

Arlington School Committee
Standing Subcommittee: Policies and Procedures Subcommittee
Wednesday, September 9, 2020
11:00 a.m.

The meeting was called to order at 11:02 a.m. The meeting was conducted by remote participation via Zoom.

https://us02web.zoom.us/webinar/register/WN_pvIrV2w7TH-xnhhsDOLe_A

Subcommittee members present: Paul Schlichtman, Kirsi Allison-Ampe, Bill Hayner

Also Present: Robert Spiegel, Director of Human Resources

Open Meeting – The chair read the governor’s order suspending certain provisions of the Open Meeting Law

Public Comment - None

File KDAB: Temporary Signs and Banners

The subcommittee reviewed the proposed policy, which was reviewed by Town Counsel Doug Heim.

On a **motion** by Mr. Hayner, **seconded** by Dr. Allison-Ampe, it was **voted** to advance File KDAB: Temporary Signs and Banners to the full school committee for first reading.

Roll Call:

Kirsi Allison-Ampe	Yes	Bill Hayner	Yes
Paul Schlichtman	Yes		(3-0)

File BEDH and BEDH-E - Public Comment at School Committee Meetings

The subcommittee reviewed changes to the current policy, which were reviewed by Town Counsel Doug Heim. Dr. Allison-Ampe suggested incorporating language from a prior policy that were inadvertently replaced by MASC language at the time of the last policy revision.

On a **motion** by Mr. Hayner, **seconded** by Dr. Allison-Ampe, it was **voted** to advance File BEDH and BEDH-E: Public Comment at School Committee Meetings to the full school committee for first reading. **Roll Call:**

Kirsi Allison-Ampe	Yes	Bill Hayner	Yes
Paul Schlichtman	Yes		(3-0)

File ACAB: Harassment

The subcommittee reviewed the proposed policy, which was recommended by MASC in order to conform with federal law. The subcommittee reviewed some adjustments to language recommended by Town Counsel Doug Heim.

On a **motion** by Mr. Hayner, **seconded** by Dr. Allison-Ampe, it was **voted** to advance File ACAB: Harassment to the full school committee for first reading. **Roll Call:**

Kirsi Allison-Ampe	Yes	Bill Hayner	Yes
Paul Schlichtman	Yes		(3-0)

On a **motion** by Mr. Hayner, **seconded** by Dr. Allison-Ampe, it was **voted** to adjourn at 12:19 p.m. **Roll Call:**

Kirsi Allison-Ampe	Yes	Bill Hayner	Yes
Paul Schlichtman	Yes		(3-0)

TEMPORARY SIGNS AND BANNERS

The Arlington School Committee recognizes that temporary signs or banners on school department property can be effective tools in which to communicate with the public. This policy establishes guidelines for approving and posting temporary signs or banners, with the understanding that the school committee is not establishing a public forum.

A building principal, or the superintendent of schools, may authorize the posting of a banner or temporary sign on school department property in areas designated for events, announcements, or messages, provided:

- The sign or banner promotes a school sponsored event, such as an open house, athletic contest, or student performance; and/or
- The sign or banner is an expression of civic engagement by a recognized student organization; and/or
- The sign or banner supports a fundraising effort by a recognized student organization or parent organization (such as a PTO);

And further that the superintendent or their designee shall establish consistent rules for the time, duration, and placement of such temporary signs and banners, subject to the approval of the school committee. The rules shall be made available to the public.

The school committee, by majority vote, may exercise its right to governmental speech by directing the superintendent to erect a temporary sign or display a banner on school grounds.

Any student or parent organization sign or banner must display the name of the school-related organization sponsoring the sign or banner.

Signs or banners may not be posted by individuals, or organizations not directly associated with the Arlington Public Schools. Organizations renting school department facilities for an event may not post temporary signs or banners without the authorization of the school committee or an authorized agent of the Arlington Public Schools. Rental agreements should specify the text, location, and the time signage shall be erected and removed.

Temporary signs or banners in support of, or in opposition to, a political candidate or ballot question, or any political purpose governed by the regulations and laws of the Massachusetts Office of Campaign and Political Finance, or the State Ethics Commission, shall not be posted on school department property.

PUBLIC COMMENT AT SCHOOL COMMITTEE MEETINGS

All regular and special meetings of the School Committee shall be open to the public. Executive sessions will be held only as prescribed by the Statutes of the Commonwealth of Massachusetts.

The School Committee desires ~~citizens~~ **residents and non-resident students and their families** of the ~~District town~~ to attend its meetings so that they may become better acquainted with the operations and the programs of our local public schools. In addition, the Committee would like the opportunity to hear the wishes and ideas of the public.

In order to provide for full and open communication between the public (students, teachers, administrators and members of the community) and the Arlington School Committee, the Committee authorizes several avenues for the exchange of information, ideas, and opinions. All of the following operate within the framework of the Committee's scheduled meetings.

~~In order that all citizens who wish to be heard before the Committee have a chance and to ensure the ability of the Committee to conduct the District's business in an orderly manner, the following rules and procedures are adopted:~~

1. Written correspondence may be directed to the Committee through its administrative secretary, to be disseminated to all members. Statements of two pages or less are encouraged.
- ~~2.~~ ~~1.~~ During the public comment period in each regularly scheduled School Committee meeting, individuals or group representatives will be invited to address the Committee. The length of the public comment period shall be 20 minutes unless the Chair chooses to extend the time. During the public comment segment of regular meetings of the Committee, individuals or group representatives may address the Committee on items of school business. The length of the public participation segment shall normally be no more than 20 minutes, but may be extended by the Chairperson.
- ~~3.~~ ~~2.~~ Speakers must identify themselves by name and address, and will be allowed up to three (3) minutes to present their material. The Chairperson may reduce speaking time if needed and/or may permit extension of this time limit.
- ~~3.~~ ~~Topics for discussion must be limited to those items listed on the School Committee meeting agenda for that evening.~~
- 4. Although a public body may hear an unanticipated topic through public comment that was not listed in the meeting notice, the Attorney General strongly encourages public bodies to postpone discussion and action on topics that are controversial or may be of particular interest to the public if those topics were not listed in the meeting notice. Committee members may ask clarifying questions**

through the chair, but discussion or action should be facilitated by using a motion to refer a topic to the appropriate subcommittee, or requesting a topic to be placed on a subsequent agenda.

54. Improper conduct and remarks, including use of obscenity or abusive language will not be allowed. Defamatory or abusive remarks are always out of order. If a speaker persists in improper conduct or remarks, the Chairperson may terminate that individual's privilege of address.

65. All remarks will be addressed through the Chairperson of the meeting.

76. Speakers may offer such objective criticisms of the school operations and programs as concern them, but in public session the Committee will not hear personal complaints about school personnel nor against any member of the school community, except for the School Committee or the Superintendent in their capacity as the operational leader of Arlington Public Schools. Under most circumstances, administrative channels are the proper means for disposition of legitimate complaints involving staff members. The public is reminded that the School Committee does not hold jurisdiction over the performance of school personnel other than the Superintendent.

87. Written comments longer than three (3) minutes may be presented to the Committee before or after the meeting for the Committee members' review and consideration at an appropriate time. **Written comments presented to the Committee shall be included in the official record of the meeting.**

9. Public Comment is not synonymous with a right to present audio-visual presentations before the Committee. Persons wishing to present audio-visual materials, as part of their public comment, shall contact the administrative secretary with sufficient advance notice to accommodate such requests, subject to the discretion of the Chairperson.

GUIDELINES FOR PUBLIC COMMENT

A School Committee Meeting is a meeting of a government body at which members of the body deliberate over public business. We welcome the attendance of members of the school district community to view your School Committee as it conducts its regular business meeting.

Massachusetts General Laws Chapter [30A Section 20](#)(f) governs public participation at open meetings covering all public bodies.

Chapter [30A:20](#) [Notice, Remote Participation, Public Participation, Certification]

(f) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

The School Committee believes that the school district community should have an opportunity to comment to the Committee on issues that affect the school district and are within the scope of the Committee's responsibilities. Therefore the Committee has set aside a period of time at each School Committee meeting to hear from the public. In addition, if the Committee believes that an issue requires a dialogue with the school district community, the Committee may schedule a separate public hearing on that issue.

Any ~~citizen~~ **person** who wishes to make a presentation to the School Committee on an item which is of interest to him/her and within the scope of the Committee's responsibilities may request to be placed on the agenda for a particular meeting. Such request should be in writing and should be received by the Superintendent of Schools at least one week prior to the date of the meeting. Such request should contain background statements which would explain the scope and intent of the agenda item. The Chair of the Committee works with the Superintendent to formulate the meeting agendas. Together they will determine whether or not to place an item on the agenda and if the item is to be taken up, they will also determine when to place an item on the agenda and all parameters to be required of the presenter.

Here are the general rules for the Committee's public comment period:

1. Public Comment ~~shall be for a period of 20 minutes and~~ shall generally follow the opening of the meeting. The Committee reserves the right to rearrange its agenda to accommodate scheduled presenters.

2. Any ~~citizen~~ **person** wishing to speak before the Committee shall identify themselves by name and address and will be allowed up to three (3) minutes to present their material. The Chairperson may reduce speaking time if needed and/or may permit extension of this time limit. No ~~citizen~~ **person** may speak more than once without permission of the Chair. All ~~citizen~~ **persons** shall speak to the full Committee through the Chair and shall not address individual members or administrators.

3. Individuals may address topics on the agenda, items specified for public comment, or items within the scope of responsibility of the School Committee. The Chair shall rule out of order any individual who fails to honor the guidelines or who addresses a matter inappropriate for public comment.

4. Any Committee member may direct questions to the speaker through the Chair in order to clarify comments of the speaker.

HARASSMENT

Harassment of students by other students, employees, vendors and other third parties will not be tolerated in the Arlington Public Schools (the District). The alleged harassment must involve conduct that occurred within Arlington Public Schools programs or activities, on premises owned or substantially controlled by the Arlington Public Schools, and/or under circumstances where the Arlington Public Schools exercised oversight, supervision or discipline over the location or participants, or funded, sponsored, promoted or endorsed the event where the alleged harassment occurred, against a person in the United States. This policy is explicitly understood to be in effect while students are on school grounds, School District property or property within the jurisdiction of the district, school buses, or attending or engaging in school sponsored activities.

Harassment prohibited by the District includes, but is not limited to, harassment on the basis of race, sex, gender identity or expression, creed, color, citizenship, national origin, residency status, sexual orientation, religion, marital status, military status, sources of income, or disability. Students whose behavior is found to be in violation of this policy will be subject to disciplinary action up to and including suspension or expulsion pursuant to disciplinary codes. Employees who have been found to violate this policy will be subject to discipline up to and including, termination of employment, subject to contractual disciplinary obligations.

Employee-to-Student Harassment means conduct of a written, verbal or physical nature that is designed to embarrass distress, agitate, disturb or trouble students when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of a student's education or of a student's participation in school programs or activities; or
- Submission to or rejection of such conduct by a student is used as the basis for decisions affecting the student.

Student-to-Student Harassment means conduct of a written, verbal, or physical nature that is designed to embarrass, distress, agitate, disturb or trouble students, when:

- Such conduct has the purpose or effect of unreasonably interfering with a student's performance or creating an intimidating or hostile learning environment.

Harassment as described above may include, but is not limited to:

- Written, verbal, or physical (including texting, blogging, or other technological methods) harassment or abuse;
- Repeated remarks of a demeaning nature;
- Implied or explicit threats concerning one's grades, achievements, or other school matter.
- Demeaning jokes, stories, or activities directed at the student.

By law, what constitutes harassment is determined from the perspective of a reasonable person with the characteristic on which the harassment is based. Individuals should consider how their words and actions might reasonably be viewed by others.

The District will promptly and reasonably investigate allegations of harassment through designation of Title IX Coordinator or building based employees, who may include principals or their designees. The superintendent will recommend, in consultation with the principals, opportunities to the designated recipients for appropriate training.

Sexual harassment is unwelcome conduct of a sexual nature. The definition includes unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity it also, includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment includes conduct by an employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct, often called quid pro quo harassment and, sexual assault as the Federal Clery Act defines that crime. Sexual violence is a form of sexual harassment. Sexual violence, as the Office of Civil Rights (OCR) uses the term, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion. Massachusetts General Laws Ch. 119, Section 51 A, requires that public schools report cases of suspected child abuse, immediately orally and file a report within 48 hours detailing the suspected abuse to the Department of Children and Families. For the category of sexual violence, in addition to Section 51A referrals these offences and any other serious matters shall be referred to local law enforcement. Schools must treat seriously all reports of sexual harassment that meet the definition of sexual harassment and the conditions of actual notice and jurisdiction as noted above. Holding a school liable under Title IX can occur only when the school knows of sexual harassment allegations and responds in a way that is deliberately indifferent (clearly unreasonable in light of known circumstance).

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment, depending on the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances—whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating an environment that is hostile, offensive, intimidating, to male, female, or gender non-conforming students or employees may also constitute sexual harassment.

Because the District takes allegations of harassment, including sexual harassment, seriously, we will respond promptly to complaints of harassment including sexual harassment, and following an investigation where it is determined that such inappropriate conduct has occurred, we will act

promptly to eliminate the conduct and impose corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting an environment that is free of harassment including sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment or sexual harassment.

Retaliation against a complainant, because they have filed a harassment or sexual harassment complaint or assisted or participated in a harassment or sexual harassment investigation or proceeding, is also prohibited. A student or employee who is found to have retaliated against another in violation of this policy will be subject to disciplinary action up to and including student suspension and expulsion or employee termination.

The complainant does not have to be the person at whom the unwelcome sexual conduct is directed. The complainant, regardless of gender, may be a witness to and personally offended by such conduct.

NOTICE OF SEXUAL HARASSMENT

The regulations require a school district to respond when the district has actual notice of sexual harassment. School districts have actual notice when an allegation is made known to any school employee. Schools must treat seriously all reports of sexual harassment that meet the definition of harassment and the conditions of actual notice and jurisdiction as noted whether or not the complainant files a formal complaint. Holding a school liable under Title IX can occur only when the school knows of sexual harassment allegations and responds in a way that is deliberately indifferent (clearly unreasonable in light of known circumstances). Schools are required to investigate every formal complaint and respond meaningfully to every known report of sexual harassment.

The regulation highlights the importance of supportive measures designed to preserve or restore access to the school's education program or activity, with or without a formal complaint. Where there has been a finding of responsibility, the regulation would require remedies designed to restore or preserve access to the school's education program or activity.

DUE PROCESS PROTECTIONS

Due process protections include the following:

- 1) A presumption of innocence throughout the grievance process, with the burden of proof on the school;
- 2) A prohibition of the single investigator model, instead requiring a decision-maker separate from the Title IX Coordinator or investigator;
- 3) The preponderance of the evidence, subject to limitations;
- 4) The opportunity to test the credibility of parties and witnesses through cross examination, subject to "rape shield" protections;
- 5) Written notice of allegations and an equal opportunity to review the evidence;
- 6) Title IX Coordinators, investigators, and decision-makers must be free from bias or conflict of interest;

- 7) Equal opportunity for parties to appeal, where schools offer appeals;
- 8) Upon filing a formal complaint the school must give written notice to the parties containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation. For K-12 schools a hearing is optional but the parties must be allowed to submit written questions to challenge each other's credibility before the decision-maker makes a determination. After the investigation, a written determination must be sent to both parties explaining each allegation, whether the respondent is responsible or not responsible, including the facts and evidence on which the conclusion was based by applying either the preponderance of the evidence or the clear and convincing standard; however, a school can use the lower preponderance standards only if it uses that standard for conduct code violations that do not involve sexual harassment but carry the same maximum disciplinary sanction. As long as the process is voluntary for all parties, after being fully informed and written consent is provided by both parties, a school may facilitate informal resolution of a sexual complaint.

A district may establish an informal investigation process that may, upon the request of the complainant be followed by a formal process.

The Superintendent in consultation with the Title IX Coordinator shall designate the principal of each school in the district, or their designee (or some other appropriate employee(s)) as the initial entity to receive the sexual harassment complaint. Also, in a matter of sexual harassment, the district shall require that the Title IX Coordinator be informed, as soon as possible, of the filing of the complaint. Nothing in this policy shall prevent any person from reporting the prohibited conduct to someone other than those above designated complaint recipients. The investigating officer may receive the complaint orally or in writing, and the investigation shall be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances and in compliance with applicable law. The investigation will be prompt, thorough, and impartial, and will include, at least, a private interview with the person filing the complaint and with witnesses. Also, the alleged harasser will be interviewed. When the investigation is completed, the complaint recipient will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

RECORD KEEPING REQUIREMENTS

Schools must create and maintain records documenting every Title IX sexual harassment complaint. This could include mediation, restorative justice, or other models of alternative dispute resolution. Schools must keep records regarding the school's response to every report of sexual harassment of which it becomes aware even if no formal complaint was filed, including documentation of supportive matters offered and implemented for the complainant.

This policy, or a summary thereof that contain the essential policy elements shall be distributed by the Arlington Public Schools to its students and employees and each parent or guardian shall sign that they have received and understand the policy.

List the name and phone number of the District's Title IX Coordinator
List the appropriate party by name and phone number to receive a complaint in each school.
Please note that the following entities have specified time limits for filing a claim.

The Complainant may also file a complaint with:

- The Mass. Commission Against Discrimination,

- 1 Ashburton Place, Room 601
Boston, MA 02108.
Phone: 617-994-6000.
- Office for Civil Rights (U.S. Department of Education)
5 Post Office Square, 8th Floor
Boston, MA 02109.
Phone: 617-289-0111.
- The United States Equal Employment Opportunity Commission,
John F. Kennedy Bldg.
475 Government Center
Boston, MA 02203.

LEGAL REF.: M.G.L. 151B:3A
Title IX of the Education Amendments of 1972
BESE 603 CMR 26:00
34 CFR 106.44 (a), (a)-(b)
34 CFR 106.45 (a)-(b) (1)
34 CFR 106.45 (b)(2)-(b)(3,4,5,6,7) as revised through June 2020

Note: A summary of the attached Policy, as adopted, must be sent to parents/guardians, students, employees, unions, and prospective employees of the school district including Title IX Coordinator(s), investigator(s) and the decision-maker. The above referenced employees must attend training sessions on the implementation of the Policy.

SOURCE: MASC July 2020