

DOVER SCHOOL DISTRICT	POLICY CODE: ACAB-R
DATE OF ADOPTION: April 10, 2017	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 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 should be addressed through the Board’s Student Discrimination, Harassment, and Bullying 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, religion, creed, color, marital status, familial status, physical or mental disability, national origin, ancestry, genetic information, veteran status, sexual orientation, or gender identity.
- B. “Discrimination or harassment” means discrimination or harassment on the basis of age, sex, race, religion, creed, color, marital status, familial status, physical or mental disability, national origin, ancestry, genetic information, veteran status, sexual orientation, or gender identity. “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 promptly to the Building Administrator,

Superintendent's designee, or the Superintendent. If the employee is uncomfortable reporting concerns to the Building Administrator, Superintendent's designee, or the Superintendent, he/she may report the concern to another school administrator. Any employee who believes he/she has been harassed or discriminated against by the Superintendent should report their concern promptly to Chairman of the Board. Written reports are preferred, but not required.

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, the Superintendent's designee, or the Superintendent. If the concern relates to conduct of the Superintendent, employees are encouraged to discuss their concerns with the Chairman of the Board. 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. Employees also have the right to report incidents of discrimination or harassment directly to the police; the New Hampshire Commission on Human Rights, 2 Chenell Drive, Concord, NH 03301-8501 (telephone: 603-271-2767); the Boston Area Office of the U.S. Equal Employment Opportunity Commission, John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203 (telephone: 1-800-669-4000); and/or, the federal Office for Civil Rights, Regional Director, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02110-1491 (telephone: 617-289-0111).

Complaint Handling and Investigation

- A. Unless the Complaint relates to alleged conduct by the Superintendent, the Building Administrator or Superintendent's designee will promptly inform the Superintendent and the person who is the subject of the Complaint that a Complaint has been received. If the Building Administrator or Superintendent's designee receives a Complaint against the Superintendent, he or she will promptly inform the Chairman of the Board and the Chairman will inform the Superintendent that a Complaint has been received.
- B. The Building Administrator, the Superintendent's designee, Superintendent, or Chairman of the Board, as appropriate in each case, 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 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. The informal resolution process and outcome 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. If the Superintendent is the subject of the Complaint, the informal resolution process and outcome, if any, is subject to the approval of the Chairman of the Board or a designated subcommittee of the Board.

- C. The Complaint will be investigated by the Building Administrator, the Superintendent's designee, or, if the Superintendent is the subject of the Complaint, by an individual designated by the Chairman or a designated subcommittee of the Board ("Investigator"). 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.
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. 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 subject of the Complaint is an employee of the District, any rights conferred under an applicable individual contract or collective bargaining agreement(s) 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 Investigator shall keep a written record of the investigation process.
 6. The Building Administrator, the Superintendent's designee, Superintendent, or, if the Superintendent is the subject of the Complaint, the Chairman or designated subcommittee of the Board 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 an interim remedial measure is ordering no contact between the individuals involved.
 7. The Investigator shall use a preponderance of the evidence standard (i.e., more likely than not) when evaluating the evidence and shall consult with the Superintendent (or, if the Superintendent is the subject of the Complaint, the Chairman or designated subcommittee of the Board) concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
 8. The investigation shall be completed within 30 calendar days of receiving the Complaint, if practicable.
- D. If the Investigator determines that discrimination or harassment occurred, he/she shall, in consultation with the Superintendent (or, with the Chairman or designated subcommittee of the Board if the Superintendent is the subject of the Complaint):
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 and the person(s) who engaged in the discrimination or harassment in writing of the results of the investigation and its resolution (in accordance with applicable state and

federal privacy laws).

- E. After the conclusion of the investigation, the complainant or the subject of the Complaint 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, or the Investigator's recommendation. Appeals must be submitted in writing to the Superintendent within 14 business days of receiving notice of the outcome of the investigation. If the Superintendent performed the initial investigation or is the subject of the Complaint, the appeal shall be reviewed by the Chairman of the Board or a designated subcommittee of the Board. Upon receipt of a valid appeal, the Superintendent or Chair/Subcommittee shall review the investigation report and may conduct further investigation if deemed appropriate. The decision on appeal shall be provided in writing to the parties within 21 business days, if practicable. The decision on appeal shall be final.

Legal Reference: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*)
Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e *et seq.*); 29 CFR § 1604.11
Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*); 28 CFR § 35.107
Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*); 34 CFR § 104.7
Title IX of the Educational Amendments of 1972 (20 U.S.C. § 1681 *et seq.*); 34 CFR § 106.8(b)
Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621 *et seq.*); 34 CFR § 110.25
Equal Pay Act of 1963 (29 U.S.C. § 206(d))
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff *et seq.*)
NH Code Admin. R. Ed. 303.01(i) and (j)
NH RSA 354-A:7

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