. If the Complaint is against an employee of the school unit, any applicable individual or collective bargaining contract provisions shall be followed.
 - 3. Privacy rights of all parties to the Complaint shall be maintained in accordance with applicable state and federal laws.

4. The district affirmative action officer shall keep a written record of the investigation process.
 5. The district affirmative action officer may take interim remedial measures to reduce the risk of further discrimination or harassment while the investigation is pending.
 6. The district affirmative action officer shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
 7. The investigation shall be completed within 30 calendar days of receiving the Complaint, if practicable.
- D. If the district affirmative action officer determines that discrimination 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 or harassment, if any; and
 3. Inform the student 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 student's parents/legal guardians are dissatisfied with the resolution, an appeal may be made in writing 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.
- F. If the student's parents/legal guardians are dissatisfied with the decision of the Superintendent, an appeal may be submitted in writing within 14 calendar days after receiving notice of the decision. The Board will consider the appeal in executive session, to the extent permitted by law, at its next regular meeting or a special meeting. The Superintendent shall submit the investigation report and any other witnesses or documents that he/she believes will be helpful to the Board. The student, his/her parents/legal guardians and his/her representative shall be allowed to be heard. The person(s) against whom the Complaint was made shall be invited and allowed to be heard. The Board's decision shall be final.]

Legal Reference: Americans with Disabilities Act (28 CFR § 35.07), as amended
Rehabilitation Act of 1973 (Section 504) (34 CFR § 104.7), as amended
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 USC § 1232g; 34 CFR Part 99
5 MRSA §§ 4571; 4602; 4681 et seq.

Cross Reference: AC - Nondiscrimination/Equal Opportunity and Affirmative Action
ACAA - Harassment and Sexual Harassment of Students

Approved: January 21, 2010

Staff Responsibilities Regarding Student Harassment

It is the responsibility of every staff member of MSAD #49 to report any incident of student harassment to the building principal or assistant principal immediately. Student complaints of harassment must be taken seriously as it is our duty to protect our students and a failure to do so could be costly to the district and the employee if brought to a law suit! Therefore, all staff should be familiar with the student harassment policies and procedures.

If you know it happened, report it.

(Let the administrator make the judgment about how to handle it.)

Examples of Student-to-Student Sexual Harassment

- Mooning
- Streaking
- Exposing private parts of the body
- Touching in an inappropriate manner
- Shouting obscenities
- Leaving obscene messages on MSAD #49 computers.
- Bra, pants, shorts or skirt snapping
- Pulling down someone's pants, shorts, or skirt
- Flipping up skirts
- Teasing females or males about their sexuality or body parts.
- Telling someone what sexual behaviors the speaker would like to engage in with that person
- Whistling or yelling at somebody who walks by or rating him/her
- Threatening rape
- Pressing one's body against someone
- Telling sexually explicit jokes or stories

About Sexual Harassment

Sexual harassment is illegal under state and federal law.

The legal definition: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- ➡ Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment.
- ➡ Submission to or rejection of such conduct by an individual is used as the basis of employment decision affecting such individual; or

- ➔ Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Description: Sexual harassment is unwelcome conduct of a sexual nature that affects work.

Two kinds of sexual harassment:

- ➔ **Quid Pro Quo:** Quid pro quo sexual harassment occurs when your treatment as an employee (benefits, evaluations, promotions, etc.) is linked to your willingness to comply with a supervisor's unwelcome verbal or physical conduct of a sexual nature.
- ➔ **Hostile Environment:** Hostile environment sexual harassment occurs when an employee is exposed to unwelcome conduct of a sexual nature that interferes with his or her work or creates an offensive work environment.



Other Examples of Sexual Harassment **(Employee to Employee , Employee to Student)**

- Direct or indirect threats or bribes for unwanted sexual activity
- Sexual innuendoes and comments
- Intrusive sexually explicit questions
- Sexually suggestive sounds or gestures
- Repeatedly asking a person out for dates or to have sex
- Unwanted touching, patting, pinching, stroking, squeezing tickling or brushing against another person
- Rating a person's sexuality
- Ogling or leering
- Spreading rumors about a person's sexuality

- Name-calling, such as “bitch”, “whore” or “slut”
- Sexual ridicule
- Frequent jokes about sex (male or female)
- Letters, notes, telephone calls or material of a sexual nature
- Pervasive displays of pictures, calendars, cartoons, or other materials with sexually explicit or graphic content
- Stalking a person
- Attempted or actual sexual assault

Examples of Prohibited Harassment

- ➡ Unwelcome sexual advances, gestures, comments, or contact;
- ➡ Threats;
- ➡ Vulgar language;
- ➡ Ridicule, slurs, derogatory actions or remarks;
- ➡ Basing employment decisions on practices of submission to harassment.

Individuals should be advised of the importance of informing the harasser that his or her behavior is unwelcome, offensive, in poor taste, or highly inappropriate. Individuals who believe that they are victims of harassment should report such occurrences to the Affirmative Action Officer. The Affirmative Action Officer shall advise the person who has allegedly been harassed of the various options available to the person: Human Rights Commission complaint, Title IX civil action, or formal request for discipline by the superintendent and/or board.

Harassment: Considerations

- The intent of the person doing it does not make any difference whatsoever.
- The person on the receiving end is the one who decides whether the behavior is offensive.
- Harassment allegations will be investigated from the victim’s perspective.
- Sexual harassment is a form of discrimination.
- The Supreme Court has ruled that same-sex harassment is illegal under Civil Rights Law.

- The Office of Civil Rights has ruled, “..A hostile environment can occur even when the harassment is not targeted specifically at the individual complainant. (Anyone who witnesses harassment may file a complaint.)
- Although a hostile environment may generally be created by a series of incidents, any one-time, serious incident can rise to the level of creating a hostile environment. (The more severe the conduct, the less the need to show a repetitive series of events.)
- You can be fired for a one-time, severe event of harassment.
- A school district may be held liable if any school administrator or official has notice of any incident of harassment or other discrimination and fails to take appropriate corrective action. (In MSAD #49, if we hear about it, we will investigate and take appropriate disciplinary action.)
- Any employee charged with harassment is entitled to representation by his/her union. All disciplinary actions are subject to that employee’s contractual grievance procedure.
- MSAD #49 will discipline any individual who retaliates against any person who reports alleged harassment or anyone who retaliates against any person who testifies, assists, or participates in the investigation, proceeding, or hearing. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. In MSAD #49, incidents of retaliation as described above will be considered reason for immediate dismissal.

Protections for Complainants

Please be advised:

- Filing a complaint of harassment will not result in retaliation against the complainant as this is both against the policy of MSAD #49 and the law.
- The Maine Human Rights Commission is the State Agency responsible for enforcing the laws which prevent harassment and discrimination and employees may also file complaints with the commission.

POLICY JICK: BULLYING AND CYBERBULLYING IN SCHOOLS

I. Introduction

All students have the right to attend public schools that are safe and secure learning environments. It is the intent of the MSAD #49 School Board to provide all students with an equitable opportunity to learn. To that end, the Board has a significant interest in providing a safe, orderly, and respectful school environment that is conducive to teaching and learning.

Bullying is detrimental to the school environment and student learning, achievement and well-being. It interferes with the mission of the schools to educate their students and disrupts the operations of the schools. Bullying affects not only students who are targets but also those who participate and witness such

behavior. These behaviors must be addressed to ensure student safety and an inclusive learning environment.

Bullying/cyberbullying by a student or group of students is unacceptable behavior in MSAD #49 and will not be tolerated. Bullying/cyberbullying is any unwarranted aggressive behavior against a student or group of students which is unwanted or unwelcome and which has the potential to be repeated. Cyberbullying is a bullying that takes place using electronic technology. If an individual or group of individuals is being bullied, it is appropriate for the individual being bullied to ask that such bullying cease. Should bullying continue, the behavior should be reported to a teacher or an administrator? Any student who observes bullying should intervene, if possible, and ask that the bullying stop. If this is not possible, the bullying should be reported to a teacher or administrator.

It is not the Board's intent to prohibit students from expressing their ideas, including ideas that may offend the sensibilities of others, or from engaging in civil debate. However, the Board does not condone and will take action in response to conduct that interferes with students' opportunity to learn, the educational mission of the MSAD #49 schools, and the operation of the schools.

II. Prohibited Behavior

The following behaviors are prohibited:

1. Bullying;
2. Cyberbullying;
3. Harassment and Sexual Harassment (as defined in board policy ACAA);
4. Retaliation against those reporting such defined behaviors; and
5. Knowing and false accusations of bullying behavior.

Any person who engages in any of these prohibited behaviors that constitutes bullying shall be subject to consequences.

III. Bullying and Cyberbullying Defined

A. "Bullying" includes, but is not limited to, a written, oral or electronic expression or a physical act or gesture or any combination thereof directed at a student or students that:

- (1) Has, or a reasonable person would expect it to have, the effect of:
 - (a) Physically harming a student or damaging a student's property; or
 - (b) Placing a student in reasonable fear of physical harm or damage to the student's property;
- (2) Interferes with the rights of a student by:
 - (a) Creating an intimidating or hostile educational environment for the student; or
 - (b) Interfering with the student's academic performance or ability to participate in or benefit from the services, activities or privileges provided by a school; or
- (3) Is based on a student's actual or perceived race, color, national origin, ancestry, religion, physical or mental disability, gender, sexual orientation, or any other distinguishing characteristic, or is based on a student's association with a person with one or more of these actual or perceived characteristics, and that has the effect described in subparagraph (1) or (2) above. (These behaviors might also meet the criteria for harassment as defined in board policy ACAA: Harassment and Sexual Harassment of Students.)

Examples of conduct that may constitute bullying include, but are not limited to:

1. Repeated or pervasive taunting, name-calling, belittling, mocking, put-downs, or demeaning humor;
2. Behavior that is intended to harm someone by damaging or manipulating his or her relationships with others, including but not limited to gossip, spreading rumors, and social exclusion;
3. Non-verbal threats and/or intimidations such as use of aggressive, menacing, or disrespectful gestures;
4. Threats of harm to a student, to his/her possessions, or to other individuals, whether transmitted verbally or in writing;
5. Blackmail, extortion, demands for protection money, or involuntary loans or donations;
6. Blocking access to school property or facilities;
7. Stealing or hiding books, backpacks, or other possessions;
8. Stalking; and
9. Physical contact or injury to another person or his/her property.

B. “Cyberbullying” means bullying through the use of technology or any electronic communication, including, but not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted by the use of any electronic device, including, but not limited to, a computer, telephone, cellular telephone, text messaging device and personal digital assistant.

Examples of conduct that may constitute cyberbullying include, but are not limited to:

1. Posting slurs or rumors or displaying any defamatory, inaccurate, disparaging, violent, abusive, profane, or sexually oriented material about a student on a website or other online application;
2. Posting misleading or fake photographs or digital video footage of a student on websites or creating fake websites or social networking profiles in the guise of posing as the target;
3. Impersonating or representing another student through use of that other student’s electronic device or account to send e-mail, text messages, instant messages (IM), or phone calls;
4. Sending e-mail, text messages, IM, or leaving voice mail messages that are mean or threatening, or so numerous as to bombard the target’s e-mail account, IM account, or cell phone; and
5. Using a camera phone or digital video camera to take and/or send embarrassing or “sexting” photographs of other students.

C. “Retaliation” means an act or gesture against a student for asserting or alleging an act of bullying. “Retaliation” also includes reporting an act of bullying when it is not made in good faith.

IV. Application of Policy

A. This policy applies to any student, school employee, contractor, visitor or volunteer who engages in conduct that constitutes bullying or retaliation, all of whom have the responsibility to comply with this policy.

B. This policy applies to bullying that:

1. Takes place at school or on school grounds, meaning: a school building; property on which a school building or facility is located; and property that is owned, leased or used by a school for a school-sponsored activity, function, program, instruction or training. “School grounds” also includes school-related transportation vehicles.
2. Takes place while students are being transported to or from schools or school-sponsored events;

3. Takes place at any school-sponsored event, activity, function, program, instruction or training; or
4. Takes place elsewhere or through the use of technology, but only if the bullying also infringes on the rights of the student at school as set forth in this policy's definition of bullying.

V. Reporting

Bullying or suspected bullying is reportable in person or in writing (including anonymously) to school personnel.

A. School staff, coaches and advisors for extracurricular and co-curricular activities are required to report incidents of bullying to the school principal or other school personnel designated by the superintendent.

B. Students who have been bullied or are aware of incidents of bullying are strongly encouraged to report this behavior to a staff member or school administrator.

C. Parents and other adults who are aware of incidents of bullying are encouraged to report this behavior to a staff member or school administrator.

D. Acts of reprisal or retaliation against any person who reports an incident of bullying are prohibited. Any student who is determined to have falsely accused another of bullying shall be subject to disciplinary consequences.

VI. Responding

The school principal or a superintendent's designee will:

A. Promptly investigate and respond to allegations of bullying behavior;

B. Keep written documentation of all allegations of bullying behavior and outcomes of the investigations, and report substantiated incidents to the superintendent;

C. Apply disciplinary actions, which may include but are not limited to, imposing a series of graduated consequences that include alternative discipline. In determining the appropriate response to students who engage in bullying behavior, school administrators should consider the type of behaviors, the frequency and/or pattern of behaviors, and other relevant circumstances. Alternative discipline includes, but is not limited to:

1. Meeting with the student and the student's parents;
2. Reflective activities, such as requiring the student to write an essay about the student's misbehavior;
3. Mediation, but only when there is mutual conflict between peers, rather than one-way negative behavior, and both parties voluntarily choose this option;
4. Counseling;
5. Anger management;
6. Health counseling or intervention;
7. Mental health counseling;
8. Participation in skills building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
9. Community service; and

10. In-school detention or suspension, which may take place during lunchtime, after school or on weekends.

D. Remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, which may include referring the victim, perpetrator or other involved persons to counseling or other appropriate services;

E. Communicate to the parent of a student who has been bullied that measures are being taken to ensure the safety of the student who has been bullied and to prevent further acts of bullying;

F. Communicate with a local or state law enforcement agency if the school principal or the superintendent's designee believes that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act may be appropriate; and

G. Notify parents, guardians and students of the right to appeal a decision of a school principal or a superintendent's designee related to taking or not taking disciplinary action in accordance with this policy. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent.

VII. Assignment of Responsibility

A. The School Board is responsible for:

1. Annually providing written versions of this policy and related procedures to students, parents, volunteers, administrators, teachers and school staff.
2. Posting this policy and related procedures on the school administrative unit's publicly accessible website.
3. Including in student handbooks a section that addresses in detail this policy and related procedures.

B. The Superintendent is responsible for:

1. Oversight, implementation, and enforcement of this policy.
2. Designating a school principal or other school personnel to administer the policies at the school level;
3. Developing a procedure for publicly identifying the superintendent's designee or designees for administering the policies at the school level;
4. Developing procedures to implement the requirements for reporting and responding to bullying under sections V and VI of this policy or delegating that responsibility to principals or designees.
5. Ensuring that any contractor, visitor, or volunteer who engages in bullying is barred from school grounds until the superintendent is assured that the person will comply with the policies of the school board; and
6. Ensuring that any organization affiliated with the school that authorizes or engages in bullying or retaliation forfeits permission for that organization to operate on school grounds or receive any other benefit of affiliation with the school;

7. Providing professional development and staff training in the best practices in prevention of bullying and harassment and implementation of this policy;
8. Filing the SAU policies to address bullying and cyberbullying with the Department of Education.

Adopted: May 16, 2013

POLICY ACC: ELIMINATION OF DISCRIMINATION ON THE BASIS OF DISABILITY

Prohibitions or requirements of this policy regarding discrimination against qualified disabled persons solely on the basis of disability apply to the following school district programs conducted by M.S.A.D. #49.

A. Employment

1. No qualified person with a disability shall, on the basis of handicap, be subjected to discrimination, and the school district shall not limit, segregate, or classify any applicant for employment or any employee in any way that adversely affects his/her opportunities or status because of disability.
2. The school district shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless it is clear that an accommodation would impose an undue hardship on the operation of a school district program.
3. The district shall not make use of any employment test or criterion that screens out disabled persons unless the test or criteria is clearly and specifically job-related, and alternative tests or criteria that do not screen out persons with disabilities are not available.
4. While the school district may not make pre-employment inquiry as to whether an applicant has a disability, it may inquire into an applicant's ability to perform job-related functions.

B. Facilities

1. No qualified person with a disability shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination in any school district program because the school district facilities are inaccessible to or unusable by disabled persons.
2. While the school district is not required to make every facility accessible to persons with disabilities, careful planning should be done so that disabled persons may participate in programs or activities. Additions or new facilities shall be so designed that they are readily accessible to and usable by persons with disabilities.

C. Educational Program

1. The school district shall formulate an outreach program that annually shall attempt to identify and locate every qualified pupil with disabilities of school age residing within the school district who is not receiving a public education, and notify such person or the parents of the right to a free appropriate public education.

Approved: January 18, 2007

Disability Harassment

- ➔ Teasing or bullying a child because of his or her disability is illegal.
- ➔ The OCR has determined that disability-based harassment violates both section 504 of the Rehabilitation Act and Title II of the ADA.
- ➔ School officials who witness or receive complaints of disability-based harassment must do the following:
 - Investigate all complaints keeping written records.
 - Make a determination of whether the alleged misconduct occurred
 - If it did, impose disciplinary consequences that appear to reasonably stop the behavior from reoccurring.

POLICY ACAD: HAZING

Maine statute defines injurious hazing as “any action or situation, including harassing behavior that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in a public school.”

Injurious hazing activities of any type, either on or off school property, by any student, staff member, group or organization affiliated with this school unit, are inconsistent with the educational process and shall be prohibited at all times.

“Harassing behavior” includes acts of intimidation or threats and any other conduct that recklessly or intentionally endanger the mental or physical health of a student or staff member.

“Acts of intimidation” include extortion, menacing, direct or indirect threats of violence, incidents of violence, bullying, statements or taunting of a malicious and/or derogatory nature that recklessly or intentionally endanger the mental or physical health of another person, and property damage or theft.

No administrator, faculty member, or other employee of the school unit shall encourage, permit, condone, or tolerate injurious hazing activities. No student, including leaders of students’ organizations, shall plan, encourage, or engage in injurious hazing activities.

Students who violate this policy may be subject to disciplinary action, which may include suspension, expulsion, or other appropriate measures. Administrators, professional staff, and all other employees who violate this policy may be subject to disciplinary action up to and including dismissal.

In the case of an organization affiliated with this school unit that authorizes hazing, penalties may include rescission of permission for that organization to operate on school property or to receive any other benefit of affiliation with the school unit.

Persons not associated with this school unit who fail to abide by this policy may be subject to ejection from school property and/or other measures as may be available under the law.

These penalties shall be in addition to any civil or criminal penalties to which the violator or organization may be subject.

The Superintendent/designee shall be responsible for administering this policy. In the event that an individual or organization disagrees with an action—or lack of action—on the part of the Superintendent/designee as he/she carries out the provisions of this policy, that individual or organization may appeal to the Board. The ruling of the Board with respect to the provisions of this policy shall be final.

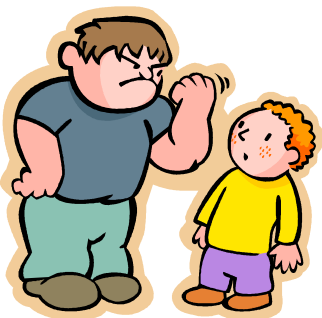
This right to appeal does not apply to student suspensions of 10 days or less or to matters submitted to grievance procedures under applicable collective bargaining agreements.

A copy of this policy shall be included in all school, parent, and employee handbooks or otherwise distributed to all school employees and students.

Legal Reference: 20-A MRSA § 6553

Cross Reference: ACA - Harassment and Sexual Harassment of Students
ACAB - Harassment and Sexual Harassment of Employees

Approved: January 4, 2007



MSAD #49 Official Notices

The following notices will be posted in offices as well as staff and student meeting areas throughout the district. They include statements of policy as well as district procedures for filing complaints or reports or obtaining further information.

MSAD #49 American Disabilities Act, Title IX Notice

MSAD #49 Student Harassment Notice

MSAD #49 Employee Harassment Notice

MSAD #49 Notice of Nondiscrimination

Highlights from MSAD #49 Affirmative Action Notices

Title IX, ADA Guarantees:

- ➡ MSAD #49 does not discriminate on the basis of disability or gender in admission to, access to, or operations of its programs, services, or activities.
- ➡ MSAD #49 does not discriminate on the basis of disability or gender in its hiring practices.
- ➡ MSAD #49 is an Equal Opportunity Employer



