

NONDISCRIMINATION/EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

Discrimination against and harassment of school employees because of race, color, sex, sexual orientation, religion, ancestry or national origin, age, disability or genetic information are prohibited. Discrimination against and harassment of students because of race, color, sex, sexual orientation, religion, ancestry or national origin, or disability are prohibited.

The Board directs the school administration to implement a continuing program designed to prevent discrimination against all applicants, employees, students and individuals with disabilities having access rights to school premises and activities. The _____ School Department Affirmative Action Plan will include designation of an Affirmative Action Officer who will be responsible for ensuring compliance with all federal and state requirements relating to nondiscrimination. The Affirmative Action Officer will be a person with direct access to the Superintendent.

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.

The School Department will require all persons, agencies, vendors, contractors, and other persons and organizations doing business with or performing services for the school unit 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)
Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq.), as amended
Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), as amended
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
Maine Human Rights Act of 1972 (5 MRSA § 4571), as amended

Cross Reference: _____ School Department Affirmative Action Plan
ACAA - Harassment and Sexual Harassment of Students
ACAB - Harassment and Sexual Harassment of School Employees

Note: This sample includes bullying in Policy JICIA, if bullying is separate policy, these references should be revised.

HARASSMENT AND SEXUAL HARASSMENT OF STUDENTS

Harassment of students because of race, color, sex, sexual orientation, religion, ancestry or national origin, 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 based on race, color, sex, sexual orientation, religion, ancestry or national origin, or disability. Harassment that rises to the level of physical assault, battery and/or abuse and bullying behavior are also addressed in the Board policy JICIA – Weapons, Violence, Bullying and School Safety.

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 of students by school employees is considered grounds for disciplinary action, up to and including discharge. Harassment/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.

The Superintendent or the employee designated as the Title IX Coordinator *[may be the Affirmative Action Officer/Sexual Harassment Officer(s) as determined by the local school unit]* 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: ACAA-R – Student Harassment Complaint Procedure

DWM SAMPLE POLICY - 2009

NEPN/NSBA Code: ACAA

AC – Nondiscrimination/Equal Opportunity and Affirmative Action

ACAD – Hazing

JFCK – Student Use of Cellular Telephones and Other Electronic
Devices

JICIA – Weapons, Violence, Bullying and School Safety

**STUDENT DISCRIMINATION AND HARASSMENT COMPLAINT
PROCEDURE**

[NOTE: The organizational structure of local school units varies widely, as do the personnel and resources available for investigating complaints. This sample complaint procedure is intended to provide general guidance for local Boards in developing a procedure that meets local needs and conditions.]

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.

[NOTE: The Board should make a determination at the local level regarding the staff authorized to receive and investigate student discrimination and harassment complaints. Examples of such staff may be an Affirmative Action Officer, building principal, or guidance counselor who has received appropriate training and has an understanding of the legal issues involved in addressing complaints. The Board may also want to consider providing both male and female staff members to whom students can make complaints and/or varying the procedure depending upon the age of students served in a particular building. Local Boards should insert specific staff member(s) by title wherever the term “school administrator” appears in bold throughout this procedure.]

[NOTE: The time lines in this procedure are only suggestions and may be adapted to meet local needs. However, the Board should take care not to unreasonably limit the time school administrators may have to investigate and resolve complaints.]

How to Make a Complaint

- A. Any student who believes he/she has been discriminated against or harassed should report their concern promptly to **[school administrator]**. Students who are unsure whether discrimination or harassment has occurred are encouraged to discuss the situation with **[school administrator]**.
- B. School staff are 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.
- 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: 207-624-6290) and/or to 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. **[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. **[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 **[school administrator]**, 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.

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3. Privacy rights of all parties to the Complaint shall be maintained in accordance with applicable state and federal laws.
 4. **[School administrator]** shall keep a written record of the investigation process.
 5. **[School administrator]** may take interim remedial measures to reduce the risk of further discrimination or harassment while the investigation is pending.
 6. **[School administrator]** shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
 7. The investigation shall be completed within 21 calendar **[or business]** days of receiving the Complaint, if practicable.
- D. If **[school administrator]** 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 **[or business]** days after receiving notice of the resolution. The Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. The Superintendent's decision shall be final.

[NOTE: Local Boards may want to allow appeal of the Superintendent's decision to the Board.

Optional language:

- 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 [or business] 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**

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NEPN/NSBA CODE: ACAA-R

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.
20-A MRSA §§ 6001 et seq.

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

HARASSMENT AND SEXUAL HARASSMENT OF SCHOOL EMPLOYEES

Harassment of school employees because of race, color, sex, sexual orientation, religion, ancestry or national origin, age, genetic information 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, sex, sexual orientation, religion, ancestry or national origin, age, genetic information 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.

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.

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 References: 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.), as amended
Rehabilitation Act of 1973 (Section 504) (29 USC § 794 et seq.), as amended
Title VII (42 USC § 2000c-2; 29 CFR § 1604.11)
Age Discrimination in Employment Act (29 USC §623)
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff et seq.)
5 MRSA §§ 4602; 4681 et seq.
20 MRSA § 6553
26 MRSA §§ 806-807

Cross Reference: ACAB-R- School Employee Discrimination and Harassment
Complaint Procedure
AC- Nondiscrimination/Equal Opportunity and Affirmative Action
ACAD- Hazing

Adopted: _____

Employee Discrimination and Harassment Complaint Procedure

[NOTE: The organizational structure of local school units varies widely, as do the personnel and resources available for investigating complaints. This sample complaint procedure is intended to provide general guidance for local Boards in developing a procedure that meets local needs and conditions.]

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:

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

How to Make a Complaint

[NOTE: The Board should make a determination at the local level regarding the staff authorized to receive and investigate employee discrimination and harassment complaints. Examples of such staff may be an Affirmative Action Officer or building principal who has received appropriate training and has an understanding of the personnel and legal issues involved in addressing complaints. The Board should identify a specific staff member(s) by title wherever the term “school administrator” appears in bold type throughout this procedure.]

[NOTE: The time lines in this procedure are only suggestions and may be adapted to meet local needs. However, the Board should take care not to unreasonably limit the time school administrators may have to investigate and resolve complaints. In addition, the Board should ensure that the definition of “days” (calendar versus business days) for filing and responding to complaints does not conflict with the definition used in collective bargaining agreements or other Board policies/procedures.]

- 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 **[school administrator]**. If the employee is

uncomfortable reporting concerns to **[school administrator]**, he/she may report the concern to **[alternate school administrator]**. **[Optional: 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 **[school administrator]**. 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: 207-624-6290) and/or to 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. **[School administrator]** will promptly inform the Superintendent and the person who is the subject of the complaint that a complaint has been received.
- B. **[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 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 **[school administrator]**, 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. **[School administrator]** shall keep a written record of the investigation process.

5. **[School administrator]** 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. **[School administrator]** shall consult with the Superintendent concerning the investigation, conclusions, and any remedial and/or disciplinary actions.
 7. The investigation shall be completed within 21 calendar **[or business]** days of receiving the complaint, if practicable.
- D. If **[school administrator]** 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 **[or business]** days after receiving notice of the resolution. The Superintendent shall review the investigation report and may conduct further investigation if deemed appropriate. The Superintendent's decision shall be final.

[The Board should decide whether to allow appeal of the Superintendent's decision to the Board. If so, the following optional language can be used.]

Optional language: If the employee is dissatisfied with the decision of the Superintendent, he/she may appeal to the School Board within 14 calendar [or business] 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)
Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff
et seq.)
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

NOTE: This policy involves complex issues. We recommend consulting with legal counsel before making changes to this sample or any time service animal issues arise that are not specifically addressed here.

SERVICE ANIMALS IN THE SCHOOLS

The following rules shall govern the use of service animals by persons in the schools.

A. General Conditions

1. Only qualified individuals with disabilities are eligible to use service animals in school.
2. Use of a service animal by a person with a disability will be allowed in school when the animal is required to perform work or tasks directly related to the individual's disability.
3. "Service animal" is defined in Maine law as follows:

A dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation or other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability, and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.

4. The District will not be responsible for the training, feeding, grooming or care of any service animal permitted to attend school under this policy (except in the limited circumstances described in Section B.2.a.2). It shall be the responsibility of the individual with a disability or designated handler to ensure the proper care and supervision of the service animal.
5. All service animals must be kept on a harness, leash or tether unless this prevents the animal from performing his/her specific work or tasks with the individual. The animal must be under the control of the individual with a disability or designated handler at all times.

6. The individual with a disability (or in the case of a student, the student's parent(s)) is liable for any damage to school or personal property and any injuries to individuals caused by the service animal.
7. Individuals with service animals may access the same areas that individuals without disabilities are authorized to access.

B. Administrative Review of Service Animals

1. Whenever a service animal is in school or on school property (and it is not obvious that the dog qualifies as a service animal, e.g., guide dog for a blind person), a building administrator or other authorized school official may ask:
 - a. Whether the service animal is required because of a disability;
 - b. What work or task(s) the animal has been trained to perform.
2. When it is anticipated that a service animal is going to be in the school on a regular basis with an employee, student, volunteer or other frequent visitor to the school, the individual using the service animal (or in the case of a student, the student's parent(s)) are expected to notify the building administrator in advance.
 - a. The school shall not provide staff support to care for or control a service animal, but may provide support to a student using a service animal as needed in a particular instance (i.e., accompanying a young student who takes a service animal outside to relieve him/herself).
 - b. Any handler (parent or other person) accompanying the service animal must have approval to work in the school from the Maine Department of Education and undergo the State criminal background check.
3. Service animals must be properly licensed and vaccinated.

C. Removal or Exclusion of Service Animals from School

1. A building administrator or other authorized school official may require that a service animal be removed from the school or other school property under any of the following circumstances:
 - a. The service animal poses a direct threat to the safety of individuals at school, causes a significant disruption of school activities or otherwise jeopardizes the safe operation of the school;
 - b. The service animal demonstrates that he/she is unable to perform reliably the work or tasks which he/she was represented as being able to perform;
 - c. The service animal is not under the full control of the person with a disability, or the authorized handler.

- d. The service animal is sick (i.e., vomiting, etc.), infested with parasites, has an infection of the skin, mouth or eyes, or otherwise presents a threat to the public health;
- e. The service animal demonstrates that it is not sufficiently trained to relieve him/herself outside the school building; and/or
- f. The service animal's presence significantly impairs the learning of students and/or fundamentally alters the nature of any school program.

D. Miniature Horses

Miniature horses are not defined as service animals under state or federal law. However, miniature horses which have been individually trained to perform specific work or tasks may be permitted in the schools in certain circumstances as a reasonable accommodation for a qualified individual with a disability. Any such requests should be directed to the building administrator for consideration. If a miniature horse is approved, all the conditions in this policy shall apply.

Legal References: 42 U.S.C. § 12101 et seq.
28 C.F.R. §§ 35.104; 35.130(h); 35.136
5 M.R.S.A. §§ 4553; 4592
Maine Human Rights Commission Rule Chapter 7

Cross Reference: AC-Nondiscrimination/Equal Opportunity and Affirmative Action
ACAA-R – Student Discrimination and Harassment Complaint
Procedure
ACAB-R – Employee Discrimination and Harassment Complaint
Procedure

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.”

It is the policy of the Board that 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.

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 student organizations, shall plan, encourage, or engage in injurious hazing activities.

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.

Administrators, faculty members, students, and all other employees who fail to abide by this policy; may be subject to disciplinary action which may include suspension, expulsion, or other appropriate measures. In the case of an organization affiliated with this school unit which 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.

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

The Superintendent shall assume responsibility 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 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.

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-MRSA § 6553

Cross Reference: ACAA - Harassment and Sexual Harassment of Students
ACAB - Harassment and Sexual Harassment of Employees
JICIA - Weapons, Violence, Bullying and School Safety

EDUCATIONAL PHILOSOPHY/MISSION

As advocates for children, the Board recognizes that the thorough and efficient education of children is its primary statutory-based responsibility. To this end, the Board considers proper and adequate support of schools to be a civic responsibility shared by all citizens.

The school unit will provide an educational environment designed to encourage each student to acquire the necessary skills and perspectives needed for a meaningful life and career. All schools will strive to encourage students to form desirable habits that are necessary for them to become responsible, informed citizens. In general, we aim to have students develop attitudes and practices necessary for satisfying, worthwhile lives.

We believe that all children must be provided equal but not identical opportunities to allow them to achieve at levels commensurate with their abilities. We believe that all students must learn in an environment which allows them to develop positive attitudes toward themselves and genuine respect for others.

A rigorous core curriculum designed to achieve specific learning outcomes will be provided. It will be planned with the goal of creating and maintaining standards which will furnish students with the skills necessary for success in a global society while giving them a broad educational foundation compatible with their interests, aptitudes and aims. The curriculum and graduation requirements will be regularly evaluated to ensure their continued appropriateness.

In order to achieve our goals and to implement this philosophy, we believe that all schools must secure the involvement of the community, students, staff, parents and citizens. Educational responsibility must be shared with important community institutions. We strongly believe that our school system's success depends on good rapport and cooperation with our communities and its institutions.

The Board recognizes the professional staff as the body that is legally charged with the responsibility of providing education to all children. In fulfilling this responsibility, the staff will seek to ensure the following.

- A. All children will master basic skills in the areas of language arts, mathematics, science, history, and technology.
- B. Instruction will be provided which is appropriate to each individual with respect to goals, methodology and evaluation.

- C. Students will be seen in their totality as physical, mental, social, and aesthetic beings, which requires knowledge of child growth and development.
- D. Staff members, in order to effectively execute their responsibilities, will establish goals for themselves consistent with the philosophy of the Board and individual schools. Staff members will engage in a self-evaluation process for the purposes of self-improvement—the ultimate objective being an improved instructional program for all students.
- E. The Board recognizes that this highly technological society demands that students learn how to cope with change and learn to accept that “learning” is a continuous process.

The Board fully accepts the responsibility of formulating policies and acquiring adequate funding to support the education process. The Board will always consider the welfare of students as the single most important factor in making decisions relative to educational policy. It will be the responsibility of the Board and administrators to promote sound educational practices and professional development.

Legal Reference: 20-A MRSA, §§ 1001 et seq.; 4511.3, A

Adopted: _____

SCHOOL DISTRICT GOALS AND OBJECTIVES

The Board recognizes its responsibility to set goals for the efficient operation of the school unit. In discharging this responsibility, the Board will strive to ensure that the resources of the unit are directed toward meeting the educational needs of each eligible student.

The Board will develop annual goals based on input solicited from a variety of sources. These goals will be shared with the community, the staff, and the students. The administration shall develop appropriate objectives designed to achieve the stated priorities.

The Board will regularly evaluate progress toward meeting the goals and will adopt appropriate policies designed to facilitate their accomplishment.

Legal Reference: 20-A MRSA § 4511.3, A

Adopted: _____

TOBACCO USE AND POSSESSION

In order to promote the health, welfare and safety of students, staff and visitors and to promote the cleanliness of all facilities, the Board prohibits smoking and all other use of tobacco products in school buildings, on school property, on school buses or in any other School Department vehicle, at all times and by all persons.

Students are further prohibited from possessing, selling, distributing or dispensing tobacco products at all times on school property, in school buses or other vehicles used to transport students, and during school-sponsored events and activities, wherever they take place.

Employees and all other persons are also strictly prohibited, under law and Board policy, from selling, distributing or in any way dispensing tobacco products to students. Employees may not use tobacco products at any time while supervising students, whether on or off school property.

Legal References: 22 MRSA § 1578(B); 1580(A)(3)
Me. PL 470 (An Act to Reduce Tobacco Use By Minors)
20 USC § 4301 et seq. (Pro-Children Act of 2001)

SCHOOL UNIT COMMITMENT TO LEARNING RESULTS

[Note: School Boards are now required by Chapter 127 to adopt a policy that provides “all students equitable opportunities to access the content standards of the system of learning results.” This sample has been modified to meet this specific requirement and to add cross references to policies directly related to the implementation of the learning results.]

The _____ School Board hereby adopts the system of learning results and the Maine Department of Education’s applicable rules. The learning results system is intended to serve as a foundation for education reform and to provide assessment of student learning, accountability and equitable opportunities for all students to access the content standards. The Board recognizes that the legislative intent of the learning results system is to provide children with schools that reflect high expectations and create conditions where these expectations can be met.

The Board understands that implementation of the learning results system has broad implications for the school unit, including curriculum, budget, professional development, student assessment, professional evaluation, and graduation requirements. Therefore, the Board is committed to examining its policies to make them consistent with the intent and goals of the learning results system.

The Board directs the Superintendent to develop a plan and timeline for implementing the learning results system and any appropriate administrative procedures. The Board further directs the Superintendent to report to the Board on a regular basis on progress toward implementing the learning results system.

Legal References: 20-A M.R.S.A. §§ 6208-6209
L.D. 1536, Chapter 51 Resolves
Chapters 125, 127 and 131 (Maine Dept. of Ed. Rules)

**SCHOOL PROPERTY DISPOSITION
(PROPERTY OTHER THAN REAL ESTATE)**

The Superintendent is authorized to determine, through procedures he/she develops, whether personal property such as supplies, books, materials, and equipment is obsolete or no longer of use to the school unit and to declare it surplus personal property.

Procedures for disposal of surplus property shall be in accordance with the following:

- A. The Board is to be informed of any property valued over \$500.00 which is declared surplus by the Superintendent prior to its disposal.
- B. Municipal officers shall be notified of the planned disposal of property valued over \$5,000.00.
- C. Surplus property which is offered for sale shall be disposed of by sealed bids or proposals, public auction, public sale, or by other such means as the Board may direct. Notice of any sale of surplus property shall be given in a manner reasonably calculated to notify potentially interested parties of such sale.
- D. Any surplus property which is offered for sale and is not sold may be disposed of in a manner deemed advisable by the Superintendent, including donation to nonprofit agencies.
- E. The Board may direct the Superintendent to sell or donate surplus property to a specific community service organization if, in the Board's judgment, the sale or donation will best serve the interests of the school unit and the community, and when such sale or donation is not contrary to law.
- F. Any property deemed to be worthless, or for any reason considered to be inappropriate for sale, may be disposed of in a manner the Superintendent deems appropriate.
- G. All revenues which result from the sale of surplus property shall be credited in one of the following ways: 1) as miscellaneous school income; or 2) when applicable, towards the cost of goods or services to be provided to the Board; or 3) when required by law, to a specific account.

COMPREHENSIVE EMERGENCY MANAGEMENT PLAN
(FORMERLY: CRISIS RESPONSE PLAN)

The Board hereby adopts the [school unit name] Comprehensive Emergency Management Plan. The Superintendent and building administrators shall be responsible for developing, in consultation with staff and persons or agencies with expertise in planning for and responding to emergencies, a comprehensive emergency management plan that identifies and addresses all hazards and potential hazards that could reasonably be expected to affect the school unit and school facilities.

The Superintendent and building administrators shall be responsible for ensuring that the plan is implemented in each school and evaluated on an annual **basis [optional: and after each incident when the plan is used]**. It is understood that specific procedures may vary from school to school due to differences in school facilities and the ages of students.

As required by law, the Board will approve the plan annually. Any substantive changes in the plan shall be subject to the approval of the Board.

The following information pertaining to the [school unit name] Comprehensive Emergency Management Plan is considered public information:

- A. A description of the scope and purpose of the Plan and the process used for developing and updating it;
- B. General information on auditing for safety and preparedness;
- C. Roles and responsibilities of school administrators, teachers and staff and the designated chain of command during an emergency; and
- D. Strategies for conveying information to parents and the general public during an emergency.

Except as specified in paragraphs A through D above, those portions of the Comprehensive Emergency Management Plan and any other records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism shall not be considered public information under the Freedom of Access Act but only to the extent that the release of such information could reasonably be expected to jeopardize the physical safety of school unit personnel or the public. For the purpose of this policy, “terrorism” is defined as in 1 M.R.S.A. § 402(3)(L) as “conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple

structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure.”

Legal Reference: 20-A M.R.S.A. § 1001(16)

Adopted: _____

[NOTE: Beginning with the 2003-2004 school year, all public and private schools in Maine are required to “adopt and implement a written policy for the application of IPM techniques in school buildings and outdoors on school grounds.” We have written this Board-level policy narrowly to address the key components of the regulations with which schools must comply. Local school units will need to refer to the regulations and develop an appropriate IPM plan and administrative procedures to implement these requirements.]

INTEGRATED PEST MANAGEMENT

The _____ School Department utilizes Integrated Pest Management (IPM) techniques in an effort to reduce reliance on pesticides in school buildings and on school grounds. When possible, non-pesticide options will be used to manage pests. When it is determined that a pesticide must be used, the least hazardous material and method of application will be chosen and applications will be timed to minimize the impact on staff, students and other users of school facilities.

IPM Coordinator

The Superintendent shall appoint an IPM Coordinator who is responsible for developing and implementing the school unit’s IPM plan and procedures; ensuring that the schools comply with all public notice requirements concerning pesticide applications; and maintaining required records.

Notice Requirements

The school unit will provide all public notices required by state regulations, including the following:

[NOTE: Please let us know if you would like to receive copies of our sample notification forms.]

1. School staff and parents/legal guardians will be notified within two weeks of the start of the school year that the school unit has an IPM policy and where it may be reviewed; that pesticides may periodically be applied in schools and on school grounds; and that required notices will be provided prior to pesticide applications. The notice will also advise staff and parents/legal guardians where they may review a report of prior pesticide

applications, information about the pesticides used and a copy of the state pesticides in schools regulations.

[Note: The state regulations allow school units to choose between the following two options regarding notice of pesticide applications. It is important to note that the written notice of pesticide applications must be given at least five days in advance. Posting of the pesticide application site must be done two working days in advance and for 48 hours afterwards.]

2. **OPTION 1:** School staff and parents/legal guardians shall be notified five days before pesticide applications not exempted by state regulations are performed in school buildings or on school grounds.

OR

OPTION 2: The school unit has established a notification registry whereby school staff and parents/legal guardians may request in writing that they be notified five days before pesticide applications not exempted by state regulations are performed in school buildings or on school grounds. School staff and parents/legal guardians shall be notified of this option in the annual notice.

3. Whenever pesticide applications not exempted by state regulations are performed in a school building or on school grounds, signs shall be posted at each access point to the treated area and in a common area of the school two working days before and for 48 hours after an application.

Recordkeeping

The IPM Coordinator shall maintain required records of pesticide applications for two years.

Cross References: Integrated Pest Management Plan/Procedures

Legal References: CMR 01-26 Chapter 27 – Standards for Pesticide Applications and Public Notification in Schools
7 M.R.S.A. §§ 601-625
22 M.R.S.A. §§ 1471-A-X

DRUG AND ALCOHOL TESTING OF SCHOOL BUS DRIVERS

In accordance with the federal Omnibus Transportation Employee Testing Act of 1991, in addition to other pertinent state and federal laws promulgated to effectuate a drug and alcohol free workplace, the _____ School Board is committed to the establishment of an alcohol and controlled substance testing program for school bus drivers, in addition to any other employees who drive vehicles to transport sixteen (16) or more passengers, including the driver.

The purpose of the testing program shall be to help prevent accidents, injuries and deaths resulting from the misuse of alcohol and controlled substances by drivers performing safety-sensitive functions. The Superintendent shall be responsible for the implementation of an alcohol and drug testing program consistent with federal regulations and shall implement additional administrative procedures to assist and further the implementation of the federal mandates regarding alcohol and controlled substances testing as he/she deems necessary.

Legal References: 49 CFR Part 382
26 MRSA §§ 681(8)(B); 685(2); 689

Adopted: _____

DRUG AND ALCOHOL TESTING OF SCHOOL BUS DRIVERS ADMINISTRATIVE PROCEDURE

The _____ School Board, hereinafter referred to as the “Board,” is committed to the establishment of an alcohol and controlled substance testing program that meets all applicable requirements of the federal Omnibus Transportation Employee Testing Act of 1991, in addition to pertinent state laws and regulations. The purpose of the testing program shall be to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by drivers performing safety-sensitive functions.

The following administrative procedure represents a summary of the main provisions found in federal regulations promulgated to effectuate drug and alcohol testing of bus drivers. The following procedure in no way attempts to modify said regulations, which should always be referred to when questions as to implementation of this policy/procedure arise.

I. APPLICABILITY

All person operating a commercial motor vehicle in commerce in any state and subject to the commercial driver’s license requirements mandated under both federal and state laws, including the Omnibus Transportation Employee Testing Act of 1991, shall be subject to the drug and alcohol testing provisions herein contained.

II. IMPLEMENTATION

The Superintendent shall be responsible for implementing a drug and alcohol testing program which complies with procedures set forth in Title 49 Parts 40, 382, 390 and 395 of the Federal Code of Regulations. Such testing program shall include pre-employment/pre-duty drug testing, post-accident testing, random testing, reasonable suspicion testing, return-to-duty and follow-up testing. This school unit shall provide parties subject to testing with written notice of materials and information available to them as required by Part 382.

[Optional: Bid specifications and contracts for transportation shall require that the contractor establish a drug and alcohol testing program which complies with federal regulations and that is acceptable to the Board.]

III. CONTROLLED SUBSTANCES

Controlled substances in this policy/procedure refer to those covered by the Omnibus Transportation Employee Testing Act of 1991, including marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

IV. SAFETY-SENSITIVE FUNCTION

Safety-sensitive function(s) in this policy/procedure refer to functions defined in 49 CFR § 382.107 and § 395.2 (On-Duty Time, paragraphs (1) through (6)).

V. PROHIBITIONS

All drivers subject to this policy shall be prohibited from:

- A. Using any alcohol while on duty and four (4) hours prior to going on duty;
- B. Possessing alcohol while on duty;
- C. Reporting for duty or remaining on duty while having an alcohol concentration of 0.02 or greater;
- D. Using any alcohol for eight (8) hours following an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first;
- E. Refusing to submit to a required alcohol or controlled substance test(s);
- F. Reporting for duty or remaining on duty when using any controlled substance, except when use is pursuant to the instructions of a physician who advised the driver that the substance does not adversely affect the driver's ability to safely operate the vehicle; and
- G. Reporting for duty, remaining on duty, or performing a safety-sensitive function, if the driver tests positive for a controlled substance.

VI. REQUIRED TESTING

- A. **Pre-Employment Testing.** Prior to the first time a driver performs a safety-sensitive function for the school unit, the driver shall undergo testing for controlled substances. However, no driver shall be subjected to pre-employment controlled substance testing prior to having been offered a position. Employment is conditioned upon a **verified negative** controlled substance test result.
- B. **Post-Accident Testing.** As soon as practicable following an accident, each surviving driver will be subject to alcohol and controlled substance testing as follows:
 - 1. Any driver performing safety-sensitive functions with respect to the vehicle if the accident involved loss of human life;
 - 2. Any driver who receives a citation under State or local law for a moving violation arising from the accident; and a. Causes bodily injury to a person

who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

b. Should one or more motor vehicles incurring disabling damage as a result of the accident, require a motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

2. In addition, the following provisions will also apply.

a. **Alcohol.** If a test required under this section is not administered within two (2) hours following the accident, the school unit shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test is not administered within eight (8) hours following the accident, the school unit shall cease attempts to administer the test and shall prepare and maintain the same record. Records shall be submitted to the Federal Highway Administration (FHWA) upon request of the Associate Administrator.

b. **Controlled Substances.** If a test required by this section is not administered within thirty-two (32) hours following the accident, the school unit shall cease attempts to administer the test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FHWA upon request of the Associate Administrator.

C. **Random Testing.** All drivers subject to this policy/procedure will be subject to random and unannounced alcohol and controlled substance testing throughout the year. The minimum annual percentage rate for testing of bus drivers is as follows:

1. Random alcohol testing shall be a minimum of 10 percent of the number of driver positions each selection period; and
2. Random controlled substance testing shall be a minimum of 50 percent of the number of driver positions each selection period.

[Optional: If the school unit conducts random testing for alcohol and/or controlled substances through a consortium, the number of drivers to be tested may be calculated for each individual school unit or may be based on the total number of drivers covered by the consortium who are subject to random testing at the same minimum annual percentage rate under 49 CFR Part 382 or any Department of Transportation random testing rule.]

D. **Reasonable Suspicion Testing.** All drivers subject to this policy/procedure shall submit to alcohol and controlled substance testing when the employer has reasonable suspicion to believe that the driver has violated the prohibitions found

in Part V. of this procedure, with the exception of Part V.B. regarding alcohol possession. The school unit shall base its determination that reasonable suspicion exists requiring the driver to undergo such testing on observations concerning appearance, behavior, speech or body odors of the driver. When controlled substances are at issue, observations may include indications of the chronic and withdrawal effects of controlled substances.

In addition, the following provisions also apply:

1. **Alcohol.** Alcohol testing will be performed only if the aforementioned observations are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this policy/procedure. If a test required under this section is not administered within two (2) hours following the reasonable suspicion determination, the school unit shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required under this section is not administered within eight (8) hours following a determination that reasonable suspicion exists, the school unit shall cease attempts to administer an alcohol test and shall state in the record reasons for not administering the test. The school unit shall submit to the FHWA records of tests required by this section that were not completed within eight (8) hours according to the mandates of 49 CFR § 382.307 (3).
 2. **Controlled Substances.** The school unit shall, within twenty-four (24) hours or before the results of the controlled substances test are released, whichever is earlier, create a written record of the observations leading to a controlled substances test which shall be signed by the supervisor or school unit official making said observations.
- E. **Return-to-Duty Testing.** Prior to returning to duty requiring the performance of safety-sensitive functions when a driver has engaged in conduct prohibited under this policy/procedure, the driver shall undergo a return-to-duty alcohol and/or controlled substances test(s) as appropriate.

Drivers found to have engaged in prohibited conduct under the alcohol provisions of this policy/procedure will not be permitted to return to duty unless the subsequent alcohol test reveals a result less than or consistent with federal and state standards. In cases involving controlled substances, a **verified negative** result is necessary before a driver may return to duty.

- F. **Follow-up Testing.** In the event that a driver has been found to have been in violation of the prohibitions herein contained and is identified as requiring assistance in resolving problems associated with alcohol and/or controlled substances, the school unit shall require the driver to submit to at least six (6) unannounced follow-up alcohol and/or controlled substances tests during the first twelve (12) months after returning to duty. Follow-up tests will be unannounced

and may continue for up to sixty (60) months after returning to duty. Follow-up alcohol testing shall be conducted only when the driver is performing, just before, or just after ceasing to perform safety-sensitive functions.

VII. REFUSAL TO SUBMIT TO TESTING

All drivers who are required by federal regulations to submit to drug/alcohol testing must do so immediately upon being directed to submit to the test(s). A driver's refusal to submit to testing will subject the driver to immediate removal from the performance of safety-sensitive functions. In addition, failure to comply with Federal regulations or this procedure is grounds for disciplinary action up to and including dismissal. Any of the following actions on the part of a driver constitutes a refusal to submit to a test:

- A. Failure to provide adequate specimens/samples of substance(s) undergoing testing, including but not limited to breath and urine, without a valid medical reason;
- B. Refusing to empty his or her pockets;
- C. Refusing to wash his/her hands after being directed to do so by the test collector;
- D. Admitting to the collector that he/she adulterated or substituted his/her specimen;
- E. Behaving in a confrontational way that disrupts the collection process;
- F. Declines to allow a collection to be monitored or directly observed (as allowed federal regulations);
- G. With respect to direct observation collections, the employee fails to follow the observer's instructions to raise or lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process; or he employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
- H. Refuses to void through self-catheterization if this is the employee's normal method.

Refusal to cooperate in completion of required paperwork is recorded by the collector, but does not by itself constitute a refusal to test.

VIII. TRAINING FOR SUPERVISORS

This school unit will assign persons who will be designated to determine whether reasonable suspicion exists to require a driver to undergo testing under Part 382, with at least sixty (60) minutes of training on alcohol misuse and receive at least an additional sixty (60)

minutes of training on controlled substances. Training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

IX. ENFORCEMENT

This school unit, in its independent authority as an employer, shall subject any driver who violates this policy/administrative procedure or Federal regulations to potential disciplinary action up to and including dismissal, except to the extent that any state law or collective bargaining agreement requires otherwise.

In addition, any driver who refuses to submit to a post-accident, random, reasonable suspicion, return-to-duty or follow-up test(s) shall not perform or continue to perform safety-sensitive functions.

Furthermore, no driver tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions including driving a commercial motor vehicle until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours after the test was administered.

X. RECORDS

Employee drug and alcohol tests and results shall be maintained under strict confidentiality in a secure location with controlled access and released only in accordance with law. A driver, upon written request, shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug tests. Records shall be made available to subsequent employers or other identified persons only when expressly requested in writing by the driver.

XI. NOTIFICATIONS

Each driver shall receive educational materials prior to the school unit's commencement of alcohol and controlled substances testing. Such material will explain the requirements of the Code of Federal Regulations, Title 49 Part 382, and contain a copy of the Board's policy and administrative procedures for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information. The school unit shall also include in the package of informational material submitted to each driver, a statement certifying that he/she has received the informational material. The school unit shall maintain the original signed copy of the statement on file.

In addition to the aforementioned items, the school unit shall also make available to drivers and representatives of employee organizations information which shall identify:

- A. The person designated by the school unit to answer questions about the materials;
- B. The procedures that will be used to test for the presence of alcohol and controlled substances; protect the driver and the integrity of the testing processes, safeguard

the validity of the test results, and ensure that those results are attributed to the correct driver;

- C. Information concerning the effects of alcohol and controlled substances on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substance(s) problem (the driver's or co-worker's); and available methods of intervening when an alcohol or controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management; and

[Optional:

D. Post-accident procedures that will make it possible for a driver to comply with post-accident testing before any driver operates a commercial vehicle.]

[Optional:

This school unit shall also make available the following information:

- A. **The results of pre-employment controlled substance test(s) if the applicant requests such results within sixty (60) calendar days of being notified of the disposition of the employment application; and**
- B. **The results of random, reasonable suspicion and post-accident drug tests if the results are verified positive. The school unit shall also tell the driver which controlled substance(s) was verified as positive.]**

[Optional:

XII. CONTROLLED SUBSTANCES

Drivers shall inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such substance may be used in conjunction with duty only if the physician has advised the driver that it will not adversely affect his/her ability to safely operate a commercial motor vehicle.]

XIII. REFERRAL, EVALUATION, AND TREATMENT

- A. **Referral.** A driver who has engaged in conduct prohibited by this policy/procedure shall be advised by the school unit of resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances. The information the bus driver receives will include: names, addresses, and telephone numbers of substance abuse professionals, counseling and treatment programs, in

addition to information relating to his/her responsibility with regard to payment of such services.

- B. **Evaluation/Treatment.** A driver who engages in such prohibited conduct shall be evaluated by a substance abuse professional who shall determine what assistance or treatment, if any, the employee needs in resolving controlled substance(s) use.

XIV. RETURN TO DUTY

If a school unit has not discharged a driver due to his/her engagement in prohibited conduct under this policy/procedure, the bus driver must, prior to returning to safety-sensitive duties:

- A. Undergo return-to-duty testing and obtain an alcohol concentration level of less than 0.02 and/or a verified negative test for controlled substances;
- B. Have been evaluated by a substance abuse professional; and
- C. Have followed prescribed and/or recommended treatment.

XV. OTHER POLICIES/PROCEDURES

Nothing contained in this administrative procedure shall prevent the Board from establishing and enforcing independent policies/procedures relating to the possession, being under the influence of, distribution, sale or use of alcohol or controlled substances or any misconduct associated therewith and the penalties for violation of those policies/procedures, up to and including dismissal.

Legal References: 49 CFR Parts 40, 382, 390, 395
Title 26 MRSA §§ 681(8)(B); 685(2); 689

Adopted: _____

NOTE: Please be advised that an “Optional” paragraph in the above administrative procedure is solely optional with regard to whether it is incorporated into the Board’s administrative procedure, as the provisions contained in these paragraphs are legally mandated under 49 CFR Part 382. The only exception is Paragraph XII., “Controlled Substances,” which is not mandated but permissible under Section 382.213 of the federal regulations.

SALES OF FOODS IN COMPETITION WITH THE FOOD SERVICE PROGRAM

The [name of school unit] supports good nutrition and healthy eating habits for students. The Board believes that nutrition influences a student's ability to benefit from the educational program and that good nutrition is related to student achievement. Foods and beverages sold as part of the [name of school unit]'s food service program shall include only those items which contribute to the nutritional needs of children and the development of desirable food habits, and shall not include foods of "minimal nutritional value" as defined in federal regulations.

A. Exceptions to the Requirement that Foods and Beverages Be Sold as Part of the Food Service Program

The Board recognizes that the sale of foods and beverages outside of the [name of school unit]'s food service program often provides a significant source of funds for student activities/programs and community organizations using school facilities. Therefore, Board will allow the sale of foods and beverages outside of the food service program as follows:

[Note: Local Boards may choose to permit one or any combination of the following exceptions listed in Rule Chapter 51]

1. To school staff;
2. To the public at school-sponsored community events held on school property (i.e., school-sponsored events that are open to the public, such as plays or art shows);
3. To the public at community events held on school property in accordance with the Board's facilities use policy;
4. In state-approved instructional Career and Technical Education Culinary Arts Programs
5. By a school-approved student organization or program if consistent with the requirement that such sales not include foods of "minimal nutritional value" (see Section B).

B. Restrictions on Sales of Foods/Beverages of "Minimal Nutritional Value"

In general, foods and beverages sold on school property may not include foods of "minimal nutritional value." Federal regulations identify the following categories of foods and beverages as foods of "minimal nutritional value": soda water; water ices, chewing gum, and certain candies, including hard candy, jellies and gums, marshmallow candies, fondant, licorice, spun candy, and candy-coated popcorn. The only exceptions to the prohibition on sales of foods and beverages of "minimal nutritional value" are sales to school staff and sales to the public at a

community or school-sponsored event. Foods and beverages of “minimal nutritional value” may not be sold to students at any time except during an event open to the public. For example, foods and beverages of “minimal nutritional value” cannot be sold during dances open only to students.

C. Funds from Food and Beverage Sales Outside the Food Service Program

In general, funds from all food and beverage sales made at any time on school property shall accrue to the benefit of the food service program. However, school-approved/sponsored student organizations/programs and non-school sponsors of public events held in accordance with the Board’s facilities use policy may retain funds raised through the sale of foods and beverages authorized by this policy. **[Note: This paragraph should be revised if a local board does not allow any non-school event sponsors to sell foods/beverages in competition with the food service program. Local boards should also review their facilities use policy and make sure that it includes language consistent with this paragraph.]**

D. Policy Implementation

The Superintendent is responsible for implementing this policy and for developing any administrative procedures necessary, consistent with applicable state and federal laws and regulations. The Superintendent may delegate specific responsibilities to administrators and other school staff as he/she deems appropriate.

Legal Reference: 42 U.S.C. § 1751 et seq. (National School Lunch Program)
7 C.F.R. Part 210 et seq.
20-A M.R.S.A. § 6601
Maine Department of Education Rule Chapter 51 (Child Nutrition Programs in Public Schools and Institutions)

Cross Reference: KF – Community Use of School Facilities
[Note: Other appropriate cross references may include policies addressing student fundraising; booster organizations; and student activities accounts.]

DRUG-FREE WORKPLACE

The Board of Directors recognizes that alcoholism and drug dependency are treatable diseases. Left untreated, they may result in serious personal and family problems. At the same time, the Board is also seriously concerned about the effects of alcohol and drug dependency upon an employee's job performance and ability to serve as a role model for our students.

The Board believes strongly that all employees and students should be able to work and learn in an environment free, from alcohol and drug abuse. Accordingly, the Board expects all employees to report for work and to perform their duties in a manner which does not jeopardize the health, safety and well-being of co-workers and students.

Any employee who suspects that he/she may have an alcohol or drug dependency problem is strongly encouraged to contact his/her supervisor to seek voluntary diagnosis and treatment. The employee will be provided confidential referral services to an outside agency upon request and assisted in determining the extent to which insurance coverage to help pay for such services is available. All voluntary referrals shall be kept confidential.

Prohibited Conduct

No employee shall distribute, dispense, possess, use or be under the influence of any alcoholic beverage, malt beverage or fortified wine or other intoxicating liquor. Nor shall an employee unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid or any other controlled substance (as defined in schedules I through V of section 202 of the federal Controlled Substance Act [21 USC § 812]; by regulation at 21 CFR, § 1300.11 through 1300.15; and in 17-A MRSA, § 1101). This applies-before, during and after school hours, at school or in any other school system location, defined as follows:

"School system location" means in any school building or on any school premises; in any school-owned vehicle or in any other school-approved vehicle used to transports students to and from school or school activities; off school property at any school-sponsored or school-approved activity, event or function, such as a field trip, or athletic event, where students are under the jurisdiction of the school, unit; or during any period of time such employee is supervising students on behalf of the school system or otherwise engaged in school unit business.

Any illegal use, possession, furnishing, selling or provision of assistance in obtaining alcoholic beverages or scheduled drugs not covered by the preceding paragraph is also prohibited.

In addition, employees (including coaches) are prohibited from selling, distributing or promoting any performance-enhancing substances included on the banned substances list prepared by the Maine Department of Health and Human Services Office of Substance Abuse.

Appropriate disciplinary action shall be taken against any employee who violates this policy, up to and including dismissal. Referrals for assistance or treatment do not preclude disciplinary action being taken for violations of this policy.

As provided in the Drug-Free Workplace Act of 1988, any employee is required to notify the school unit of a criminal or civil conviction for a drug violation occurring in the workplace no later than five calendar days after such conviction. In turn, the Superintendent, within 10 calendar days of learning of such a conviction, is to give written notification to the U.S. Department of Education and to any other federal agency from which the unit receives grant funds.

Implementation

The Superintendent shall be responsible for developing and administering appropriate procedures to implement this policy.

Communication

A copy of this policy is to be given or mailed to all current employees and to new employees at the time of their employment and is to be posted in appropriate locations throughout the school system.

Legal Reference: 21 U.S.C. § 812 (Controlled Substances Act)
 21 C.F.R. §§ 1300.11-1300.15
 Fed. P.L. 101-226
 17-A MRSA § 1101
 20-A MRSA § 6621 et seq.

Cross Reference: JICH - Drug and Alcohol Use by Students

Adopted: _____

FAMILY CARE LEAVE

Maine’s “Act to Care for Families” requires employers who provide paid leave under the terms of a collective bargaining agreement or employment policy to allow employees to use such leave to care for an immediate family member who is ill (hereafter referred to as “family care leave”) in accordance with the conditions described in this policy.

I. Definitions

For the purposes of this policy, the following definitions from the Act to Care for Families apply:

- A. “Immediate family member” means an employee’s child, spouse or parent.
- B. “Paid leave” means time away from work by an employee for which the employee receives compensation, and is limited to sick time, vacation time, compensatory time and leave that is provided as an aggregate amount for use at the discretion of the employee for any of these same purposes. Paid leave does not include paid short-term or long-term disability, catastrophic leave or similar types of benefits.

II. Amount of Leave Available

An employee may take up to 40 hours of available paid leave (or the amount provided by an applicable collective bargaining agreement if that is greater) as family care leave per 12-month period. For the purposes of this policy, the 12-month period is [**Note: We suggest inserting the same period as the school unit uses to calculate FMLA leave here**]. An employee may not use paid leave for family care leave purposes until it has been earned. If the employee has more than one type of paid leave available under an applicable collective bargaining agreement or employment policy, he/she may specify which type and the amount of each type of leave to be used as family care leave.

All family care leave taken by an employee shall be counted toward his/her entitlement under the federal Family and Medical Leave Act or state Family Medical Leave Act.

III. Employee Notice Requirements

Notice and verification requirements for use of family care leave shall be the same as those required by the school unit for an employee’s own illness. The employee must specify that leave is being taken pursuant to the Act to Care for Families. [**Note: The school unit should revise any applicable leave forms to include this requirement.**]

Legal Reference: 26 M.R.S.A. § 636

Cross Reference: GBN – Family and Medical Leave

RECRUITING AND HIRING OF ADMINISTRATIVE STAFF

In response to an Act to Promote Equity of Opportunity for Women in Administrative Positions in the Public School System (PL 1990, Chap. 889), the Board affirms its commitment to the strict prohibition of discrimination in employment on the basis of race, color, national origin or ancestry, religion, sex, sexual orientation, age, genetic information or disability, and to the principle of affirmative action to obtain wide and representative candidate pools.

In accordance with 20-A MRSA, § 1001.13, the Superintendent shall prepare a procedure designed to ensure nondiscriminatory practice in recruitment and hiring all positions requiring administrator certification, as well as to result in selection of the most qualified candidates. This procedure shall be attached hereto as GCFB-R, and shall be reviewed periodically.

Moreover, upon each occasion of administrative vacancy, the Superintendent shall review the procedure and make appropriate adaptations as may be warranted by special circumstances.

In accordance with 20-A MRSA, § 4502.4-A, the unit's Affirmative Action Plan shall include: a description of the status of the unit's nondiscriminatory administrator hiring practice; plans for in-service training programs on gender equity for teachers, administrators and the School Board; and the relationship of the above to the State's five-year goal for the employment of women in administrative positions.

Legal Reference: 5 MRSA § 4576
20-A MRSA §§ 6, 254.8-10, 256.1, 7, 1001.13, 4502.4A, 13011.6,
13019-A.1D, 13019-B.1C

Cross Reference: AC – Nondiscrimination/Equal Opportunity and Affirmative Action
GBJC – Retention of Application Materials
GCFB-R - Recruiting and Hiring of Administrative Staff
Administrative Procedure

Adopted: _____

RECRUITING AND HIRING OF ADMINISTRATIVE STAFF PROCEDURES

These procedures implement Board policy GCFB and are designed to establish a thorough, efficient and nondiscriminatory practice for the recruiting and hiring of the most qualified candidates for administrative positions.

A. Job Description Development/Review

To ensure that a written role description of the vacant position accurately represents the current functions and needs, the Superintendent/designee (the Board in a Superintendent search) is to:

1. Conduct a review of (if none exists, develop) the job description, with input from persons affected by the position;
2. Include the criteria (skills, knowledge, abilities) required to perform the duties/responsibilities of the position; and
3. List the minimum qualifications (training, education and experience) for the position.

B Recruitment

To attract a strong pool of qualified candidates, the Superintendent/designee is to advertise (except in circumstances described in K below) by:

1. Posting the notice of the vacancy within the unit;
2. Placing a display advertisement in appropriate print media, considering at least one appearance in a major Maine weekend or Sunday newspaper; and
3. Identifying and notifying other possible sources of potential candidates, such as professional associations, educational administration programs and placement offices at colleges and universities in Maine and other states, and the Maine Department of Education.

C. Screening

To ensure that a fair and efficient screening process will occur, the Superintendent/designee is to:

1. Ensure that all applications are reviewed by more than one individual with attention given to an unbiased regard for the criteria and qualifications in the job description;
2. Appoint a screening panel with representation as deemed appropriate to the particular vacancy;
3. Provide orientation on confidentiality and equity issues to screeners;
4. Eliminate all candidates who do not meet the minimum qualifications;
5. Conduct preliminary reference checks, as appropriate;
6. Select candidates for interview based on the degree to which they meet the criteria and demonstrate the skills, knowledge and abilities outlined in the job description; and
7. Notify applicants not selected for interview.

D. Interviewing

To ensure that the interview process will be conducted in a legal and proper manner, the Superintendent/designee is to:

1. Appoint an interview panel (may be the same persons who serve the screening function) with representation as deemed appropriate to the particular vacancy;
2. Provide orientation on the process including the function and extent of responsibility of the panel, the weighting of criteria and the nomination/hiring procedure; and
3. Conduct training to ensure that panel members are aware of the legal aspects of interviewing, including confidentiality and equity issues.

The interviewing panel is to:

1. Design interview questions which match the criteria and the duties/responsibilities outlined in the job description; and
2. Provide equal opportunity for the candidates to respond to the same questions/questioners.

E. Selection

The interview panel is to:

1. Individually assess the candidates according to their answers to the job description-related questions, rating and commenting on each using a specially prepared form corresponding to the questions/criteria; and
2. Submit a report to the Superintendent, including the individual rating forms as well as a list (usually 2 to 4) of candidates to be considered further for the position.

The Superintendent/designee is to:

1. Have reference contacts made, as appropriate, to check perceived strengths and weaknesses of the candidates;
2. Review the material on the finalist candidates to determine whether additional information is needed;
3. Conduct final interviews of any or all finalists, as deemed necessary;
4. Select the most qualified candidate who fits the criteria and the duties/responsibilities outlined in the job description, based on his/her own professional judgment along with those of the interview panel (or, reject all finalists, reopen the position and begin the process anew); and
5. Have any further reference checks made, as appropriate.

F. Nomination/Employment

The Superintendent is to:

1. Notify and obtain agreement of the successful candidate, pending Board approval;
2. Inform the interview panel; and
3. Nominate and employ the successful candidate in accordance with state law and local policies.

G. Notification

The Superintendent/designee may:

1. Notify the nominee of the Board approval and employ the administrator;
and
2. Notify the other candidates interviewed.

H. Orientation and Support

To ensure that the new administrator is provided with the proper information about the system and job expectations, the Superintendent/designee is to provide an orientation that includes expectations of the duties/responsibilities of the position along with the policies and procedures of the local school unit.

I. Record Keeping

To ensure that the confidentiality of employee and applicant records are properly maintained, the Superintendent is to provide for the maintenance in secure files of all applications and documentation of the hiring, screening and interviewing process for a period of three (3) years.

J. Confidentiality

To ensure that confidentiality is maintained throughout and permanently following the hiring process, the Board, all employees involved, and any other participants are to maintain absolute confidentiality about candidates, including names, in accordance with state law (20-A MRSA § 6101). The Board is to assume responsibility through the Superintendent for providing adequate orientation at appropriate stages of the process, including at the completion.

K. Hiring of Current Employees

The school unit may forego one or more of the steps set forth in sections B-E of this procedure and appoint a person who is currently employed by the unit to fill an administrative position only if the Superintendent, after consultation with the School Board, or the Board in a Superintendent search, determines that the following circumstances exist:

1. The currently employed candidate is exceptionally well qualified for the position; and
2. The decision to forego all or part of the recruitment and screening process will not detract from the goals of this policy.

PROFESSIONAL STAFF DEVELOPMENT OPPORTUNITIES

The Board recognizes the importance of developing, maintaining, and extending the skills of staff members and encourages employees to engage in programs and activities that will lead to their professional growth and increased competence.

The Superintendent is authorized to initiate programs and activities which are designed to serve the following purposes:

- A. To provide a structure through which staff members can stay abreast of new developments in their areas of specialty;
- B. To familiarize staff members with new research and innovative teaching methods;
- C. To assist staff members in the process of change and school improvement; and
- D. To facilitate the development, implementation and evaluation of new programs.

Within budgetary limitations, visitations and attendance at conferences may be approved by the Superintendent in accordance with Board policy.

Legal Reference: Chap. 125 (Maine Dept. of Ed. Rule)

Adopted: _____

HOME INSTRUCTION PROGRAM

A student may be excused from attending public school if he/she obtains equivalent instruction through a home instruction program that complies with applicable Maine laws.

Written Notice of Intent

The student's parent or guardian must provide a written notice of intent to provide home instruction simultaneously to the Superintendent of the school unit in which the student resides and to the Maine Commissioner of Education within ten calendar days of the beginning of home instruction. The notice must contain all of the information required by law.

Annual Assessment of Student Progress

The law requires that students in a home instruction program participate in an annual assessment of the student's academic process. If the test is administered through the school unit where the student resides, the parent or guardian must obtain the agreement of the Superintendent or designee prior to submitting the written notice of intent to provide home instruction.

On or before September 1st of each subsequent year of home instruction, the student's parent or guardian shall file a letter with the Superintendent of the school unit and the Commissioner stating the intention to continue providing home instruction and enclosing a copy of one of the forms of annual assessment of the student's academic progress as specified by law.

Roster of Students Receiving Home Instruction

The Superintendent shall maintain a roster of all students eligible to attend school within the school unit who are receiving home instruction.

Legal References: 20-A MRSA § 5001-A (3) and (4)
Maine Department of Education Rule Chapter 125

Cross Reference: JEA – Compulsory School Attendance
IHBGA – Home Schooling – Participation in School Programs

HOME SCHOOLING – PARTICIPATION IN SCHOOL PROGRAMS

The School Board acknowledges the provisions for equivalent instruction under Maine law. The Board further recognizes the Legislature’s statement “that the term ‘equivalent’ is intended to mean meeting state standards for alternate or other instruction and is not intended to mean the same as the education delivered in the public school system.”

In addition, it is the intention of the Board to, “cooperate in the home instruction of any child who resides in the school administrative unit to the degree that the level of cooperation does not interfere with the responsibilities to the students enrolled in [**school unit’s**] regular programs.” Furthermore, participation of students in such school programs shall be limited to home-schooled students whose home instruction programs are in compliance with applicable Maine law and Department of Education regulations.

In order to maintain an efficient and orderly school program, the Board directs the Superintendent/designee to develop procedures, as appropriate, regarding the availability of school system resources and services to home-schooled students who would otherwise be eligible to attend school in [**school unit**]. The procedures shall be in accord with the following provisions.

I. PROVISION OF INFORMATION

At the request of the student or the student’s parent/guardian, the school unit shall make available to home-schooled students, in a form determined by the school, information regarding access to public school activities and attendance at the school unit’s schools. This information must include:

- A. Requirements regarding initial health and developmental screening for motor skills, vision, hearing and immunization; and
- B. Criteria for participation of home-schooled students in curricular, co-curricular and extracurricular activities.

II. PERMITTED PARTICIPATION

- A. **Participation in Regular Classes.** Home instruction students may enroll in specific, day-school classes provided that the student’s attendance is regular, the class is deemed to be age and grade appropriate, and all prerequisite course requirements are met. In addition, the following shall also apply.

1. The student or the student's parent/guardian, on the student's behalf, shall apply in writing to and receive written approval from the Superintendent/designee. Approval may not be unreasonably withheld.
2. The student shall demonstrate prior satisfactory academic achievement consistent with school unit policy and procedures applicable to all students.
3. The student shall comply with behavioral, disciplinary, attendance and other classroom rules applicable to all students. If a student fails to comply, the school may withhold credit or terminate the student's participation.
4. Transportation must be provided by the parent/guardian or student. However, the student may use the same transportation as all other students in the school unit as long as additional expenses are not incurred and vehicle capacity is not exceeded.
5. The student shall complete all assignments and tests as required of all students in the same class.

B. **Course Auditing.** Home instruction students may audit a course(s) provided the following conditions have been met.

1. The student or the student's parent/guardian, on behalf of the student, shall apply in writing to and receive written approval from the Superintendent/designee to audit a specific course or courses. Participation may not be unreasonably withheld.
2. The student agrees to meet established behavioral, disciplinary, attendance and other classroom rules applicable to all students. If a student fails to comply, the school may terminate participation.

III. SPECIAL EDUCATION SERVICE

Special Education Services will be available to eligible special education students in accordance with applicable federal and state laws and regulations.

IV. ADMISSION TO REGULAR PROGRAM/PLACEMENT

A student who has been receiving home-school instruction and who seeks admission or re-admission to the regular school program will be placed in a grade

commensurate with the level of the student's academic achievement. Placement must be guided by the following.

- A. Grade level placement is determined by the principal, in consultation with appropriate school staff, based upon, but not limited to, such factors as the student's completed curricula and record of achievement, conferencing with the student's parent or guardian and administration of tests, if determined necessary.
- B. **[Note: For consistency, the authority to determine appropriate grade placement and the appeal process should mirror the policy for regularly-enrolled students, and this paragraph can be revised to reflect local policy.]** The final grade placement decision shall be made by the principal in accordance with established policies. The principal's decision may be appealed to the Superintendent, whose decision shall be final.

V. USE OF SCHOOL TEXTBOOKS AND LIBRARY BOOKS

Subject to availability, a student receiving home instruction may use school textbooks, if the number of particular copies are sufficient, and library books owned by the school unit, subject to the following conditions.

- A. The use does not disrupt regular student, staff or special program functions.
- B. The student's sign-out period for a library book is the same as that applicable to regularly enrolled students.
- C. The student may sign out a textbook for a period not to exceed one school year.
- D. The parent/guardian and student agree to reimburse the school unit for lost, unreturned or damaged library books and textbooks and for consumable supplies used.

VI. USE OF SCHOOL FACILITIES AND EQUIPMENT

A student receiving home-school instruction may use public school facilities and equipment on the same basis as regularly enrolled students if the following conditions are met.

- A. The use does not disrupt regular school activities.

- B. The use is approved by the school principal in accordance with established school policy.
- C. The use does not create additional expense to the school unit.
- D. The use is directly related to the student's academic program.
- E. The use of potentially hazardous areas, such as shops, laboratories and gymnasiums, is supervised by a qualified employee of the school unit, approved and assigned by the Superintendent.

VII. MAINE EDUCATIONAL ASSESSMENT AND SAT/MHSA

If a parent of a student in an equivalent instruction program requests to have the student participate in the Maine Educational Assessment (MEA) or SAT/MHSA, such request must be granted. Participation in such examinations must be in compliance with all rules and procedures governing testing conditions in the school unit.

VIII. ACADEMIC CREDIT

A student receiving home-school instruction must receive academic credit subject to the following requirements.

- A. Academic credit for individual courses must be awarded if the student meets required academic standards applicable to all students enrolled in the same course.
- B. Academic credit must be awarded for successful completion of alternative instruction opportunities sponsored by the school and available to all students.

IX. HIGH SCHOOL COURSE CREDITS AND DIPLOMA ELIGIBILITY

The following standards govern the awarding of course credits and a graduation diploma to a student receiving home-school instruction who seeks admission or readmission to the high school.

- A. A student shall earn high school credits for satisfactory completion of courses in the high school pursuant to 20-A M.R.S.A. § 5021(2)(A).
- B. A student may earn credit for course work completed through home-schooled instruction if the principal determines both in advance and, upon

completion of the course, that the course satisfies the requirements for awarding the credit. The principal may direct that the student undergo a test or tests to assist in making a determination relative to the awarding of credit.

- C. Requests for transfer credit for equivalent instruction completed at non-approved private schools, at private schools that elect not to meet requirements under 20-A M.R.S.A. § 2901, or through other equivalent instruction programs must be evaluated on the merits of the documentation provided. The principal and guidance staff shall conduct these evaluations on request made by the student or the student's parent/guardian. The principal may direct that the student undergo a test or tests to assist in making a determination relative to the awarding of credit.
- D. Awarding of a high school diploma by the local school is conditioned upon the student's demonstration of having satisfied all specific course credit and other requirements established by the Board. The Board may establish resident credit requirements as a precondition for the awarding of a local school unit diploma.

X. PARTICIPATION IN CO-CURRICULAR ACTIVITIES

Students receiving home-school instruction may participate in co-curricular activities such as field trips, assemblies, and academically-related fairs provided:

- A. Prior written permission is obtained from both the parent/guardian and the principal; and
- B. The student has agreed to meet established behavioral, disciplinary, attendance, and other rules applicable to all students.

XI. PARTICIPATION IN EXTRACURRICULAR ACTIVITIES

Students receiving home-school instructions are eligible to try out for extracurricular activities sponsored by the school unit provided the student applies in writing if the following requirements are satisfied.

- A. The student agrees to abide by equivalent rules of participation as are applicable to regularly enrolled students participating in the activity and provides evidence that the rules of participation are being met.
- B. The student complies with the same physical examination, immunization, insurance, age, and semester eligibility requirements as regularly enrolled

students participating in the activity. All required documentation must be made available upon request by the school unit. The school principal is authorized to collect from the student's parent/guardian actual samples of coursework (e.g., homework, examinations, etc.) as he/she deems necessary in order to make the determination that the necessary academic standards have been met.

- C. The student meets equivalent academic standards as those established for regularly enrolled students participating in the activity and provides evidence that the academic standards are being met.
- D. The student abides by the same transportation policy as regularly enrolled students participating in the activity.

XII. STANDARDS FOR PARTICIPATION WHEN TUITION PAYMENT TO ANOTHER UNIT IS REQUIRED **[if applicable]**

If and when the school unit does not provide academic instruction for specific grade levels, the following applies for students enrolled in an approved program of equivalent instruction.

- A. **Class participation.** The home-schooled student or the student's parent/guardian shall request authorization from the resident local school unit to apply to another school unit for permission to participate in classes or activities in that other school unit.
- B. **Tuition payment.** Tuition payments for home-schooled student participation in a local school unit, including attendance at an applied technology center or an applied technology region other than in the applicant's resident district is the responsibility of the home-schooled student, the student's parent/guardian, or the student's resident school administrative unit, in accordance with school unit policy. Participation may not be unreasonably withheld.
- C. **Participation eligibility.** A tuitioned, home-schooled student is subject to the rules relating to eligibility for participation in co-curricular or extracurricular activities as may apply at the receiving school unit.
- D. **Interscholastic activities.** A tuitioned, home-schooled student attending classes in more than one receiving school unit is not eligible for participation in interscholastic activities at any local school unit.

XIII. APPEALS

Appeals from administration and application of this policy are heard by the Board, whose decision is final and binding. Appeals that question whether this policy complies with legal requirements must be made to the Commissioner of Education, whose decision is final and binding.

Legal Reference: 20-A M.R.S.A. §§ 5001-A(3), 5021-5025
Ch. 127 (Maine Dept. of Ed. Rules)

Local boards are already required to have a policy on post-secondary enrollment options. We have revised an existing sample policy to incorporate post-secondary courses taken through the distance learning network or the Internet. It is our understanding that access to such courses is currently allowed by the University of Maine only on a case-by-case basis, but we also understand that there are efforts underway to broaden access to such courses for high school students. Notes within the policy alert boards to sections required by the statute and areas where boards may choose among various options.

DWM NOTE: There are several choice points for the Board in this policy. After Board discussion, the policy should be revised to include only the options chosen and the notes should be deleted.

POST-SECONDARY ENROLLMENT OPTIONS

This policy establishes the requirements for student enrollment in post-secondary courses taken before high school graduation.

Eligible Institutions

Students may take courses at eligible post-secondary institutions within Maine, which include the University of Maine System, the Maine Community College System and Maine Maritime Academy. Students may take courses offered through the DOE Distance Learning Network or the Internet if such participation is approved by the post-secondary institution.

[NOTE TO BOARD: The school unit may allow students to take courses at private colleges and other institutions (including through the DOE Distance Learning Network or the Internet), but the school unit cannot include such costs as allowable program costs. The following language provides one option for consideration if the Board wishes to allow students to take courses at private institutions.

OPTIONAL LANGUAGE: Students may be allowed to take courses at private colleges or other institutions, including courses offered through the DOE Distance Learning Network or the Internet. Any such requests shall be considered on a case-by-case basis to the extent that funds are available and the requirements of this policy are met.]

Student Eligibility Requirements

A student may take no more than one course per semester and two courses per academic year.

A student must meet the following criteria prior to enrolling in a post-secondary course:

[NOTE TO BOARD: The following requirements are included in the statute.]

- A. Have a minimum of a B average **[or 3.0]** in his/her courses overall, unless the eligible institution has waived the minimum grade/grade point requirement;
- B. Meet the course admission standards of the eligible institution;
- C. Provide evidence of parent/guardian approval for taking the course; and
- D. Receive a recommendation to take a postsecondary course or courses from the school administration or one of the student's secondary school teachers following an assessment of the student by the administration.

A student enrolled in grade 11 or 12 who does not have a B average **[or 3.0]** in his/her courses overall is eligible to take a post-secondary course provided that he/she:

- A. Has been assessed and received a recommendation to take the course from the school administration or from a secondary school teacher; and
- B. Has been approved for participation in the course by an eligible institution.

Awarding of Credits

The eligible institution shall grant full credit to any student who successfully completes a course.

[NOTE TO BOARD: School units are not required to award credit for courses taken at eligible institutions. The following language is one option for school units to consider if the Board wishes to grant high school credit.

OPTIONAL LANGUAGE: *High school graduation credit for a course taken under this policy shall be awarded as follows:*

- A. The course must meet for a minimum of one semester.***
- B. The course must meet any applicable Learning Results standards.***

- C. *The student must earn a passing grade in the course. [ALTERNATIVE OPTION: The Board may specify a minimum grade requirement if desired.]*
- D. *Attendance must satisfy the instructor's requirements. [ALTERNATIVE LANGUAGE OPTION: The Board may request that the eligible institution record and report attendance to the high school.]*
- E. *If the above criteria are met, the student shall receive ____ (insert the appropriate number of high school credits for each course).]*

Financial Assistance

- A. The Maine Department of Education shall pay applicable tuition costs (up to the limits of legislative appropriation) for any student enrolled in a course under this policy if the eligible institution requires tuition payment.
- B. The student and his/her parent/guardian are responsible for paying for all textbooks, course fees and transportation costs.

[NOTE TO BOARD: While the statute obligates students to pay the costs in Paragraph B, school units may still choose to pay some or all of these costs. Such costs remain allowable program costs under the statute. The following language provides one option for the Board to consider, or the Board may develop its own requirements.]

[OPTIONAL LANGUAGE: *If the student qualifies for free or reduced lunch, the school unit shall pay the cost of textbooks, course fees, and transportation.*]

School Unit Reporting Requirements

The Superintendent shall make parents and students aware of post-secondary enrollment options through handbooks or other appropriate means.

Legal Reference: 20-A MRSA Section 4771 et seq.
Chapter 127 (Maine Department of Education Rules)

[LOCAL SCHOOL UNITS ARE REQUIRED TO PROVIDE ANNUAL NOTICE TO PARENTS OF THEIR RIGHT TO INSPECT EDUCATIONAL MATERIALS AND THE PROCEDURE FOR DOING SO. THERE ARE SEVERAL WAYS THIS NOTICE REQUIREMENT CAN BE SATISFIED, INCLUDING THE FOLLOWING: PROVIDING PARENTS WITH A COPY OF THE POLICY, FORM LETTER, NOTICE IN PARENT NEWSLETTERS, ETC.]

SELECTION OF EDUCATIONAL MATERIALS

Definitions

Chapter 127 of the Maine Department of Education defines “instructional materials” to include “textbooks and other print materials, software and other electronic materials, and supplies and other materials to support implementation of the system of Learning Results.” “Library-media resources” include “books, written materials, online Internet resource materials, multimedia materials and information technology that support the school unit’s curriculum.”

[NOTE: 20-A M.R.S.A. § 1001(10-A) states that local Boards may approve educational materials. We have included two options that local Boards may want to consider. The first option is for the Board only to approve textbooks and delegate the rest of the educational material selection decisions to the Superintendent. The second option is for the Superintendent to make all educational material selection decisions within the parameters of the Board’s policy. Local Boards should discuss the various options with the Superintendent and choose the most appropriate option for their school unit.]

Selection of Materials

OPTION 1: The Superintendent, in consultation with administrators and professional staff, is responsible for selecting instructional materials and library-media resources. Textbook selections must be submitted to the Board for approval. The Superintendent is responsible for developing any administrative procedures necessary to guide the review and selection of educational materials, and may delegate specific responsibilities to staff as he/she deems appropriate. All administrative procedures must be consistent with this policy.

OPTION 2: The Superintendent, in consultation with administrators and professional staff, is responsible for selecting appropriate educational materials (including instructional materials and library-media resources). The Superintendent is responsible for developing any administrative procedures necessary to guide the review and selection of educational materials, and may delegate specific responsibilities to staff as he/she deems appropriate. All administrative procedures must be consistent with this

policy. The Superintendent is expected to keep the Board informed about educational materials purchased for the school unit.

Criteria for Selection

Quality educational materials and resources are essential to student learning and supporting the school unit's educational goals and objectives.

Instructional and library-media materials selected should:

- A. Support student achievement of the content standards of the system of Learning Results;
- B. Support the goals and objectives of the school unit's educational programs;
- C. Enrich and support the curriculum;
- D. Take into consideration the varied interests, abilities and maturity levels of the students served;
- E. Foster respect and appreciation for cultural diversity and varied opinions;
- F. Stimulate growth in factual knowledge, literary appreciation, aesthetic values, ethical standards, and critical analysis;
- G. Provide information that will enable students to make informed decisions in their daily lives;
- H. Be accurate and current;
- I. Reflect high quality scholarship and presentation;
- J. Represent significant authors/composers and works; and
- K. Be affordable.

Selection Procedure

The highest priority shall be meeting the instructional needs of the individual schools. In meeting this priority, preference shall be given to basic learning materials, i.e., those that are the predominant instructional materials used at particular grade levels or courses and/or are essential to student achievement of Learning Results content standards.

Before selecting/recommending materials for purchase, professional staff should evaluate the existing collection, consult with staff from appropriate departments and/or grade levels, personally review the material and obtain recommendations/reviews regarding the material from appropriate reputable sources.

In accordance with state regulations, social studies and science textbooks should not be older than five years unless up-to-date supplemental instructional materials are also available.

Multiple copies of materials should be purchased as needed and within budgetary constraints. Worn or missing materials should be replaced as needed. Outdated

materials or materials that are no longer in demand should be withdrawn from the collection and/or circulation.

Donated Materials

Gift materials are judged by the same criteria as materials selected by the school staff and in accordance with any applicable Board policies or procedures on gifts and donations.

Inspection of Materials by Parents and Opt-Out Requests

A student's parent/guardian may inspect, upon request, any instructional or library-media materials used as part of the curriculum. Such requests shall be made to the appropriate teacher or the library-media specialist. Access to the materials shall be provided within a reasonable time after such a request is made. The Superintendent may develop any administrative procedures necessary to implement this policy.

If a parent/guardian wishes to restrict their child's access to particular instructional materials, the procedure in Board policy IMBB shall be followed.

Challenged Materials Procedure

This procedure applies only to requests to remove materials from the school's collection or curriculum. Individual exemption requests are subject to Board policy IMBB. In the event that a student, parent, staff or community member has a concern regarding particular materials or requests removal of particular material from the curriculum or collection, the following procedure will be followed:

- A. The complainant must discuss their concern first with the person providing the material in question. Individual staff members may discuss concerns, but do not have the authority to remove materials from the curriculum or library collection.
- B. If the complainant is not satisfied, he/she shall be referred to the building administrator and requested to fill out the "Citizen's Challenge to Educational Media" form. A copy of the form will be forwarded to the Superintendent.
- C. The Superintendent shall appoint a committee composed of the following persons to review the complaint: one administrator at the appropriate grade level; one librarian/media specialist; one classroom teacher; the department head in the subject area of the challenged materials; and one community member.
- D. The review committee shall read and examine the materials referred to them; check general acceptance of materials by reading reviews; weigh the values and faults of the material. Committee members are expected to form opinions based on the material as a whole and not on passages or portions pulled out of context. The Committee should generally be neutral toward viewpoints expressed in

materials, and shall ask the Superintendent to consult legal counsel for advice concerning any questions involving freedom of speech or expression. The committee shall meet to discuss the material and prepare a written report with their recommendations.

- E. The committee shall provide the final report to the Superintendent, who will inform the complainant of the results.
- F. No material shall be removed from use until the review committee has made a final decision.
- G. The review committee's decision may be appealed to the Board. The Board may set aside a portion of a regular meeting or call a special meeting to review the complaint and the committee report, and to receive testimony from representatives of the various points of view. The material in question shall be:
 - 1. Reviewed objectively and in its full content;
 - 2. Evaluated in terms of the needs and interests of students, school, curriculum and community;
 - 3. Considered in the light of differing opinions; and
 - 4. Reviewed in light of the criteria set forth in this policy.

The Board will announce its decision in writing not later than the conclusion of the next regular meeting of the Board.

Legal Reference: 20-A MRSA §§ 1001 (10-A), 1055 (4), 4002
Chapter 125 (Maine Department of Education Rules)
P.L. 107-110 § 1061 (No Child Left Behind Act)

Cross Reference: IJJ-E – Citizen's Challenge of Educational Media Form
IMBB – Accommodation of Sincere Beliefs in Required Instruction

CITIZEN’S CHALLENGE OF EDUCATIONAL MEDIA FORM

Type of Material: Book Magazine/Periodical Film Recording
 Software Other – Please Specify: _____

Author (if known): _____

Title: _____

Publisher (if known): _____

Person making complaint: _____

Address: _____

Telephone: _____

Complainant represents: Him/herself
 Organization/Group (please name):

1. Why do you object to this material?

2. Identify any particular sections to which you object. (Please be specific: cite pages, scenes, etc.) _____

3. What are the positive aspects of this material? _____

4. Did you read/view/hear all of the material? If not, what parts did you read/view/hear? _____

5. Please identify any professional reviews/judgments of this material that you have read.

6. What would you like the school to do about this material?
 Restrict use of the material by grade or location as follows: _____

 Do not assign it to any students.
 Withdraw it from the library and/or instructional program.

Signature of Complainant

Date

STUDENT PROGRESS THROUGH THE GRADES

The [name of school unit] offers a planned program of instruction designed to assist students in achieving the content standards of the system of learning results for each grade span. In general, students will progress annually from grade to grade, but the Board recognizes that some students may require a shorter or longer time to reach instructional goals. Therefore, the grade placement of each student will be made on an individual basis. The Board expects school administrators and teachers to provide students with the instructional support needed to progress from grade to grade in the regular sequence whenever possible.

Effective communication with parents is critical to a student's success in school. The Superintendent, school administrators and teachers are responsible for ensuring that parents are kept informed of their child's progress through report cards, parent-teacher conferences and other appropriate means. Parents are encouraged to keep themselves informed regarding their child's progress and to inform their child's teacher(s) of any information that may impact the child's school performance.

School administrators, teachers and guidance counselors shall consider the following factors in making decisions concerning promotion, retention or acceleration of students:

- Information regarding the student from the student assessment system;
- Other indicators of academic achievement;
- Attendance;
- Motivation, attitude and behavior;
- Age;
- Program options;
- Any other issues pertinent to the particular student's school performance.

Decisions concerning special education students shall be in consultation with the IEP Team.

Parents will be notified as early as possible in the school year if their child is being considered for retention, and except in very unusual circumstances, no later than _____. The building administrator shall be responsible for making the final decision regarding retention or acceleration in consultation with the student's parents, teacher(s) and guidance counselor. Parents dissatisfied with the building administrator's decision may appeal to the Superintendent in writing within 14 calendar days. The Superintendent shall review the matter and request further information if appropriate. The Superintendent's decision shall be final.

Cross References: IKF - Graduation Requirements

Legal References: 20-A M.R.S.A. §§ 4711; 4721 et seq.; 6201 et seq.
Chapters 125 and 127 (Maine Department of Education Rules)

GRADUATION REQUIREMENTS

High school students must meet specific state and local graduation requirements in order to receive a high school diploma.

Credit Requirements

Students must successfully complete a total of **[insert number of credits]** one-year course equivalents (credits) and achieve the content standards of the parameters for essential instruction as follows: **[the following credits are currently required by statute, additional local requirements may be added]**

- A. English – 4 credits.
- B. Social Studies – 2 credits (including one year of American History and Government, and civics).
- C. Mathematics – 2 credits.
- D. Science and Technology – 2 credits (including at least one year of laboratory study).
- E. Fine Arts (which may include arts, music, forensics or drama) – 1 credit.
- F. Physical Education - 1 credit;
- G. Health – ½ credit; and
- H. The remaining credits may be selected by the student on the basis of his or her interests, abilities and plans following graduation.

In addition to meeting the credit requirements **and content standards**, students must:

[Insert any local requirements concerning attendance, courses, volunteer activities, etc.]

Students with disabilities may earn a regular diploma by fulfilling state and local requirements as specified by the goals and objectives of their Individual Education Plan (IEP).

Legal References: 20-A M.R.S.A. §§ 4722; 6209
Ch. 125, 127, 131, 132 (Maine Department of Education Rules)

[NOTE: The No Child Left Behind Act expanded the categories of information addressed in the Protection of Pupil Rights Act (PPRA, or “Hatch Act”) and added several new requirements concerning notice to parents prior to administering surveys and the rights of parents to inspect surveys and related materials.

This policy outlines the content required by the law, but local Boards will need to include further information about how the requirements will be met in their school unit. The NCLB Act also requires that this policy be developed “in consultation” with parents. Methods of accomplishing this may include inviting parent comments on the policy during Board meetings when the policy is discussed/adopted, holding a Board workshop, or discussing the policy at parent meetings at the school level.

Parents must be notified directly of this policy and we suggest that local school units include a copy with the FERPA notice that is provided to parents at the beginning of the year.]

STUDENT SURVEYS AND MARKETING INFORMATION

From time to time, the _____ School Department may administer surveys to students in the course of developing and evaluating programs and services offered in the schools. The school unit will comply with the federal Protection of Pupil Rights Act and applicable regulations concerning the administration of surveys and the use of personal information about students for marketing purposes as outlined in this policy.

Parental Consent to Surveys

No student shall be required to participate in a survey receiving funding under U.S. Department of Education programs that reveals the following information without prior notice to and the written consent of parents/guardians:

- Political affiliations or beliefs of the student or the student’s parent;
- Mental or psychological problems of the student or the student’s family;
- Sex behavior or attitudes;
- Illegal, anti-social, self-incriminating, or demeaning behavior;
- Critical appraisals of other individuals with whom respondents have close family relationships;
- Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- Religious practices, affiliations or beliefs of the student or the student’s parent; or
- Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

In the case of surveys not funded under U.S. Department of Education programs, parents/guardians will receive prior notice of the survey and their right to opt-out. Parents/guardians may request that their child not participate in a particular survey by submitting a written request to the Superintendent ***[or other appropriate administrator designated by the Board]*** within ten days ***[or other time period designated by the Board]*** of receiving the notice.

[NOTE: As reflected in the paragraphs above, PPRA requires prior written consent only for surveys funded in whole or in part by U.S. Department of Education funds and only prior notice for surveys not funded in any part by U.S. Department of Education funds. For ease of administration, local Boards may decide to extend the requirement for prior written consent to any survey administered in the school unit that involves the categories listed above. Boards interested in this approach should contact DWM for appropriate alternative language for this section of the policy.]

Notice to Parents Regarding Surveys

Parents/guardians will be provided with a copy of this policy at the beginning of each school year, and within a reasonable time if substantive changes are made to the policy by the Board. If actual or expected dates of surveys have been scheduled when the policy is distributed, parents/guardians of affected students will be notified at that time. If surveys are scheduled after the start of the school year, parents/guardians will be provided with reasonable notice before the survey is administered.

Procedure for Inspection of Surveys/Instructional Materials

Parents/guardians have the right to inspect any survey created by a third party before it is distributed or administered to students. Parents may also inspect any instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey.

Parents/guardians may request to inspect surveys or related instructional materials by submitting a request in writing to the Superintendent ***[or other appropriate administrator designated by the Board]*** within ten days of receiving notice that a survey is to be administered. The Superintendent ***[or other appropriate administrator designated by the Board]*** shall make arrangements for the parent/guardian to inspect the survey and/or materials within a reasonable time prior to the scheduled date for the survey.

Use of Student Personal Information for Marketing Purposes

[NOTE: The PPRA requires local school units to notify parents and provide inspection and opt-out rights if certain personal information about students is collected, disclosed or used for commercial marketing purposes. These requirements do not apply to information used for the exclusive purpose of

developing, evaluating or providing educational products or services for or to students or educational institutions (including but not limited to tests and assessments, sale by students of products or services to raise funds for school-related purposes, student recognition programs and book clubs or magazines). We recommend that local Boards not collect or disclose any personal information about students for marketing purposes and this section of the policy reflects our recommendation. If a local Board wants to allow the use of personal information for marketing purposes, please contact us for appropriate language to insert here.]

The School Department does not collect, use or disseminate personal information about students for marketing or commercial purposes.

This policy does not prevent the collection, use or dissemination of personal information collected from students for the exclusive purpose of developing, evaluating or providing educational products or services for or to students or educational institutions (including but not limited to tests and assessments, sale by students of products or services to raise funds for school-related purposes, student recognition programs and book clubs or magazines).

Protection of Student Privacy

The Superintendent shall be responsible for ensuring that appropriate measures are taken to ensure that student privacy is protected when surveys are administered or personal information about student is collected, disclosed or used for marketing purposes.

[NOTE: Local Boards may choose to identify the steps that will be taken to protect student privacy here. We suggest that local school units follow the same procedure they use to safeguard the confidentiality of student education records under FERPA.]

Students Over 18/Emancipated Students

In the case of emancipated students or students over the age of 18, the parent/guardian rights described in this policy transfer to the student.

Complaints

The United States Department of Education maintains an office that handles complaints about alleged violations of the Protection of Pupil Rights Amendment by local school units. Complaints regarding violations may be submitted in writing to:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, S.W.

Washington, D.C. 20202-4605

Legal References: 20 U.S.C. § 6361 (No Child Left Behind Act)
20 U.S.C. § 1232h; 34 C.F.R. Part 98 (Protection of Pupil Rights
Amendment)
20 U.S.C. § 1232g; 34 C.F.R. Part 99 (Family Educational Rights
and Privacy Act)

Cross References: JRA – Student Education Records and Information

NOTE: Local school boards are required to adopt a policy and procedure to implement MDOE Rule Chapter 33, which was completely revised and signed by the Governor on April 4, 2012. The effective date of the new Rule will be determined by the Secretary of State's Office, but is likely to be before the start of the 2012-2013 school year. We recommend that local boards begin the policy adoption process as soon as possible.

The sample policy and procedure closely follow the language in Chapter 33, so changes should only be made with the advice of legal counsel. The samples as drafted are for use by public schools. Other entities required to comply with Chapter 33 will need to update the samples to meet their particular requirements.

Please note that MDOE is required to provide non-regulatory guidance on Chapter 33 no later than September 1, 2012. When the guidance is released, DWM will update this sample policy/procedure if needed.

Notes should be removed from the policy/procedure before adoption.

USE OF PHYSICAL RESTRAINT AND SECLUSION

The _____ School Board has adopted this policy and the accompanying procedures to implement the standards for use of physical restraint and seclusion with students, as required by state law and regulations, and to support a safe school environment. Physical restraint and seclusion, as defined by this policy, may only be used as an emergency intervention when the behavior of a student presents an imminent risk of injury or harm to the student or others.

The Superintendent has overall responsibility for implementing this policy and the accompanying procedure, but may delegate specific responsibilities as he/she deems appropriate.

1. Definitions

[NOTE: These definitions are contained in Chapter 33 and should not be changed.]

The following definitions apply to this policy and procedure:

- A. **Physical restraint:** An intervention that restricts a student's freedom of movement or normal access to his or her body, and includes physically moving a student who has not moved voluntarily.

Physical restraint does not include any of the following:

1. Physical escort: A temporary touching or holding of the hand, wrist, arm, shoulder, hip or back for the purpose of moving a student voluntarily.

2. Physical prompt: A teaching technique that involves physical contact with the student and that enables the student to learn or model the physical movement necessary for the development of the desired competency.
 3. Physical contact: When the purpose of the intervention is to comfort a student and the student voluntarily accepts the contact.
 4. Momentarily deflecting the movement of a student when the student's movements would be destructive, harmful or dangerous to the student or others.
 5. The use of seat belts, safety belts or similar passenger restraints, when used as intended during the transportation of a child in a motor vehicle.
 6. The use of a medically prescribed harness, when used as intended; the use of protective equipment or devices that are part of a treatment plan prescribed by a licensed health care provider; or prescribed assistive devices when used as prescribed and supervised by qualified and trained individuals.
 7. Restraints used by law enforcement officers [**include if the school unit has school resource officers: or school resource officers employed by a police department**] in the course of their professional duties are not subject to this policy/procedure or MDOE Rule Chapter 33. [**NOTE: Local school boards should review their existing policies on relations with law enforcement and/or SROs to ensure that they are consistent with this policy/procedure. At a minimum, a cross reference to this policy/procedure should be added. Local boards that have not adopted a policy/procedure on law enforcement are encouraged to do so. Specific questions about this exception in Chapter 33 should be directed to legal counsel.**]
 8. MDOE Rule Chapter 33 does not restrict or limit the protections available to school officials under 20-A M.R.S.A. § 4009, but those protections do not relieve school officials from complying with this policy/procedure.
- B. **Seclusion:** The involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving, with no other person in the room or area with the student.

Seclusion does not include:

1. Timeout: An intervention where a student requests, or complies with an adult request for, a break.

2. Procedures for Implementing Physical Restraint and Seclusion

The requirements for implementing physical restraint and seclusion, as well as incident notices, documentation and reporting are included in the accompanying procedure, JKAA-R.

3. Annual Notice of Policy/Procedure

[Name of school unit] shall provide annual notice to parents/legal guardians and school staff of this policy/procedure by means determined by the Superintendent/designee. **[NOTE: Local boards should consider how best to provide notice to parents/legal guardians and school staff. For parents, suggestions include providing the policy/procedure in the first-day packet or inclusion in student handbooks. For school staff, the policy/procedure could be provided on the first staff day and/or orientation meeting. Information can also be provided on the school unit's website, but at this point in time we do not recommend that the website be the sole method of disseminating information to families.]**

4. Training Requirements

All school staff and contracted providers shall receive an annual overview of this policy/procedure.

[Name of school unit] will ensure that there are a sufficient number of administrators/designees, special education and other staff who maintain certification in a training program approved by the Maine Department of Education. A list of certified staff shall be updated annually and maintained in the Superintendent's Office, in each school office and in the school unit's Emergency Management Plan. **[NOTE: Local boards should ensure that this information is included in the school unit's emergency management plan system-wide and in any specific safety/emergency plans for individual schools.]**

5. Parent/Legal Guardian Complaint Procedure

A parent/legal guardian who has a complaint concerning the implementation of this policy/procedure must submit it in writing to the Superintendent **[or insert other appropriate administrator]** as soon as possible. The Superintendent/designee shall investigate the complaint and provide written findings to the parent/legal guardian within twenty (20) business days, if practicable. **[NOTE: Chapter 33 does not contain a specific time limit for local school units to respond to parental complaints. We have inserted a time limit for discussion purposes, but local boards should discuss what makes sense for their school unit. For ease of administration, it may make sense to make the deadline consistent with other complaint procedures, such as the employee and student discrimination/harassment complaint procedures.]**

A parent/legal guardian who is dissatisfied with the result of the local complaint process may file a complaint with the Maine Department of Education. The Department of Education will review the results of the local complaint process and may initiate its own investigation at its sole discretion. The Department shall issue a written report with specific findings to the parent/legal guardian and the school unit within 60 calendar days of receiving the complaint.

Legal References: 20-A M.R.S.A. §§ 4502(5)(M); 4009 --
Me. DOE Reg., ch. 33

Cross References: JKAA-R – Procedures on Physical Restraint and Seclusion
JK – Student Discipline
KLG/KLG-R – Relations with Law Enforcement **OR**
KLGA/KLGA-R – Relations with School Resource Officers
EBCA – Comprehensive Emergency Management Plan

PROCEDURES ON PHYSICAL RESTRAINT AND SECLUSION

These procedures are established for the purpose of meeting the obligations of [name of local school unit] under state law/regulations and Board Policy JKAA governing the use of physical restraint and seclusion. These procedures shall be interpreted in a manner consistent with state law and regulations.

1. Definitions

[NOTE: These definitions appear in Chapter 33 and should not be changed.]

For purposes of these procedures, the terms “physical restraint” and “seclusion” shall have the meanings defined in Policy JKAA. Definitions for other important terms in this procedure include:

- A. **Emergency:** A sudden, urgent occurrence, usually unexpected, but sometimes anticipated, that requires immediate action.
- B. **Imminent risk of injury or harm:** A situation in which a student has the means to cause physical harm or injury to him/herself or others and such injury or harm is likely to occur at any moment, such that a reasonable and prudent person would take steps instantly to protect the student and others against the risk of such injury or harm.
- C. **Dangerous behavior:** Behavior that presents an imminent risk of injury or harm to a student or others.
- D. **Serious bodily injury:** Any bodily injury that involves: (1) A substantial risk of death; (2) Extreme physical pain; (3) Protracted and obvious disfigurement; or (4) Protracted loss or impairment of the function of a bodily member, organ or mental faculty.

2. Physical Restraint

To the extent possible, physical restraint will be implemented by staff certified in a training program approved by the Maine Department of Education. If untrained staff have intervened and initiated a physical restraint in an emergency, trained staff must be summoned to the scene to assume control of the situation if the emergency continues.

This procedure does not preclude law enforcement personnel from implementing physical restraints in carrying out their professional responsibilities.

A. Permitted Uses of Physical Restraint

- 1. Physical restraint may be used only as an emergency intervention when the behavior of a student presents imminent risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.
- 2. Physical restraint may be used to move a student only if the need for movement outweighs the risks involved in such movement.

3. Prescribed medications, harnesses, and other assistive or protective devices may be used as permitted by Rule Chapter 33.
4. Parents may be requested to provide assistance at any time.

B. Prohibited Forms and Uses of Physical Restraint

1. Physical restraint used for punitive purposes; as a therapeutic or educational intervention; for staff convenience; or to control challenging behavior.
2. Physical restraint used solely to prevent property destruction or disruption of the environment in the absence of imminent risk of injury.
3. Physical restraint that restricts the free movement of a student's diaphragm or chest, or that restricts the airway so as to interrupt normal breathing or speech (restraint-related asphyxia).
4. Physical restraint that relies on pain for control, including but not limited to joint hyperextension, excessive force, unsupported take-downs (e.g., tackles), the use of any physical structure (e.g., wall, railing or post), punching and hitting.
5. Aversive procedures, and mechanical and chemical restraints may not be used.
 - a. Aversive procedures are defined as the use of a substance or stimulus, intended to modify behavior, which the person administering it knows or should know is likely to cause physical and/or emotional trauma to a student, even when the substance or stimulus appears to be pleasant or neutral to others. Such substances and stimuli include but are not limited to infliction of bodily pain (e.g., hitting, pinching, slapping); water spray; noxious fumes; extreme physical exercise; costumes or signs.
 - b. Mechanical restraints are defined as any item worn by or placed on the student to limit behavior or movement and which cannot be removed by the student. Prescribed assistive devices are not considered mechanical restraints when used as prescribed and their use is supervised by qualified and trained individuals in accordance with professional standards.
 - c. Chemical restraints are defined as the use of medication, including those administered PRN (as needed), given involuntarily to control student behavior. Prescribed medications are not considered chemical restraints when administered by a health care provider in accordance with a student's health care plan.

C. Monitoring Students in Physical Restraint

1. At least two adults must be present at all times when physical restraint is used except when, for safety reasons, waiting for a second adult to arrive is precluded by the particular circumstances.
2. The student must be continuously monitored until he/she no longer presents an imminent risk of injury or harm to him/herself or others.
3. If an injury occurs, applicable school policies and procedures should be followed.

D. Termination of Physical Restraint

1. The staff involved in the use of physical restraint must continually assess for signs that the student is no longer presenting an imminent risk of injury or harm to him/herself or others, and the emergency intervention must be discontinued as soon as possible.
 - a. The time a student is in physical restraint must be monitored and recorded.
 - b. If physical restraint continues for more than ten (10) minutes, an administrator/designee shall determine whether continued physical restraint is warranted, and shall continue to monitor the status of the physical restraint every ten (10) minutes until the restraint is terminated.
 - c. If attempts to release a student from physical restraint have been unsuccessful and the student continues to present behaviors that create an imminent risk of injury or harm to him/herself or others, then staff may request additional assistance from other school staff, parents, medical providers, or other appropriate persons or organizations.

3. Seclusion

To the extent possible, seclusion will be implemented by staff certified in a training program approved by the Maine Department of Education. If untrained staff have intervened and initiated seclusion in an emergency, trained staff must be summoned to the scene as soon as possible.

A “timeout” where a student requests, or complies with an adult request for, a break is not considered seclusion under this procedure. Seclusion also does not include any situation where others are present in the room or defined area with the student (including but not limited to classrooms, offices and other school locations).

A. Permitted Uses and Location of Seclusion

1. Seclusion may be used only as an emergency intervention when the behavior of a student presents imminent risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.
2. Seclusion may be achieved in any part of a school building with adequate light, heat, ventilation and of normal room height.
 - a. Seclusion may not take place in a locked room.
 - b. If a specific room is designated as a seclusion room, it must be a minimum of sixty (60) square feet; have adequate light, heat and ventilation; be of normal room height; contain an unbreakable observation window in a wall or door; and must be free of hazardous material and objects which the student could use to self-inflict bodily injury.
3. Parents may be requested to provide assistance at any time.

B. Prohibited Uses of Seclusion

1. Seclusion used for punitive purposes; as a therapeutic or educational intervention; for staff convenience; or to control challenging behavior.
2. Seclusion used solely to prevent property destruction or disruption of the environment in the absence of imminent risk of injury.

C. Monitoring Students in Seclusion

1. At least one adult must be physically present at all times to continuously monitor a student in seclusion. The adult, while not present in the room or defined area, must be situated so that the student is visible at all times.
2. The student must be continuously monitored until he/she no longer presents an imminent risk of injury or harm to him/herself or others.
3. If an injury occurs, applicable school policies and procedures should be followed.

D. Termination of Seclusion

1. The staff involved in the seclusion must continually assess for signs that the student is no longer presenting an imminent risk of injury or harm to him/herself

or others, and the emergency intervention must be discontinued as soon as possible.

- a. The time a student is in seclusion must be monitored and recorded.
- b. If seclusion continues for more than ten (10) minutes, an administrator/designee shall determine whether continued seclusion is warranted, and shall continue to monitor the status of the seclusion every ten (10) minutes until the restraint is terminated.
- c. If attempts to release a student from seclusion have been unsuccessful and the student continues to present behaviors that create an imminent risk of injury or harm to him/herself or others, then staff may request additional assistance from other school staff, parents, medical providers, or other appropriate persons or organizations.

4. Notification and Reports of Physical Restraint and Seclusion Incidents

For the purposes of this procedure, an “incident” consists of all actions between the time a student begins to create a risk of harm and the time the student ceases to pose a risk of harm and returns to his/her regular programming.

A. Notice Requirements

After each incident of physical restraint or seclusion:

1. A staff member involved in the incident shall make an oral notification to the administrator/designee as soon as possible, but no later than the end of the school day.

[NOTE: For students in out-of-district placements, the entity must make this report to the sending school within 24 hours or by the next business day.]

2. An administrator/designee shall notify the parent/legal guardian about the physical restraint or seclusion (and any related first aid provided) as soon as practical, but within the school day in which the incident occurred. The administrator/designee must utilize all available phone numbers or other available contact information to reach the parent/legal guardian. If the parent/legal guardian is unavailable, the administrator/designee must leave a message (if the parent/legal guardian has a phone and message capability) to contact the school as soon as possible. The parent/legal guardian must be informed that written documentation will be provided within seven (7) calendar days.

3. If the physical restraint or seclusion incident occurred outside the school day, the notifications must be made as soon as possible and in accordance with **[name of school unit's]** usual emergency notification procedures. **[NOTE: Emergency procedures should be consistent with this requirement.]**
4. If serious bodily injury or death of a student occurs during the implementation of physical restraint or seclusion, the **[name of school unit's]** emergency notification procedures shall be followed and an administrator/designee shall notify the Maine Department of Education within twenty-four (24) hours or the next business day.

B. Incident Reports

Each use of physical restraint or seclusion must be documented in an incident report. The incident report must be completed by a staff member involved and provided to an administrator/designee as soon as practical, and in all cases within two (2) school days of the incident. The parent/legal guardian must be provided a copy of the incident report within seven (7) calendar days of the incident.

[NOTE: For students in out-of-district placements, the entity must make the incident report to the sending school.]

The incident report must include the following elements:

1. Student name;
2. Age, gender and grade;
3. Location of the incident;
4. Date of the incident;
5. Date of report;
6. Person completing the report;
7. Beginning and ending time of each physical restraint and/or seclusion;
8. Total time of incident;
9. Description of prior events and circumstances;
10. Less restrictive interventions tried prior to the use of physical restraint and/or seclusion and, if none were used, the reasons why;
11. The student behavior justifying the use of physical restraint or seclusion;

12. A detailed description of the physical restraint or seclusion used;
13. The staff person(s) involved, their role in the physical restraint or seclusion, and whether each person is certified in an approved training program;
14. Description of the incident, including the resolution and process of returning the student to his/her program, if appropriate;
15. Whether the student has an IEP, 504 Plan, behavior plan, IHP (individual health plan) or any other plan.
16. If a student and/or staff sustained bodily injury, the date and time of nurse or other response personnel notification and any treatment administered;
17. The date, time and method of parent/legal guardian notification;
18. The date and time of administrator/designee notification.
19. Date and time of staff debriefing.

Copies of the incident reports shall be maintained in the student's file and in the school office.

5. School Unit Response Following the Use of Physical Restraint or Seclusion

- A. Following each incident of physical restraint or seclusion, an administrator/designee shall take these steps within two (2) school days (unless serious bodily injury requiring emergency medical treatment occurred, in which case these steps must take place as soon as possible, but no later than the next school day):
 1. Review the incident with all staff persons involved to discuss: (a) whether the use of physical restraint or seclusion complied with state and school board requirements and (b) how to prevent or reduce the need for physical restraint and/or seclusion in the future.
 2. Meet with the student who was physically restrained or secluded to discuss: (a) what triggered the student's escalation and (b) what the student and staff can do to reduce the need for physical restraint and/or seclusion in the future.
- B. Following the meetings, staff must develop and implement a written plan for response and de-escalation for the student. If a plan already exists, staff must review it and make revisions, if appropriate. For the purposes of this procedure, "de-escalation" is the use of behavior management techniques intended to cause a situation involving problem behavior of a student to become more controlled, calm and less dangerous, thus reducing the risk of injury or harm.

6. Procedure for Students with Three Incidents in a School Year

The school unit will make reasonable, documented efforts to encourage parent/legal guardian participation in the meetings required in this section, and to schedule meetings at times convenient for parents/legal guardians to attend.

A. Special Education/504 Students:

1. After the third incident of physical restraint and/or seclusion in one school year, the student's IEP or 504 Team shall meet within ten (10) school days of the third incident to discuss the incident and consider the need to conduct an FBA (functional behavioral assessment) and/or develop a BIP (behavior intervention plan), or amend an existing one.

B. All Other Students:

1. A team consisting of the parent/legal guardian, administrator/designee, a teacher for the student, a staff member involved in the incident (if not the administrator/designee or teacher already invited), and other appropriate staff shall meet within ten (10) school days to discuss the incidents.
2. The team shall consider the appropriateness of a referral to special education and, regardless of whether a referral to special education is made, the need to conduct an FBA (functional behavioral assessment) and/or develop a BIP (behavior intervention plan).

7. Cumulative Reporting Requirements

A. Reports within the School Unit

1. Each building administrator must report the following data on a quarterly and annual basis:
 - a. Aggregate number of uses physical restraint;
 - b. Aggregate number of students placed in physical restraint;
 - c. Aggregate number of uses of seclusion;
 - d. Aggregate number of students placed in seclusion;
 - e. Aggregate number of serious bodily injuries to students related to the use of physical restraints and seclusions; and

- f. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.
 - 2. The Superintendent shall review the cumulative reports and identify any areas that could be addressed to reduce the future use of physical restraint and seclusion.
- B. Reports to Maine Department of Education
 - 1. The Superintendent shall submit an annual report to the Maine Department of Education on an annual basis that includes the information in Section 7.A.1 above.

Legal Reference: Me. DOE Reg., ch. 33

Cross Reference: JKAA - Use of Physical Restraint and Seclusion