

# Monadnock Regional School District

## Anti-Discrimination Procedures Manual

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## NOTIFICATIONS

### Notification of Policy AC – Non-Discrimination

Under New Hampshire law and Board policy, no person shall be excluded from, denied the benefits of, or subjected to discrimination in the District's public schools because of their age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion or national origin. Discrimination, including harassment, against any student in the District's education programs, on the basis of any of the above classes, or a student's creed, is prohibited. Finally, there shall be no denial to any person of the benefits of educational programs or activities, on the basis of any of the above classes, or economic status.

The School District is an Equal Opportunity Employer. The District ensures equal employment opportunities without regard to age, color, creed, disability, gender identity, marital status, national origin, pregnancy, race, religion, sex, or sexual orientation. The District will employ individuals who meet the physical and mental requirements, and who have the education, training, and experience established as necessary for the performance of the job as specified in the pertinent job description(s).

Discrimination against and harassment of school employees because of age, sex, race, creed, religion, color, marital status, familial status, physical or mental disability, genetic information, national origin, ancestry, sexual orientation, or gender identity are prohibited. Additionally, the District will not discriminate against any employee who is a victim of domestic violence, harassment, sexual assault, or stalking.

Any person who believes that he or she has been discriminated against, harassed or bullied in violation of this policy by any student, employee, or other person under the supervision and control of the school system, or any third person who knows or suspects conduct that may constitute discrimination, harassment, or bullying, should contact the District Human Rights Officer, or otherwise as provided in the policies referenced below under this same heading.

### Notification of Policy AC-E – Contact Information

Pursuant to Board policy AC, the District administration is directed to update and publish a list of current personnel and contact information for various positions and outside agencies relating to the District's anti-discrimination policies.

#### **DISTRICT PERSONNEL**

**Human Rights Officer:** Superintendent of Schools

Name: Lisa A. Witte

Address: 600 Old Homestead Highway, Swanzey, NH 03446

Telephone: 603-903-6951

Email Address: lwitte@mrdsd.org

**Title IX Coordinator:** Director of Curriculum, Instruction, and Assessment

Name: Jeremy Rathbun

Address: 600 Old Homestead Highway, Swanzey, NH 03446

Telephone: 603-903-6951

Email Address: jrathbun@mrdsd.org

**504 Coordinator:** Director of Student Services

Name: Catherine Woods

Address: 600 Old Homestead Highway, Swanzey, NH 03446

Telephone: 603-903-6967

Email Address: cwoods@mrsd.org

**OUTSIDE AGENCIES**

Office for Civil Rights, U.S. Department of Education

5 Post Office Square, 8th Floor, Boston, MA 02109-3921; 617-289-0111 [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

Office of Civil Rights, U.S. Department of Agriculture

1400 Independence Avenue, SW, Washington, D.C., 20250-9410; 866-632-9992 [program.intake@usda.gov](mailto:program.intake@usda.gov)

N.H. Commission for Human Rights

2 Industrial Park Drive, Concord 03301; 603-271-2767 [humanrights@nh.gov](mailto:humanrights@nh.gov)

N.H. Department of Justice, Civil Rights Unit

33 Capitol Street, Concord, NH 03301; 603-271-1181

N.H. Department of Education, Commissioner of Education

101 Pleasant Street, Concord, NH 03301; 603-271-3494 [info@doe.nh.gov](mailto:info@doe.nh.gov)

[Notification of Policy ACE – Procedural Safeguards](#)

The school district will ensure that all students with a handicap or disability are provided all necessary procedural safeguards as are required by law. Such procedural safeguards are found in pertinent federal and state laws and regulations. In addition, all staff, students, parents and other interested persons are directed to the New Hampshire Department of Education Procedural Safeguards Handbook. Please refer to the New Hampshire Department of Education [Procedural Safeguards Handbook](#), portions of which are excerpted below.

*Parental Consent*

The District must request parental consent, in writing, for special education and related services to be provided to a child with a disability, as well as for other activities that are part of the special education process, except in certain circumstances. Parental consent must be in writing and it must be “informed” that is, you must understand what is being proposed, what the consequences (pros and cons) are of the action the school is proposing, and why the IEP Team is proposing the changes for which your consent is requested.

Consent means:

- a) You have been fully informed of all information relevant to the activity for which consent is sought in your native language or other mode of communication;
- b) You understand and agree, in writing, to the carrying out of the activity for which your consent is sought, and that the consent describes the activity and lists the records (if any) that will be released and to whom; and
- c) (1) You understand that the granting of consent is voluntary and you may revoke consent at any time;  
(2) Your revocation of consent does not negate (undo) an action that has occurred after you gave your consent and before you revoked it.

The District must obtain your informed, written consent before:

- Conducting an initial evaluation;
- Initial provision of special education and related services to a child with a disability;
- Annual renewal of the IEP and placement of a child with a disability;
- Determining or changing the disability classification;
- Changing the nature or extent of the special education or special education and related services;
- Conducting a reevaluation
- Access to public insurance pursuant to 34 CFR 300.154(d);
- Each time the District proposes to access private insurance;
- Time extensions for reevaluations; and
- Excusal of the IEP Team members under certain conditions.

If the District does not receive your written consent within 14 days and it can demonstrate that it has taken reasonable measures to obtain your consent, the District may implement the following:

- Annual renewal of the IEP and placement of a child with a disability;
- Determining or changing the disability classification;
- Changing the nature or extent of the special education or special education and related services; and
- Conducting a re-evaluation.

### *Parental Rights*

- Parents have the right to present their views regarding the identification, evaluation, placement or provision of a free appropriate education to their child. This includes the right to request an educational evaluation.
- Parents have the right to present information from an independent educational evaluation of their child.
- Parents have the right to have access to all relevant school records of their child.
- Parents and the District may initiate an impartial due process hearing to resolve differences that could not be resolved informally. The request is filed with the NH Department of Education.

### Notification of Policy JRA – Student Records and Access

Within the first weeks of each school year, the District will publish notice to parents and eligible students of their rights under State law, Federal law, and Policy JRA. This notification will include:

- 1) The rights of parents or eligible students to inspect and review the student's education records;
- 2) The intent of the District to limit the disclosure of information in a student's record, except:
  - a. By the prior written consent of the parent or eligible student;
  - b. As directory information; or
  - c. Under certain, limited circumstance, as permitted by law;
- 3) The right of a student's parents or an eligible student to seek to correct parts of the student's educational records which he/she believes to be inaccurate, misleading, or in violation of student rights; this includes a hearing to present evidence that the records should be changed if the District decides not to alter them according to the parent's or eligible student's request;
- 4) The right of any person to file a complaint with the United States Department of Education if the District violates FERPA; and

- 5) The procedure that a student's parents or an eligible student should follow to obtain copies of this policy.

### *Procedure to View Educational Records*

Parents or eligible students may inspect and review that student's education records.

- Although not specifically required, in order that a request is handled in a timely manner, parents/eligible students should consider submitting their request in writing to the school Principal, identifying as precisely as possible the record or records that he/she wishes to inspect.
- The Principal will contact the parents or the eligible student to discuss how access is best arranged for their inspection or review of the records (copies, records brought to a single site, etc.).
- If for any valid reason such as the parent's working hours, the distance between record location sites or the parent or student's health, a parent or eligible student cannot personally inspect and review a student's education records, the Principal may arrange for the parent or eligible student to obtain copies of the records.
- The Principal will make the needed arrangements as soon as possible and notify the parent or eligible student of the time and place where the records may be inspected.
- This procedure must be completed within fourteen (14) days that the request for access is first made.
- When records contain information about students other than a parent's child or the eligible student, the parent or eligible student may not inspect and review the records of the other students. Where practicable, it may be necessary to prepare a redacted copy of the record with all personally identifiable information on other students removed.

### *Procedure to Amend Educational Records*

#### **First-level decision.**

- 1) The parent or eligible should submit a written request asking the building Principal to correct the record.
- 2) If the records are incorrect because of clear error and it is a simple matter to make the change, the Principal should make the correction.
  - a. Both parties shall sign a document/form stating the date the records were changed and that the parent/eligible student is satisfied with the correction.
- 3) If the Principal determines that the record should not be changed, he/she shall:
  - a. Provide the requester a copy of the questioned records at no cost;
  - b. Ask the parent/eligible student to initiate a written appeal of the denial of the request for the change, which will be forwarded to the Superintendent;
  - c. Forward the written appeal to the Superintendent; and
  - d. Inform the parents/eligible student that the appeal has been forwarded to the Superintendent.

#### **Second-level decision**

- 1) The parent/eligible student shall submit a written request to the Principal asking to appeal the decision to the Superintendent. The Principal will forward the appeal to the Superintendent.
- 2) The Superintendent shall, within ten (10) business days after receiving the appeal:
  - a. Review the request;
  - b. Discuss the request with other school officials;
  - c. Make a decision whether or not to make the requested correction to the educational record;
  - d. Schedule a meeting with the parents/eligible student if the Superintendent believes such a meeting would be necessary; and

- e. Notify the parents/eligible student of the Superintendent's decision on their request to correct the student's educational record.
- 3) If the Superintendent determines the records should be changed, he/she will:
  - a. Make the change and notify the parents/eligible student in writing that the change has been made;
  - b. Provide an opportunity for the parent/eligible student to inspect and review the records to verify that the records have been corrected and the correction is satisfactory.
  - c. Both parties shall sign a document/form stating the date the records were changed and that the parent/eligible student is satisfied with the correction.
- 4) If the Superintendent determines the records will not be changed, he/she will notify the parents/eligible student in writing of his/her decision. Such letter will also notify the parents/eligible student of their right to an appeal hearing before the School Board.

### **Third-level decision**

- 1) The parents/eligible student shall submit the request for a hearing with the Superintendent within ten (10) business days of the date of the Superintendent's written decision. The Superintendent will inform the School Board of the request for a hearing and will work with the School Board to schedule a hearing within forty-five (45) days of receipt of the request.
- 2) The hearing will be held in non-public session consistent with the provisions of RSA 91-A: 3 unless the parent/eligible student requests that the hearing be held in public session.
- 3) The School Board will give the parent/eligible student a full and fair opportunity to present evidence relevant to the issues raised under their request.
- 4) The parents/eligible students may be assisted or represented by one or more individuals of their own choice, including an attorney.
- 5) The School Board will issue its final decision in writing within thirty (30) days of the hearing, and will notify the parents/eligible student thereof via certified mail, return receipt requested.
- 6) If the School Board determines that the student record should be changed,
  - a. The Superintendent will make the change and contact the parents/eligible student to review and inspect the records to verify that they have been changed.
  - b. Both parties shall sign a document/form stating the date the records were corrected and that the parent/eligible student is satisfied with the correction.
- 7) The School Board's decision will be final.

Notwithstanding the resolution of any request to correct a student's record(s), in accordance with section (a)(2) of FERPA, a parent or eligible student may insert into that student's educational record a written explanation respecting the content of the record.

### *Maintenance of Student Records*

The Principal of each building is responsible for student record maintenance, access and destruction. All District personnel having access to records shall place great emphasis upon the privacy rights of students and parents. All entries into student records must be dated and signed by the person accessing such records. The Principal will ensure that all records are maintained in accordance with applicable retention schedules as outlined in [Policy EHB-R](#), which includes the following.

## Student Record Retention Schedule

- Permanent Records
  - Assessment Results
  - Attendance
  - Grades
  - Transcripts
- Term of enrollment, plus 3 years
  - Disciplinary Records
  - Health and Physical Records
  - Immunization Record
  - Medical Reports
  - Registration Forms

## Special Education Records

- Upon a student's graduation from high school, his or her parent(s)/guardian(s) may request in writing that the District destroy the student's special education records, including any final individualized education program.
- The parent(s)/guardian(s) may, at any time prior to the student's twenty-sixth birthday, request, in writing, that the records be retained until the student's thirtieth birthday.
- Absent any request by a student's parents to destroy the records prior to the twenty-sixth birthday, or to retain such records until the student's thirtieth birthday, the District shall destroy a student's records and final individualized education program within a reasonable time after the student's twenty-sixth birthday, provided that all such records be destroyed by the student's thirtieth birthday.
- The District shall provide parents/guardians, or where applicable, the adult student, with a written notice of the District's document destruction policies upon the student's graduation with a regular high school diploma or at the transfer of rights, whichever occurs first.
- The District shall provide public notice of its document destruction policy at least annually.

## PROHIBITION OF DISCRIMINATION AND HARASSMENT

[Policy ACAB](#) and [Policy ACAC](#) – Discrimination, Harassment, and Sexual Harassment

### *Discrimination, Harassment, and Sexual Harassment Defined*

**Harassment** includes, but is not limited to, verbal abuse, threats, physical assault and/or battery based on race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, age, genetic information or disability. **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.

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.

Under another federal law, **Title VII**, and under New Hampshire law/regulations, sexual harassment is defined differently. The New Hampshire Commission for Human Rights law states that “unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- 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 individual is used as the basis for employment decisions affecting such individual; 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.”

### *Prohibitions*

Harassment of students because of age, sex, gender identity, sexual orientation, race, creed, color, ancestry or national origin, marital status, familial status, physical or mental disability, religion, or economic status is prohibited. Such conduct is a violation of Board policy and may 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 educational programs and activities, are required to refrain from such conduct.

Harassment and sexual harassment of students by school employees are 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 Superintendent will determine appropriate sanctions for harassment of students by persons other than school employees and students.

Harassment of school employees because of sex, gender identity, sexual orientation, race, creed, color, ancestry or national origin, marital status, familial status, physical or mental disability, religion, or genetic information are prohibited. Such conduct is a violation of Board policy and may constitute illegal discrimination under state and federal laws. Any employee who engages in harassment or sexual harassment shall be subject to disciplinary action, up to and including discharge.

## **REPORTING**

Any person who believes that he or she has been discriminated against, harassed or bullied in violation of this policy by any student, employee, or other person under the supervision and control of the school system, or any third person who knows or suspects conduct that may constitute discrimination, harassment, or bullying, should contact the District Human Rights Officer, or otherwise as provided in the policies referenced below under this same heading.



Any employee who has witnessed, or who has reliable information that another person may have been subjected to discrimination, harassment, or bullying in violation of this policy has a duty to report such conduct to his/her immediate supervisor, the District Human Rights Officer, or as provided in one of the policies or administrative procedures referenced below under this same heading. Additionally, employees who observe an incident of harassment or bullying are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator and it is safe to do so. If an employee knows of an incident involving discrimination, harassment, or bullying and the employee fails to report the conduct or take proper action or knowingly provides false information in regard to the incident, the employee will be subject to disciplinary action up to, and including, dismissal.

Investigations and resolution of any complaints shall be according to the policies listed below and related administrative procedures or regulations. Complaints or reports regarding matters not covered in one or the other of those policies should be made to the District Human Rights Officer.

- a. Reports or complaints of sexual harassment or sexual violence by employees or third party contractors should be made under [Board Policy ACAB](#) and [Board Policy ACAB-R](#)
- b. Reports or complaints of sexual harassment or sexual violence by students should be made under [Board Policy ACAC](#) and [Board Policy ACAC-R](#)
- c. Reports or complaints of discrimination on the basis of disability should be made under [Board Policy ACAB](#) (employees or other non-students) or [Board Policy ACAC](#) (students)
- d. Reports or complaints regarding facilities accessibility by disabled non-students or employees, which should be made under [Board Policy KED](#)
- e. Reports or complaints of bullying or other harassment of pupils should be made under [Board Policy JICK](#).

#### *Discrimination/Harassment Complaint Procedure*

This procedure should be used for any complaint of unlawful harassment or discrimination based on a protected category which does not involve Title IX sexual harassment.

#### *How to Make a Complaint*

1. An employee who believes they have been unlawfully harassed or discriminated against (as such terms are defined in Section 1.A.1-3) is encouraged to try to resolve the problem by informing the individual(s) that the behavior is unwelcome or offensive and requesting that the behavior stop. This shall not prevent the employee from making an immediate complaint to the Title IX Coordinator.
2. Any employee who believes they have been harassed or discriminated against should report their concern promptly to the Title IX Coordinator. A written complaint must include basic information concerning the allegation of harassment or discrimination (i.e., date, time, location, individual(s) who allegedly engaged in harassment or discrimination, description of the allegation).
3. 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 the matter with the Title IX Coordinator.

4. 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 discharge.
5. Any employee who believes they have been discriminated against or harassed is encouraged to utilize the school 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 for Human Rights 2 Industrial Park Drive Concord, NH 03301 and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

### Complaint Handling and Investigation

1. The Title IX Coordinator will promptly inform the Superintendent and the person who is the subject of the complaint (respondent) that a complaint has been received.
2. The Title IX Coordinator 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. Any informal resolution is subject to the approval of the parties and the Superintendent, who shall consider whether the resolution is in the best interest of the school district and the parties in light of the particular circumstances and applicable policies and laws.
3. The Title IX Coordinator may implement supportive measures (consistent with any applicable collective bargaining agreement provisions) to reduce the risk of further discrimination or harassment while an investigation is pending. Examples of supportive measures include, but are not limited to, ordering no contact between the individuals involved; changing a work location or changing a work schedule.
4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the Title IX Coordinator. 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.
5. The investigator shall consult with the Title IX Coordinator as agreed during the investigation process.
6. The respondent 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 respondent, but may choose to do so as part of an informal resolution process.
7. The complainant and the respondent may suggest witnesses and/or submit materials they believe are relevant to the complaint.
8. If the complaint is against an employee of the school district, any rights conferred under an applicable collective bargaining agreement shall be applied.
9. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
10. The investigation shall be completed within 40 business days of receiving the complaint, if practicable. Reasonable extensions of time for good reason shall be allowed.
11. The investigator shall provide a written report and findings to the Title IX Coordinator.

### Findings and Subsequent Actions

1. The Title IX Coordinator shall consult with the Superintendent concerning the investigation and findings.

2. If there is a finding that discrimination or harassment occurred, the Title IX Coordinator, in consultation with the Superintendent:
  - a. Shall determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect and prevent recurrence; and
  - b. Determine what disciplinary action should be taken against the individual(s) who engaged in discrimination or harassment, if any.
3. Inform the complainant and the respondent in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).

### Appeals

1. After the conclusion of the investigation, the complainant or respondent 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.
2. Appeals must be submitted in writing to the Superintendent within five business days after receiving notice of the resolution.
3. Upon receipt of a valid appeal, the Superintendent shall provide notice to the other party, along with an opportunity to provide a written statement within five business days.
4. The Superintendent shall review the available documentation and may conduct further investigation if deemed appropriate.
5. The Superintendent's decision on the appeal shall be provided to the parties within 10 business days, if practicable. The Superintendent's decision shall be final.

### *Title IX Sexual Harassment Complaint Procedure*

This procedure should be used ONLY for complaints of Title IX sexual harassment.

### How to Make a Report

1. Any individual who believes an employee has been sexually harassed may make a report to the Title IX Coordinator.
2. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the Title IX Coordinator will meet with the alleged victim to discuss supportive measures that may be appropriate in the particular circumstances and explain the process for filing a formal complaint.
  - a. Supportive measures are individualized measures designed to ensure the employee can continue to access and perform their work (such as requiring no contact between individuals, temporarily moving work locations or changing schedules, etc.).
  - b. Supportive measures may be continued even if the alleged victim chooses not to file a formal complaint, if appropriate under the particular circumstances.
3. The school district cannot provide an informal resolution process for resolving a report until a formal complaint is filed.
4. Employees will not be retaliated against for reporting sexual harassment, or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary actions, up to and including discharge.

5. Any employee who believes they have been the victim of sexual harassment is encouraged to utilize the school district's complaint procedures. However, employees are hereby notified that they also have the right to report sexual harassment to the New Hampshire Commission for Human Rights 2 Industrial Park Drive, Concord, NH 03301 and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).
6. The Superintendent shall be informed of all reports and formal complaints of sexual harassment.

### How to Make a Formal Complaint

1. An alleged victim may file a formal written complaint requesting an investigation of alleged Title IX sexual harassment. The written complaint must include basic information concerning the allegation of sexual harassment (i.e., date, time, location, individual(s) who allegedly engaged in sexual harassment, description of the allegation). Employees who need assistance in preparing a formal written complaint, are encouraged to consult with the Title IX Coordinator.
2. In certain circumstances, the Title IX Coordinator may file a formal complaint even when the alleged victim chooses not to. Examples include if the respondent (person alleged to have engaged in sexual harassment) has been found responsible for previous sexual harassment or there is a safety threat within the school district). In such cases, the alleged victim is not a party to the case but will receive notices as required by the Title IX regulations at specific points in the complaint process.
3. In accordance with the Title IX regulations, the Title IX Coordinator must dismiss a formal complaint under this Title IX procedure if a) the conduct alleged in the formal complaint does not constitute sexual harassment under the Title IX regulations and this policy; b) if the conduct alleged did not occur within the scope of the school district's educational programs and activities, or c) did not occur in the United States.
4. In accordance with the Title IX regulations, the Title IX Coordinator may dismiss a formal complaint under this Title IX procedure if: a) a complainant withdraws the formal complaint, or withdraws particular allegations within the complaint; b) the respondent is no longer employed by the school district, or c) there are specific circumstances that prevent the school district from gathering evidence sufficient to reach a determination regarding the formal complaint.
5. If a formal complaint is dismissed under this Title IX procedure, the Title IX Coordinator will promptly and simultaneously send written notices to the parties explaining the reasons. Parties have the opportunity to appeal dismissals in accordance with subsection I below.
6. If the conduct alleged potentially violates other laws, Board policies, and/or professional expectations, the school district may address the conduct under Section 2 or another applicable policy/procedure.

### Administrative Leave

The Superintendent may place a respondent on administrative leave during the complaint procedure:

1. If there is a determination (following an individualized safety and risk analysis) that there is an immediate threat to the physical health or safety of an individual arising from the allegations of sexual harassment. Examples of such circumstances might include, but are not limited to, a continued threat of violence against a complainant by a respondent, or a respondent's threat of self-harm due to the allegations.
2. The respondent will be provided notice of the administrative leave and will be provided an opportunity to challenge the decision following the removal (this is an opportunity to be heard, not a hearing). The respondent has the burden to demonstrate why the emergency leave was unreasonable.

3. Any such decision to place an employee on administrative leave shall be made in compliance with any applicable disability laws, including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

### Notice to Parties of Formal Complaint

1. The Title IX Coordinator will provide to the parties written notice of the formal complaint and allegations of sexual harassment potentially constituting prohibited conduct under the Title IX regulations and this procedure. The notice will include:
  - a. Notice regarding the complaint procedure and the availability of an informal resolution process;
  - b. Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (not less than five business days);
  - c. As required by the Title IX regulations, a statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the complaint), and that the parties may inspect and review evidence;
  - d. Notice that the parties may each have an advisor of their choice (who may be an attorney) and that the parties may inspect and review evidence;
  - e. Notice that knowingly making false statements or submitting false information during the complaint procedure is prohibited and may result in disciplinary action; and
  - f. Notice of the name of the investigator, with sufficient time (no less than three business days to raise concerns of conflict of interest or bias.
2. If additional allegations become known at a later time, a notice of the additional allegations will be provided to the parties.
3. The Title IX Coordinator will discuss supportive measures with each party and implement such measures as appropriate.

### Informal Resolution Process

After a formal complaint has been filed, and if the Title IX Coordinator believes the circumstances are appropriate, the HRO/Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and determination process. Informal resolutions cannot be used to resolve a formal complaint where a student is the complainant and the respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; disciplinary actions against a respondent or a requirement to engage in specific services; or supportive measures. Both parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time. The Superintendent must agree to the terms of any informal resolution reached between the parties. If an informal resolution agreement is reached, it must be signed by both parties and the school district. Any such signed agreement is final and binding according to its terms. If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the subsequent investigation or determination.

## Investigation

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and Title IX Coordinator. 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.
2. The investigator shall consult with the Title IX Coordinator as agreed during the investigation process.
3. If the complaint is against an employee of the school district, rights conferred under an applicable collective bargaining agreement shall be applied, to the extent they do not conflict with the Title IX regulatory requirements.
4. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.
5. The investigator will:
  - a. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.
  - b. Allow parties to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process.
  - c. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.
  - d. Interview witnesses and conduct such other activities that will assist in ascertaining facts (site visits, review of documents, etc.).
  - e. Consider the evidence that is relevant and directly related to the allegations in the formal complaint.
  - f. During the course of the investigation, provide both parties with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint (including evidence which the school district does not intend to rely upon in reaching a determination of responsibility), and favorable and unfavorable evidence.
  - g. Prior to completion of the investigation report, provide each party and advisor (if any) the evidence subject to inspection and review, and provide the parties with ten business days to submit a written response. Consider the parties' written responses to the evidence prior to completing the investigation report.
  - h. Create an investigative report that fairly summarizes relevant evidence and send the report to the parties and advisors (if any), for their review and written responses within ten business days of receipt.
  - i. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned decision-maker.
6. The investigation shall be concluded within 40 business days if practicable. A reasonable extension of time for good reason shall be allowed.

## Determination of Responsibility

1. The decision-maker shall provide the parties with the opportunity to submit written, relevant questions that the party wants to be asked of another party or witness within five business days of when the decision-maker received the investigation report and party responses.



- a. The decision-maker shall explain to a party proposing questions if the decision-maker excludes a question as not relevant.
2. Each party shall be provided the opportunity to review the responses of another party and/or witness, and to ask limited written follow-up questions within five business days of receiving the answers.
3. Each party will receive a copy of the responses to any follow-up questions.
4. The decision-maker shall review the investigation report, the parties' responses, and other relevant materials, applying the preponderance of the evidence standard ("more likely than not").
5. The decision-maker shall issue a written determination, which shall include the following:
  - a. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy;
  - b. A description of the procedural steps taken from receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and meetings held;
  - c. A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;
  - d. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the school district's programs and activities will be provided to the complainant;
  - e. The school district's appeal procedure and permissible bases for the parties to appeal the determination.
6. The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that the school district provides the parties with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

### Remedies, Discipline and Other Actions

Remedies are measures used to ensure that the complainant has equal access to the school district's educational programs and activities following the decision maker's determination. Such remedies may include supportive measures and may include other appropriate measures, depending upon the determination and the needs of the complainant. The Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the Complainant.

The following are examples of the types of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations involving sexual harassment:

- Written warning.
- Probation.
- Demotion.
- Suspension without pay.
- Discharge.

The following are examples of other types of actions that may be imposed on an employee when there is a determination of responsibility:



- Performance improvement plan.
- Counseling.
- Training.
- Loss of leadership/stipend position.

## Appeals

The parties have the opportunity to appeal a determination regarding responsibility, and from dismissals of formal complaints. Under the Title IX regulations, appeals are allowed on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the formal complaint was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent that affected the outcome of the matter.

An appeal must be filed in writing within five business days of receiving the determination, stating the grounds for the appeal, and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

1. Appeals must be filed with the Superintendent, who will consider the appeal.
2. The Superintendent shall conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with legal counsel or other school district officials in making their decision.
3. The Superintendent shall issue a written decision describing the result of the appeal and rationale for the result, and provide the written decision simultaneously to the parties. The decision will either deny the appeal; grant the appeal and remand to the decision-maker for further consideration; or grant the appeal by revising the disciplinary action(s).

## Filing the Complaint Form

The complaint shall:

- 1) Be signed by the complainant
- 2) Describe in detail the specific incident(s), occurrence(s), decision(s), and other facts believed to constitute unlawful discrimination, harassment, or retaliation
- 3) Name as the respondent(s) the individual, department, committee, or other body whom the complainant believes to have engaged in prohibited behavior, and
- 4) Include a brief statement describing the resolution, relief, or action requested by the complainant

See [Appendix A](#) for Complaint Form. This form can be completed electronically [HERE](#).

## PREVENTION

It is important that all students and employees understand what constitutes discrimination and harassment and their right to report unwelcome behavior. Administration should educate those within their building regarding this policy annually, and should be watchful for behavior which fits the description of discrimination or harassment. Employees who witness such behavior as a third party have a responsibility to report it.

## FALSE CLAIMS OF NON-DISCRIMINATION/NON-HARASSMENT

The District recognizes that not every advance or communication based on race, color, religion, gender identity, sexual orientation, national origin, disability, age or status in any group protected by federal or state law constitutes discrimination or harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory/harassing employment or classroom learning effect requires a determination based on all the facts and surrounding totality of circumstances. False accusations of discrimination and/or harassment can have a serious detrimental effect on innocent parties and may result in disciplinary action.

## EMPLOYEE ASSISTANCE PROGRAM

For persons employed by the school system who are involved in a harassment accusation or incident of discrimination/harassment, the Monadnock Regional School District provides support from the Employee Assistance Program (EAP). The intent of this program, in this case, would be to help the employee deal with the psychological effects of being involved in the process. The District's Human Rights Officer may assist employees in contacting the EAP for assistance.

## ALTERNATIVE COMPLAINT PROCEDURES AND LEGAL REMEDIES

At any time, whether or not an individual files a complaint or report under this Policy, an individual may file a complaint with the Office for Civil Rights ("OCR"), of the United States Department of Education, or with the New Hampshire Commissioner for Human Rights.

**Office for Civil Rights**, U.S. Department of Education

5 Post Office Square, 8th Floor, Boston, MA 02109-3921; 617-289-0111 [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

**Office of Civil Rights**, U.S. Department of Agriculture

1400 Independence Avenue, SW, Washington, D.C., 20250-9410; 866-632-9992 [program.intake@usda.gov](mailto:program.intake@usda.gov)

**N.H. Commission for Human Rights**

2 Industrial Park Drive, Concord 03301; 603-271-2767 [humanrights@nh.gov](mailto:humanrights@nh.gov)

**N.H. Department of Justice**, Civil Rights Unit

33 Capitol Street, Concord, NH 03301; 603-271-1181

**N.H. Department of Education**, Commissioner of Education

101 Pleasant Street, Concord, NH 03301; 603-271-3494 [info@doe.nh.gov](mailto:info@doe.nh.gov)

## APPENDIX A – DISCRIMINATION / HARASSMENT COMPLAINT FORM

*If you have experienced or been threatened physically or sexually with assault, harm, or injury, notify 911 immediately.*

Please fill out this form if you believe you have experienced or witnessed an act of discrimination, harassment (including bullying and other behaviors that lead to a hostile work environment), or retaliation.

You may submit this form electronically or by hard copy to a trusted supervisor, administrator, or the Human Rights Officer at the MRSD SAU office located at 600 Old Homestead Highway, Swanzey, NH, 03446. If you prefer to submit a complaint verbally, you may do so by contacting any of the previously mentioned staff members. If you prefer to submit this complaint anonymously, please mail to 600 Old Homestead Highway, Swanzey, NH, 03446 or send through interoffice mail to: Human Rights Officer – SAU Office.

### **HARASSMENT, DISCRIMINATION, OR RETALIATION COMPLAINT FORM**

#### **What type of complaint are you filing?**

(Choose all that apply)

☐ Discrimination (check all that apply)

- ☐ Age
- ☐ Creed
- ☐ Disability, presence or perception of
- ☐ Gender
- ☐ Gender identity
- ☐ Genetic information
- ☐ Marital status
- ☐ Military status
- ☐ National origin
- ☐ Pregnancy
- ☐ Race/ethnicity/color
- ☐ Religion
- ☐ Sexual orientation
- ☐ Other (please explain):

☐ Harassment

☐ Hostile Work Environment

☐ Retaliation

☐ Sexual Harassment

☐ Other (please explain): \_\_\_\_\_

**Please include any information that you are able to and/or comfortable including.**

<b>Who is filing this complaint?</b> <i>Leave blank if filing anonymously.</i>	
Name:	
<input type="checkbox"/> <b>MRSD Employee or Student</b>	<input type="checkbox"/> <b>Non-MRSD Employee or Student</b>
School:	Affiliation:
Phone:	Phone:
Email:	Email:
Notes:	Notes:

<b>Who is this complaint against?</b>	
Name:	
<input type="checkbox"/> <b>MRSD Employee or Student</b>	<input type="checkbox"/> <b>Non-MRSD Employee or Student</b>
School:	Affiliation:
Phone:	Phone:
Email:	Email:
Notes:	Notes:
Date(s) of incident(s):	Date(s) of incident(s):

**Please describe what happened.** The more information and details you are able to provide, the more helpful it will be in our ability to follow-up. The type of information that is helpful includes: dates, times, locations, witnesses, and any details you are able to provide about the event(s), incident(s), and/or behavior(s). If you have included your name, we may follow up with you for more information.