

ARLINGTON PUBLIC SCHOOLS

In accordance with the provisions of the Massachusetts General laws, Chapter 30A, Section 20, notice is hereby given for the following meeting of the:

***Arlington School Committee
Standing Subcommittee: Policies and Procedures
Tuesday, November 12, 2024
5:00 PM***

Via Zoom:

<https://us02web.zoom.us/j/85785874799>

In Person:

*Arlington Public Schools District Office
Superintendent's Office, 2nd Floor
14 Mill Brook Drive
Arlington, MA 02476*

Open Meeting (L. Kardon)

Approval of Minutes

- *Policies and Procedures Minutes 052224*

Policies Continued from Previous Meeting

- *File BEDH - Public Comment*

Policy Changes Referred by Full Committee

- *CBI - Evaluation of the Superintendent*

Policy Changes Recommended by MASC (pending confirmation from MASC counsel)

- *Legal Update-July, 2024*
 - *AC - Nondiscrimination Policy Including Harassment and Retaliation*
 - *AC-R - Nondiscrimination Policy Including Harassment and Retaliation*
 - *ACA - Nondiscrimination on the Basis of Sex*
 - *ACA-R - Nondiscrimination on the Basis of Sex Under Title IX Including Sex-Based Harassment*
 - *ACAB - Sexual and Sex-Based Harassment and Retaliation*
 - *ACGA - Civil Rights Grievance Procedure*
 - *ACGB - Title IX Sexual Discrimination Grievance Procedure*

24-25 Policy Review Planning - Sections I, J and K

Other New Business

Future Agenda Items

Adjournment (L. Kardon)

The listings of matters are those reasonably anticipated by the Chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Stated times and time amounts, listed in parenthesis, are the estimated amount of time for that particular agenda item. Actual times may be shorter or longer depending on the time needed to fully explore the topic.

Submitted by Len Kardon, Chair

Massachusetts law requires all open session meetings of public bodies to be accessible to members of the public, including those with disabilities. If you need reasonable accommodations in order to participate in the meeting, contact the Administrative Assistant to the Arlington School Committee Liz Diggins at ediggins@arlington.k12.ma.us.



Town of Arlington, Massachusetts

Meeting Location - Hybrid

Summary:

Via Zoom:

<https://us02web.zoom.us/j/85785874799>

In Person:

Arlington Public Schools District Office
Superintendent's Office, 2nd Floor
14 Mill Brook Drive
Arlington, MA 02476



Town of Arlington, Massachusetts

Open Meeting (L. Kardon)



Town of Arlington, Massachusetts

Approval of Minutes

Summary:

- Policies and Procedures Minutes 052224

ATTACHMENTS:

Type	File Name	Description
Minutes	Policies_and_Procedures_Minutes_052224.docx	Policies and Procedures Minutes 052224
Policy	ZEVPolicy+ClimateLeaderCommunities_SchoolsPolicySubCommittee_May2024_(3).pdf	ZEV Policy and Climate Leader Communities
Policy	Arlington_ZEV_First_Policy_Draft_(2)_(2).pdf	Arlington_ZEV_First_Policy_Draft_(2) (2)
Policy	Policy_ECEV.pdf	Policy_ECEV
Policy	File_ACA_(prior_draft)_(1)_(1).pdf	File ACA Prior Draft
Policy	File_ACA_Proposed_2024_(1).pdf	File_ACA_Proposed_2024 (1)
Policy	Policy_BGB-_May_revisions_(1).pdf	Policy_BGB-_May_revisions (1)
Policy	Policy_BDD_-_Revised__May_2024_(1).pdf	Policy_BDD_-_Revised__May_2024 (1)
Policy	Policy__BDD_(prior_draft)_(1).pdf	Policy__BDD_(prior_draft) (1)
Policy	Policy_IHBB_-_Child_Find_(prior_draft)_(1).pdf	Policy_IHBB_-_Child_Find_(prior_draft) (1)
Policy	Policy_IHBB_-_May_revisions_(1).pdf	Policy_IHBB_-_May_revisions (1)

Arlington School Committee
Standing Subcommittee: Policies and Procedures
May 22, 2024
1130 a.m.
Hybrid - Zoom and
Central Administration Building
14 Mill Brook Drive, Second Floor
Arlington, MA 02476
Draft Minutes

Open Meeting

The meeting was called to order at 11:32 a.m.

Members present:

Len Kardon, subcommittee chair
Laura Gitelson
Jeff Thielman

Other school committee members present:

Kirsi Alison Ampe, Paul Shlichtman

District staff present:

Elizabeth Homan, Superintendent,
Rob Spiegel, Director of Human Resources
WeslieEtienne Pierre, Margaret Credle Thomas

Unrecorded members of the public were present including Cheryl Miller and Ann Weissman.

There was no **Public Comment** agenda item. As part of the agenda, members of the public who wished to comment on individual agenda items were invited to join the discussion.

Climate Leaders Community and Arlington ZEV First Policy:

Talia Fox, Arlington Sustainability Manager, presented information about the state Climate Leader Community program and the steps needed for Arlington to become a Climate Leader Community, including the Zero Emission Vehicle First policy. Dr. Homan asked questions about the process and the infrastructure needed to handle ZEV vehicles including buses.

ZEV First Policy: Mr. Kardon noted the draft policy could be adopted subject to final technical changes that might be made before adoption by the Select Board. Mr. Theilman moved that revised ZEV First Policy be recommended to the full committee for adoption, seconded by Ms. Gitelson, approved (3-0)

Policies continued from previous meetings:

- File ACA – Nondiscrimination on the Basis of Sex, Sexual Orientation, or Gender Identity:

Ms. Gitelson: Understand desire for simplification but preferred explicit language in the policy. Can we find a way to take the more explicit language in resolution and make it more visible and actionable?

Mr. Schlichtman noted that such language is in ACA-E which is the detail of the policy.

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was **voted** to recommend revisions to ACA to the school committee for first reading. (3-0)

- File BEDH - Mr. Kardon noted that the proposed changes to Policy BEDH were still under review by the new town counsel.

Policy Changes Referred by Full Committee File BGB - Policy Adoption

File BDD - School Committee-Superintendent Relationship

Mr. Kardon summarized the reasons for the policy modifications. Mr. Thielman asked about confidentiality concerns. Mr. Kardon noted that was one reason for wording change from the prior draft. Dr. Homan noted that this is what the District is doing. Ms Gitelson asked whether this would get noted as correspondence in SC meeting record. There was additional discussion and points and questions raised by members of the public and subcommittee members.

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was **voted** to recommend revisions to BDD to the school committee for first reading. (3-0).

File BGB - Policy Adoption

Mr. Kardon summarized the reason for the policy modifications, which clarifies that resolutions should follow the process the Committee uses to adopt policy changes.

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was **voted** to recommend revisions to BDD to the school committee for first reading. (3-0).

(new) File IHBB - Child Find Policy

Ms. Miller and Ms. Weissman asked questions and provided comments on the policy. The subcommittee discussed issues with law and policy and how to encourage referrals when needed. Ms. Gitelson noted the community concerns, can't solve them in the minute wording of the policy, but we are taking a step in the right direction.

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was **voted** to recommend revisions to IHBB to the school committee for first reading. (3-0).

24-25 Policy Review Planning

(File BGC – Policy Revision and Review)

Mr. Schlichtman reported that File BGC requires a rotating review of policies. We performed a thorough review of the policy manual before the pandemic, so we are due to resume a review cycle. The subcommittee will need to develop a calendar for reviewing these policies.

Approval of Minutes

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was voted to approve the minutes of January 24, 2024. (3-0)

Future Agenda Items

None noted

Adjourn

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was **voted** to **adjourn** at 12:32 p.m. (3-0)



Climate Leader Communities & the Zero Emission Vehicle Policy

Arlington School Committee, Policy Subcommittee

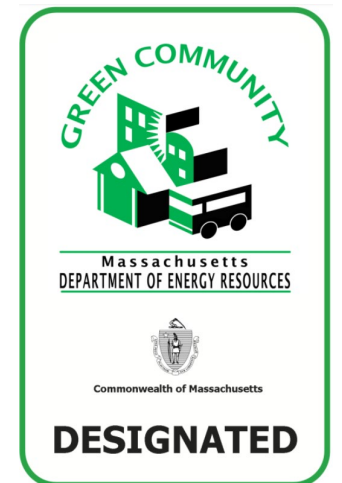
May 20, 2024

Talia Fox, Sustainability Manager, Dept. of Planning & Community Development



Arlington is a Green Community

- Program established by the Green Communities Act of 2008, administered by the Department of Energy Resources (DOER)
- Arlington received designation in 2010, one of 1st communities in the state
- Town is eligible for grants for energy efficiency and renewable energy projects, has won over \$2M in funding since designation
- Town had to meet several criteria:
 - By-right siting of renewable energy
 - Expedited permitting for renewable energy
 - Energy use baseline and plan for energy use reduction
 - Fuel-efficient vehicle policy
 - Stretch energy code adoption



Arlington will pursue designation as “Climate Leader Community”

- New DOER program, will supplement Green Communities
- Aligns resources with state climate goals, focus on decarbonization
- Communities earn state recognition, eligible for substantial grant funds
- Town must meet several criteria by July 25
 1. Local energy committee
 2. Municipal decarbonization commitment (net zero by 2050)
 3. Municipal decarbonization roadmap
 4. Zero emission vehicle first policy
 5. Specialized Stretch Code adoption



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 - ✓ 5. Specialized Stretch Code adoption



Municipal Decarbonization Roadmap

- Roadmap will detail *how* municipal facilities and vehicles will eliminate use of fossil fuels by 2050
- Town (includes School facilities and vehicles) has already committed to net zero by 2050
- Identifies *specific implementation measures* to achieve 25% GHG reduction by 2030, 100% by 2050
- Town recently awarded technical assistance funds; roadmap development to occur in the next two months
- **Both Schools and Town must adopt the roadmap**



Zero Emission Vehicle (ZEV) First Policy

- Commits all departments in Arlington to prioritizing purchase of zero emission vehicles for municipal use
- Utilizes hierarchy of acceptable vehicle types
- Has exemptions for heavy-duty vehicles
- Both Schools and Town must adopt the policy
- Adopting this policy is a priority in the Town's Net Zero Action Plan



Zero Emission Vehicle (ZEV) First Policy: Prioritization Hierarchy

- Vehicle procurement shall be prioritized as follows:
 1. Battery-electric vehicle (BEV)
 2. Plug-in hybrid vehicle (PHEV)
 3. Hybrid electric vehicle (HEV)
 4. Other alternative fuel vehicle (AFV)
 5. Standard vehicle operated by an internal combustion engine fueled by fossil fuels
- Consideration may be given to ability of a vehicle to meet operational needs, location and duration of vehicle use, availability of charging infrastructure



Zero Emission Vehicle (ZEV) First Policy: Applicability

- Applies to all divisions and departments of the Town
- Light-duty vehicles (including road-worthy passenger vehicles, pick up and utility trucks, and SUVs) must comply
- Exempt vehicles are encouraged to comply, where ZEV options are available that meet operational needs
- Exempt vehicles: off-road vehicles, motorcycles and heavy-duty vehicles with a manufacturer's gross vehicle weight rating (GVWR) >8,500 pounds
 - This would include school buses, but not vans



Zero Emission Vehicle (ZEV) First Policy: Considerations

- Up-front costs of ZEVs may be higher initially
- Grant funding can cover some, but likely not all, of additional costs
- Decarbonization roadmap will provide total cost of ownership (TCO) model to support higher capital requests
 - Typically fueling and maintenance costs are lower for ZEVs than for gas vehicles, so TCO is lower for ZEVs
- Up-front cost and infrastructure planning present greatest challenges for decarbonization of APS fleet as well as buildings



Next Steps

- Policy Subcommittee reviews and refines ZEV policy
- School Committee votes on ZEV policy (5/23 or 6/5)
- Facilities Subcommittee (?) reviews Decarbonization Roadmap once ready
- School Committee and/or Dr. Homan approves decarbonization roadmap before 7/25



Questions

- Will the School Committee need to adopt the ZEV as part of its official policies?
- Could the School Committee vote to empower Dr. Homan to approve the Decarbonization Roadmap, once finalized? (question of timing)
- For discussion: how can the schools best plan for decarbonization from a policy / financial perspective?
- Who from the Schools should serve on the Clean Energy Future Committee (CEFC)?
- Additional questions...?





Thank you!

Talia Fox, Sustainability Manager

Department of Planning & Community Development

tfox@town.arlington.ma.us

Arlington MA ZEV First Policy

POLICY STATEMENT

Whereby unanimous declaration of the Select Board the Town has pledged to reduce townwide greenhouse gas emissions to net zero by 2050,

Whereby the Town is already a Green Community and is seeking to comply with requirements of becoming a Climate Leader Community as specified by the Massachusetts Department of Energy Resources,

Whereby the Town's Net Zero Action Plan commits the Town to a complete transition to zero emission vehicle purchases by no later than 2030,

Whereby transitioning from internal combustion engine vehicles to zero emission vehicles has additional expected benefits, such as lower life-cycle cost of ownership and improved local air quality and health,

Whereby transportation related emissions account for approximately one-third of the Town's total greenhouse gas emissions,

Whereby Title 1, Article 19 of the Town Bylaws requires that the Town purchase "the most fuel-efficient model available that will fulfill the intended municipal function; provided that the vehicle also meets other normal procurements criteria, including price and reliability,"

Therefore the Select Board hereby adopts this Policy to inform and guide all Town employees regarding the purchase and efficient use of Town vehicles. Town departments shall make efficient use of municipal vehicles in order to minimize the cost of Town operations to taxpayers, to protect and preserve the natural environment and quality of life in Arlington, and to reduce greenhouse gas emissions.

1. DEFINITIONS

- a. Acquisition – In the context of this guideline, acquisition refers to the purchase or lease of on-road vehicles (whether used or new) by and for the (city/town/school district) either to replace an existing fleet vehicle or to expand a fleet.
- b. Alternative fuel vehicles (AFVs) - Dedicated, flexible fuel, or dual-fuel vehicles designed to operate on at least one alternative fuel (such as electricity, biodiesel, propane, or natural gas) to reduce carbon emissions.
- c. Battery electric vehicle (BEV) – An electric vehicle that draws propulsion energy solely from an on-board electrical energy storage device during operation that is charged from an external source of electricity.
- d. Electric vehicle supply equipment (EVSE) or electric vehicle charging station – An electric component assembly or cluster of component assemblies designed

specifically to charge batteries within electric vehicles by permitting the transfer of electric energy to a battery or other storage device in an electric vehicle.

- e. Exempt vehicles – Vehicles that are exempt from the Green Communities Fuel Efficient Vehicle Policy include off-road vehicles, motorcycles and heavy-duty vehicles with a manufacturer’s gross vehicle weight rating (GVWR) of more than 8,500 pounds. Examples include fire engines, ambulances, school buses, and some public works vehicles.
- f. Fuel-cell electric vehicle (FCEV or FCV) – An electric vehicle that uses a fuel cell on-board the vehicle as the primary source of electricity. The fuel source can be hydrogen or another fuel converted to hydrogen on-board the vehicle.
- g. Fuel Efficient Vehicle (FEV) Policy – Issued by the Department of Energy Resources (DOER) to fulfill the requirements of the Green Communities Act. The FEV Policy requires designated Green Communities to acquire fuel-efficient vehicles, and applies to all light-duty vehicle acquisitions with a gross vehicle weight rating (GVWR) of 8,500 pounds or less.
- h. Gross vehicle weight rating (GVWR) – The maximum safe operating weight of a vehicle, as specified by the manufacturer, including passenger and cargo loads.
- i. Heavy-duty vehicle – A vehicle with a GVWR of more than 8,500 pounds.
- j. Hybrid electric vehicle (HEV) – A vehicle powered by an internal combustion engine and a small electric motor that uses energy stored in a battery. Under light load, for instance during initial acceleration, only electricity is consumed. The vehicle is typically fueled with gasoline to operate the internal combustion engine, and the battery is charged through the engine and regenerative braking, not by plugging in.
- k. Light-duty vehicle – A vehicle with a GVWR of 8,500 pounds or less.
- l. Plug-in hybrid electric vehicle (PHEV) – An electric vehicle with an on-board electrical energy storage device that can be recharged from an external source of electricity and that also has the capability to run on another fuel.
- m. Zero emission vehicle (ZEV) – Zero emission vehicles include battery electric vehicles, plug-in hybrid electric vehicles, and fuel-cell electric vehicles; if the most recent definition of ZEVs per the Massachusetts Zero Emission Vehicle Commission diverges from this scope, the Commission definition shall take precedence.

2. PURPOSE

The purpose of the Zero-Emission First Vehicle Policy is to set standards and guidelines for the purchase, operation, and maintenance of the Town-owned vehicles that will advance the economic, energy, and climate sustainability of municipal operations by achieving long-term reductions in energy costs, energy consumption, and greenhouse gas (GHG) emissions. The primary objectives of this policy are to:

- Accelerate the adoption of emissions-reduction technologies and the transition of the fleet to all-electric or other environmentally advantageous vehicles

- Minimize the long-term environmental and financial impacts of fleet vehicles
- Optimize the composition of the fleet to achieve maximum fuel efficiency
- Advance the installation of electric charging infrastructure across municipal facilities
- Prioritize the utilization of grants, rebates, and incentives to support the acquisition of vehicles and technologies that will improve efficiency and reduce GHG emissions.

This policy shall not require a department to take any action which conflicts with local, state, or federal requirements nor mandate the procurement of products that do not perform adequately for their intended use, exclude adequate purchasing competition, or require the purchase of vehicles that are not commercially available or practicable.

3. APPLICABILITY

This policy applies to all divisions and departments of the Town. Light-duty vehicles (including road-worthy passenger vehicles, pick up and utility trucks, and SUVs) must comply. Exempt vehicles are encouraged to comply, where ZEV options are available that meet operational needs.

4. GUIDELINES FOR VEHICLE PROCUREMENT

I. **Electric-first procurement**

Vehicle procurement shall be prioritized as follows:

1. Battery-electric vehicle (BEV)
2. Plug-in hybrid vehicle (PHEV)
3. Hybrid electric vehicle (HEV)
4. Other alternative fuel vehicle (AFV)
5. Standard vehicle operated by an internal combustion engine fueled by fossil fuels

When deciding between vehicle types in this hierarchy, consideration may be given to factors including, but not limited to, the ability of a given vehicle model to meet operational needs, in what locations and for what durations the vehicle will be used, and availability of existing or planned charging and/or fueling infrastructure.

II. **Fuel-efficient requirements for standard vehicles**

If it is determined that a ZEV does not meet operational needs, the purchased or leased vehicle must be the most fuel-efficient class, drive train, and model available that will fulfill the intended municipal function. When determining the most fuel-efficient vehicle for a given class, the municipality will utilize the fuel efficiency limits contained in the most recent guidance for the Fuel-Efficient Vehicle Policy established by DOER's Green Communities Division.

- These limits are based on the most recently published U.S. Environmental Protection Agency combined city and highway MPG ratings (see www.fueleconomy.gov). The EPA maintains a database on vehicle fuel efficiency that is updated throughout the year as new models are released.

III. Zero-Emission First Replacement Plan

All vehicles shall be replaced by following the electric-first hierarchy as indicated by this policy. Vehicles shall be recycled when they are no longer operable and/or scheduled for replacement and will not be recycled from one municipal department to another as a replacement vehicle unless the repurposed vehicle is more efficient than the vehicle it is replacing. In addition, when considering vehicle replacement, the function of the vehicle will be reviewed for potential replacement with a more fuel-efficient vehicle, including a zero-emission vehicle.

As part of this plan, the Town will maintain an annual vehicle inventory for all vehicles and a plan for replacing any vehicles with vehicles that adhere to the ZEV hierarchy established by this policy. The Town will review on an annual basis the vehicle inventory, along with this ZEV-first policy to plan for new acquisitions as part of planning for the new fiscal year budget.

IV. Funding

The purchase of policy-compliant vehicles and equipment may be more expensive in the initial years. Departments should estimate upfront investment required for vehicle purchases and budget accordingly in capital budget requests. The Town shall evaluate existing capital requests for vehicles and evaluate opportunities to fund additional upfront costs. The Town shall take advantage of grant funding to offset the upfront costs of electric vehicles and EVSE or other refueling equipment, depending on vehicle type.

V. Questions / Enforcement

This policy is enforced by the Town Manager and/or the Town Manager's designee(s).

ECEV - ELECTRIC VEHICLE CHARGING STATIONS; ZEV FIRST POLICY

The Town of Arlington has set a goal of powering buildings and transportation with clean electricity to achieve net zero GHG emissions by 2050. In order to make progress toward that goal, the Town of Arlington Net Zero Action Plan directs the town to "create and implement a plan to help ensure sufficient investment in electric vehicle charging stations to provide the infrastructure needed to support continued EV adoption by residents, workers, and visitors."

The Arlington Public Schools commits to supporting the Town of Arlington Zero Emissions Mobility High Priority Measure 2, in which the town will "create and implement a plan to expand public vehicle charging options at libraries, business districts, public parking facilities, and other facilities, both on- and off-street."

The Arlington Public Schools also adopts and commits to supporting the Town of Arlington Zero-Emission Vehicle (ZEV) First Policy.

The superintendent (or designee) shall, on an annual basis, assess the demand for charging stations at our schools, and work with appropriate town officials to meet this demand.

The Arlington Public Schools will welcome members of the community to access charging stations on school property during the times that schools are not in session. Appropriate signage shall be placed denoting the hours the charger is available to the public.

Vehicles parked in spaces designated for electric vehicle charging must be plugged in and must be actively charging. Parking spaces shall be posted with signage that meets standards established under the Manual of Uniform Traffic Control Devices (MUTCD) prohibiting parking except for electric vehicles while charging (R7-113), and shall also include a plaque (R7-113aP) stating "VEHICLE MUST BE PLUGGED IN." A plaque (R7-201P) may be installed indicating violators may be towed.

The Arlington Public Schools requests the Arlington Police Department to enforce these parking restrictions.

Arlington Public Schools

Adopted by the Arlington School Committee, December 15, 2022, revised June 2024

Reference: United States Department of Transportation, Federal Highway Administration, Manual of Uniform Traffic Control Devices

R7-113
R7-113aP

R7-201P

File: ACA - NONDISCRIMINATION ON THE BASIS OF SEX, SEXUAL ORIENTATION, OR GENDER IDENTITY

The Arlington School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school district does not and will not discriminate on the basis of sex, sexual orientation or gender identity in the educational programs and activities of the public schools. This policy will extend not only to students with regard to educational opportunities, but also to employees with regard to employment opportunities.

The School Committee will continue to ensure fair and equitable educational and employment opportunities, without regard to sex, sexual orientation or gender identity, to all of its students and employees.

As set forth in DESE's "Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment: Nondiscrimination on the Basis of Gender Identity," ensuring fair and equitable access for all students includes specific consideration for students with non-conforming and transgender identities. In order to ensure equitable access for such students APS affirms:

- Students and employees shall to be addressed by a name and pronouns corresponding to their gender identity.
- Students and employees shall have access to a restroom that corresponds to their gender identity at school. Single stall, gender-neutral bathrooms shall be available to all students, but students shall not be compelled to use them on the basis of their gender identity.
- Student records shall be updated as appropriate to reflect gender transitions, including names and pronouns where applicable.

No person shall be required to obtain a court order or medical documentation in order to be entitled to equitable access on the basis of gender identity, nor must gender identity be consistently expressed in every context. However, APS staff may, as circumstances merit, seek confirmation of a student's gender identity information and support needs particularly for younger students who may not be able to advocate for themselves. APS staff will engage students before contacting parents or guardians about gender affirming plans appropriate for ensuring equitable access wherever possible, and take appropriate measures in instances where specific and credible safety concerns are presented. Information about a student's assigned birth sex, name change for gender identity purposes, gender transition, medical or mental health treatment related to gender identity, or any other information of a similar nature, regardless of its form, is part of the individual's student record, is confidential, and must be kept private and secure, except in limited circumstances consistent with 603 CMR § 23.04.

APS shall provide training to all certified district-level and school-based administrators regarding the district's obligations to prevent and address gender-based discrimination as well as implementation of the policies, procedures, and regulations, and best practices for creating a nondiscriminatory school environment for transgender students. Site administrators shall, throughout each school year, provide this information to all faculty and staff during existing trainings, meetings, and other appropriate opportunities.

The Committee will designate an individual to act as the school district's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.

SOURCE: MASC - Updated 2022
Revised

LEGAL REFS.: Title IX of the Education Amendments of 1972

45 CFR, Part 86, (Federal Register, 6/4/75)

M.G.L. 4:7; [76:5](#); [76:16](#) (Chapter 622 of the Acts of 1971)

BESE 603 CMR [26:00](#); 603 CMR [26.06](#)
603 CMR 23.00; 603 CMR § 23.04.

REFERENCE: USDOE Notice of Interpretation - <https://www.ed.gov/news/press-releases/us-department-education-confirms-title-ix-protects-students-discrimination-based-sexual-orientation-and-gender-identity>; [DESE's "Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment: Nondiscrimination on the Basis of Gender Identity,"](#) [October 2021.](#)

CROSS REF.: [AC](#), Nondiscrimination Policy Including Harassment and Retaliation

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The School Committee will continue to ensure fair and equitable educational and employment opportunities, without regard to sex, sexual orientation or gender identity, to all of its students and employees.

The district will follow state and local guidelines in the development of implementation procedures in compliance with this policy.

The Committee will designate an individual to act as the school district's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.

SOURCE: MASC - Updated 2022
Revised

LEGAL REFS.: Title IX of the Education Amendments of 1972

45 CFR, Part 86, (Federal Register, 6/4/75)

M.G.L. 4:7; [76:5](#); [76:16](#) (Chapter 622 of the Acts of 1971)

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REFERENCE: USDOE Notice of Interpretation - <https://www.ed.gov/news/press-releases/us-department-education-confirms-title-ix-protects-students-discrimination-based-sexual-orientation-and-gender-identity>; DESE's "[Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment: Nondiscrimination on the Basis of Gender Identity](#)," October 2021.

CROSS REF.: [AC](#), Nondiscrimination Policy Including Harassment and Retaliation

BGB - POLICY AND RESOLUTION ADOPTION

Adoption of new policies or changing existing policies and adoption of resolutions is solely the responsibility of the Arlington School Committee. Policies and resolutions will be adopted and/or amended only by the affirmative vote of a majority of the members of the School Committee when such action has been scheduled on the agenda of a regular or special meeting.

To permit time for study of all policies or amendments to policies or resolutions and to provide an opportunity for interested parties to react, proposed policies or amendments will be presented in the following sequence:

1. Discussion item - (first reading) of proposed policy, ~~or policies,~~ or resolution; response from Superintendent; report from any advisory committee assigned responsibility in the area; committee discussion and directions for any redrafting, at the same meeting
2. Action item — discussion, adoption or rejection at a subsequent regular or special meeting.

~~Resolutions related to the Massachusetts Association of School Committees annual conference will not require following this sequence and may be included in a meeting agenda for discussion, adoption or rejection at a single meeting. The School Committee is not required to follow the above procedure for deliberation and voting on resolutions proposed by the Massachusetts Association of School Committees (“MASC”) or MASC committees for the MASC annual conference, and the School Committee may deliberate on such proposed resolutions and adopt or reject such proposed resolutions in a single meeting.~~

Amendments to the policy at the action stage will not require repetition of the sequence, unless the School Committee so directs.

Policies will be effective upon the date set by the School Committee. This date will ensure that affected persons have an opportunity to become familiar with the requirements of the new policy prior to its implementation.

~~CONTRACT REFS.: AEA (Units A and B), II-C~~

~~AEA (Unit C), XXV-B~~

BDD - SCHOOL COMMITTEE-SUPERINTENDENT RELATIONSHIP

The School Committee will leave to the Superintendent all matters of decision and administration that come within ~~his/her~~the Superintendent's scope as executive officer and professional leader of the school system. While the School ~~e~~Committee reserves to itself the ultimate decision of all matters concerning general policy or expenditures of funds, it will normally proceed in these areas after receiving recommendations from its executive officer. Further:

1. The Superintendent may ask for guidance from the School Committee with respect to matters of operation whenever appropriate. If it is necessary to make exceptions to an established policy, ~~he/she~~the Superintendent will submit the matter to the School Committee for advice and direction.
2. The Superintendent will assist the School Committee in reaching sound judgments and establishing policies, and will place before the Committee all relevant facts, information, and reports necessary to keep the School Committee adequately informed of situations or business at hand. The Superintendent will ~~provide-inform~~ the School Committee ~~with-copies~~ of any finding of noncompliance ~~or violation of any rule, regulation or binding-guideline~~ regarding the Arlington Public Schools by a Federal, state or local government agency or entity that requires corrective action to be taken by the Arlington Public Schools, redacted as needed to protect confidential information, promptly following receipt of such finding and when requested by the Committee will follow up with a report of any corrective action taken or planned to be taken as a result of such finding. The Superintendent will maintain the confidentiality of student record information protected by state and/or federal law and regulations and confidential personnel record information.

BDD - SCHOOL COMMITTEE-SUPERINTENDENT RELATIONSHIP

The Committee will leave to the Superintendent all matters of decision and administration that come within his/her scope as executive officer and professional leader of the school system. While the committee reserves to itself the ultimate decision of all matters concerning general policy or expenditures of funds, it will normally proceed in these areas after receiving recommendations from its executive officer. Further:

1. The Superintendent may ask for guidance from the Committee with respect to matters of operation whenever appropriate. If it is necessary to make exceptions to an established policy, he/she will submit the matter to the Committee for advice and direction.
2. The Superintendent will assist the Committee in reaching sound judgments and establishing policies, and will place before the Committee all relevant facts, information, and reports necessary to keep the Committee adequately informed of situations or business at hand. The Superintendent will provide the Committee with copies of any finding of noncompliance or violation of any rule, regulation or binding guideline regarding the Arlington Public Schools by a Federal, state or local government agency or entity, redacted as needed to protection confidential information, promptly following receipt of such finding and when requested by the Committee will follow-up with a report of any corrective action taken or planned to be taken as a result of such finding.

Draft by Len Kardon, March 2024

File IHBB - Child Find Policy

It is the responsibility of the Arlington Public Schools to identify any child who is a resident of Arlington, who may have a disability, regardless of the severity of the disability. It is also the responsibility of Arlington Public Schools to evaluate those students to determine if they are eligible for special education or related services under IDEA (Individuals with Disabilities Education Act) or 603 CMR 28 (Massachusetts Special Education Regulations). Any staff member of the Arlington Public Schools who believes a student may have a disability and may be eligible for special education or related services under IDEA shall make a referral for an evaluation to determine eligibility for special education services to the appropriate personnel at their school.

The Arlington Public Schools will post a Child Find notice substantially in the form presented in File IHBB-A, as it may be updated by DESE, prominently on its website and will distribute an appropriate version of such notice (separately from any inclusion in student handbooks) to all Arlington Public School families by email with 20 school days of the start of each school year.

Within one month of the initial adoption of this policy, the Arlington Public Schools will distribute a notice to all personnel informing them about the adoption of this policy and will include the first paragraph above in such notice. New personnel to the Arlington Public Schools will be informed of this policy as part of their onboarding process.

Commented [1]: This is from our website: https://www.arlington.k12.ma.us/apps/pages/index.jsp?uREC_ID=2858219&type=d&pREC_ID=2327887

Commented [2]: The state guidance says: "In addition to federal law, Massachusetts state law requires "the school committee of every city, town or school district" to "identify the school age children residing therein who have a disability," as well as "diagnose and evaluate the needs of such children, propose a special education program to meet those needs, provide or arrange for the provision of such special education program."

Draft by Len Kardon, March 2024

File IHBB-A [Child Find Notice](#)

It is the responsibility of the Arlington Public Schools to identify any child who is a resident of Arlington, who may have a disability, regardless of the severity of the disability. It is also the responsibility of Arlington Public Schools to evaluate those students to determine if they are eligible for special education or related services under IDEA (Individuals with Disabilities Education Act) or 603 CMR 28 (Massachusetts Special Education Regulations).

The Arlington Public Schools District is committed to identifying children before their third birthday in order to provide early intervention services for three- and four-year-olds. If you have questions or concerns regarding your child's development and would like to have him/her screened, please call Joyce Schlenger at the Menotomy Preschool for an appointment at (781) 316 - 3698 or Alison Elmer, Assistant Superintendent of Student Services at (781) 316 - 3533 for more information.

If you suspect that your child, at any age, may need an evaluation to determine eligibility for special education services, you may request an evaluation, at no cost, at your neighborhood / district school. Please contact the Principal at your child's neighborhood / district school for information about referring your child for an evaluation. Contact information for each school is listed below:

- Arlington High School (781) 316 - 3591**
- Ottoson Middle School (781) 316 -3745**
- Gibbs School (781) 316 – 9001**
- Bishop Elementary School (781) 316 - 3792**
- Brackett Elementary School (781) 316 - 3705**
- Dallin Elementary School (781) 316 - 3730**
- Hardy Elementary School (781) 316 - 3781**
- Peirce Elementary School (781) 316 – 3737**
- Stratton Elementary School (781) 316 – 3754**
- Thompson Elementary School (781) 316 - 3769**

Commented [3]: This is the notice on the APS website (although it's hard to find as it's a link from the special education page rather than homepage).

Commented [4]: You could/would remove this paragraph from the notice sent to current families.

May 2024 revisions

File IHBB - Child Find Policy

It is the responsibility of the Arlington Public Schools to ~~identify~~ ensure that all children with disabilities any child who is a resident of residing in Arlington, ~~who may have a disability,~~ regardless of the severity of the disability, and who are in need of special education and related services, are identified, located and evaluated. Child Find must include children who are suspected of being a child with a disability and in need of special education. ~~It is also the responsibility of Arlington Public Schools to evaluate those students to determine if they are eligible for special education or related services under IDEA (Individuals with Disabilities Education Act) or 603-CMR 28 (Massachusetts Special Education Regulations).~~

Any educator or staff member of the Arlington Public Schools who believes a student may have a disability and may be eligible for special education or related services ~~under IDEA~~ shall make a referral to the appropriate personnel at their school for an evaluation to determine eligibility for special education services to the appropriate personnel at their school.

A referral can be made by any source who believes a child may be eligible for special education and related services, including but not limited to a parent, teacher, health care provider, or other individual with knowledge about the child.

The Arlington Public Schools will post a Child Find notice ~~substantially in the form presented in File IHBB-A, as it may be updated by DESE,~~ prominently on its website and will ~~distribute~~ include an appropriate version of such notice ~~(separately from any inclusion in all student and staff handbooks for each school year.)~~ to all Arlington Public School families by email with 20 school days of the start of each school year. Child Find information will be included in the mandatory staff training at the start of each school year. Personnel hired after the start of the school year are required to participate in the mandatory staff training

~~Within one month of the initial adoption of this policy, the Arlington Public Schools will distribute a notice to all personnel informing them about the adoption of this policy and will include the first paragraph above in such notice. New personnel to the Arlington Public Schools will be informed of this policy as part of their onboarding process.~~

The Arlington Public Schools will post a Child Find notice prominently on its website and will include an appropriate version of such notice in all student and staff handbooks for each school year. Child Find information will be included in the mandatory staff training at the start of each school year and in the onboarding process for staff hired after the start of the school year.

~~File IHBB-A Child Find Notice~~

~~It is the responsibility of the Arlington Public Schools to identify any child who is a resident of Arlington, who may have a disability, regardless of the severity of the disability. It is also the responsibility of Arlington Public Schools to evaluate those students to determine if they are eligible for special education or related services under IDEA (Individuals with Disabilities Education Act) or 603 CMR 28 (Massachusetts Special Education Regulations).~~

~~The Arlington Public Schools District is committed to identifying children before their third birthday in order to provide early intervention services for three- and four-year-olds. If you have questions or concerns regarding your child's development and would like to have him/her screened, please call Joyce Schlenger at the Menotomy Preschool for an appointment at (781) 316-3698 or Alison Elmer, Assistant Superintendent of Student Services at (781) 316-3533 for more information.~~

~~If you suspect that your child, at any age, may need an evaluation to determine eligibility for special education services, you may request an evaluation, at no cost, at your neighborhood/district school. Please contact the Principal at your child's neighborhood / district school for information about referring your child for an evaluation. Contact information for each school is listed below:~~

~~**Arlington High School (781) 316-3591**~~

~~**Ottoson Middle School (781) 316-3745**~~

~~**Gibbs School (781) 316-9001**~~

~~**Bishop Elementary School (781) 316-3792**~~

~~**Brackett Elementary School (781) 316-3705**~~

~~**Dallin Elementary School (781) 316-3730**~~

~~**Hardy Elementary School (781) 316-3781**~~

~~**Peirce Elementary School (781) 316-3737**~~

~~**Stratton Elementary School (781) 316-3754**~~

~~**Thompson Elementary School (781) 316-3769**~~



Town of Arlington, Massachusetts

Policies Continued from Previous Meeting

Summary:

- File BEDH - Public Comment

ATTACHMENTS:

Type	File Name	Description
▢ Policy	Policy_BEDH_Town_Counsel_changes_11.07.pdf	Policy BEDH Town Counsel Changes 11-7

File: BEDH - 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 residents and non-resident students and their families of the 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.

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. 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. 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.
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.
5. ~~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. The Chair of the meeting, after a warning, reserves the right to terminate speech which is not constitutionally protected because it constitutes true threats that are likely to provoke a violent reaction and cause a breach of the peace, or incitement to imminent lawless conduct. Public comments shall be made in an orderly and peaceable manner as permitted by law. The Chair of the meeting reserves the right to terminate public comments or speech that are not protected by the Massachusetts or United States Constitutions.~~
6. All remarks will be addressed through the Chairperson of the meeting.

7. 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.

8. 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.

Revised and adopted by the Arlington School Committee _____.



Town of Arlington, Massachusetts

Policy Changes Referred by Full Committee

Summary:

- CBI - Evaluation of the Superintendent

ATTACHMENTS:

Type	File Name	Description
▢ Policy	Policy_CBI_-_Evaluation_of_the_Superintendent.pdf	Policy CBI - Evaluation of the Superintendent

File: CBI - EVALUATION OF THE SUPERINTENDENT

Evaluation can serve the purpose of helping educators and educational leaders continually improve their practice.

Through evaluation of the Superintendent, the School Committee will strive to accomplish the following:

1. Ensure the efforts of the Superintendent are focused on district goals and the standards of professional practice established by state regulation are met by the Superintendent.
2. Ensure all Committee members and the Superintendent are in agreement and clear on the role of the Superintendent and the immediate priorities among his/her responsibilities.
3. Provide excellence in administrative leadership of the school district.
4. Develop a respectful and productive working relationship between the School Committee and Superintendent.

The School Committee and Superintendent will periodically develop a set of performance objectives based on the needs of the school district and in keeping with state regulations for evaluation of the Superintendent. The Superintendent's performance will be reviewed in accordance with specified goals and standards. Additional objectives will be established according to the evaluation cycle agreed upon with the Superintendent.

All School Committee discussion and deliberation related to the Superintendent's performance evaluation shall be conducted in open session in accordance with the open meeting law.

LEGAL REF: M.G.L. [30A:18-25](#)

603 CMR [35:00](#)



Town of Arlington, Massachusetts

Policy Changes Recommended by MASC (pending confirmation from MASC counsel)

Summary:

- Legal Update-July, 2024
 - AC - Nondiscrimination Policy Including Harassment and Retaliation
 - AC-R - Nondiscrimination Policy Including Harassment and Retaliation
 - ACA - Nondiscrimination on the Basis of Sex
 - ACA-R - Nondiscrimination on the Basis of Sex Under Title IX Including Sex-Based Harassment
 - ACAB - Sexual and Sex-Based Harassment and Retaliation
 - ACGA - Civil Rights Grievance Procedure
 - ACGB - Title IX Sexual Discrimination Grievance Procedure

ATTACHMENTS:

Type	File Name	Description
▢ Policy	Legal-Update-July-24.pdf	Legal-Update-July-24
▢ Policy	Counsels-File-ACA-R-NEW-POLICY.pdf	Counsels-File-ACA-R-NEW-POLICY
▢ Policy	Counsels-edits-File-AC-R.pdf	Counsels-edits-File-AC-R
▢ Policy	Counsels-edits-File-ACAB.pdf	Counsels-edits-File-ACAB
▢ Policy	Counsels-edits-File-ACA.pdf	Counsels-edits-File-ACA
▢ Policy	Counsels-edits-File-AC.pdf	Counsels-edits-File-AC
▢ Policy	Counsels-edits-ACGB-Title-IX-Grievance-Procedure.pdf	Counsels-edits-ACGB-Title-IX-Grievance-Procedure
▢ Policy	Counsels-edits-ACGA-Civil-Rights-Grievance-Procedure-Rev.pdf	Counsels-edits-ACGA-Civil-Rights-Grievance-Procedure-Rev

LEGAL UPDATE

To: All School Committee Members and Superintendents
From: Patrick J. Francomano Esq., MASC General Counsel
Re: Revised Title IX Regulations: Overview
Date: July 24, 2024

MASC has revised its model policies and related materials to reflect the US Department of Education's recent amendments to the regulations implementing Title IX of the Education Amendments of 1972 (Title IX). Title IX prohibits discrimination on the basis of sex in "Education Programs or Activities Receiving Federal Financial Assistance."

Although we often strenuously cite the differences between policy, regulation and procedure and the extent of the school committee's role in developing the same, you may find that the model policies and related materials we are providing perhaps appear to occasionally run afoul of our preachings. Here is why. First, in some instances, the new regulations appeared somewhat prescriptive and it seemed wise to err on the side of caution and allow the lines to be blurred if there was no immediate down side. Second, some of those lines may have already been blurred by previously provided materials. Third, the extent and nature of the changes may appear so overwhelming, nuanced and/or confusing that a more comprehensive set of materials is required for districts to address the requirements of the new Title IX regulations.

There are occasional redundancies across the materials that have been left to ensure recognition of certain Title IX requirements. You will also find a new document that has been coded as a regulation in order to provide a bridge between the broader policy statements and the amended grievance procedure.

A major challenge in addressing these materials is that while broad policy statements may be sufficient to meet requirements under Title IX, it is not necessarily one size fits all when it comes to each district's desired practices and procedures. It is imperative that you do what is correct for your district and its needs. We have left in place prior timelines and procedures even if not specifically required under the new regulations. In that way the district may maintain the status quo for the time being and make changes later on as it deems appropriate. Two such examples are the timeline within the grievance procedure and not opting to make the single-investigator model the default in lieu of the past practice.

We anticipate making some revisions as theory meets practice and we receive your feedback.

The "Unofficial" bookmarked PDF version of the "Final Rule" including commentary may be found at:
<https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf>

The following are three additional documents published by the Department:

- Final Rule Fact Sheet (15 Pages):
<https://www2.ed.gov/about/offices/list/ocr/docs/t9-final-rule-factsheet.pdf>
- Final Rule Summary (5 Pages):
<https://www2.ed.gov/about/offices/list/ocr/docs/t9-final-rule-summary.pdf>
- Resource Document including Model Language (26 Pages):
<https://www2.ed.gov/about/offices/list/ocr/docs/resource-nondiscrimination-policies.pdf>

As anticipated there have been multiple lawsuits filed seeking injunctive and declaratory relief, essentially requesting the Courts initially postpone the effective date of the Rule and permanently stop the Rule from going into effect. At last count there were eight lawsuits involving 26 states objecting to the inclusion of “gender identity” as a basis for sex discrimination. Three of these lawsuits have successfully placed the new regulations on hold in 14 states, while the remaining lawsuits are still to be considered. One of the three lawsuits could have nationwide implications because the judgment prohibited enforcement of the new regulations by any school attended by a member of the Young America’s Foundation, or a school attended by a member of Moms for Liberty’s child without respect to the school’s location. However the impact on MA is minimal given that MA law already prohibits discrimination based upon “gender identity.” We will of course be monitoring all of these and any new lawsuits and keep you informed of any developments that directly impact our members.

What follows below are some anticipated common questions you may have. They are not exhaustive but do manage to address many of the major shared areas of concern among our members. Hopefully you find them helpful.

What should districts be doing?

- Identify what policies, procedures, and other materials need to be revised and, if required, voted upon by the school committee.
- Be sure the district follows all Title IX notice/publication requirements.
- Revise training materials and schedules as necessary for all staff.
- Ensure that staff at every level understand their roles and responsibilities and are in a position to fulfill the same.
- Monitor all district activities, practices and procedures to ensure alignment with Title IX requirements.
- Consult your district’s legal counsel for assistance in compliance and training,

Has the Title IX definition of discrimination based on sex changed at all?

Sexual orientation and gender identity have been incorporated into the federal definition of sex-based discrimination, making Title IX consistent with MA law.

Is sex-based harassment different than sex-based discrimination?

Sex based harassment has been incorporated into the definition of Sexual Discrimination and the newly entitled Title IX Sexual Discrimination Grievance Procedure addresses both sex-based harassment and other sex-based discrimination.

Do the new regulations require changes to the district’s grievance procedure?

Under the former regulations, the specific grievance procedure requirements only applied to complaints involving sexual harassment. The grievance procedure requirements now apply to all alleged violations of Title IX, thus significantly increasing its scope.

Is the district still permitted to use an informal resolution process?

Under the new regulations the district, at its discretion, may determine whether or not it is appropriate to offer an informal resolution process, including mediation or restorative justice. At any time prior to determining whether sex discrimination occurred pursuant to the district’s grievance procedure, the district may opt to offer and facilitate informal resolution options, when it receives information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made. Both parties must give voluntary, informed, written consent to attempt any offered informal resolution and the process must be facilitated by trained personnel.

Under Title IX, what is meant by a “hostile environment”?

A “hostile environment” in the context of “Sex-based harassment” is established where “unwelcome sex-based conduct ... is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the district’s education program or activity.”

Is a specific investigative model required under Title IX?

In an effort to provide districts with greater flexibility, the new regulations allow for the use of a single-investigator model, except for sex discrimination complaints involving allegations against an employee accused of sex-based harassment of a student, or if the process is otherwise contrary to Federal, State, or local law. However, this requires specific action by the district detailing when and how the single investigator model may be used. The revised MASC materials reference the availability of the single-investigator model but default to the previous model leaving it to each district if and when it wishes to employ the single-investigator model.

What are the district's obligations under Title IX as applied to privacy?

The revisions to the Title IX regulations reflect additional emphasis on privacy protections for both students and others involved in sex discrimination claims and investigations, by generally prohibiting disclosure of personally identifiable information arising out actions taken in compliance with Title IX and requiring grievance procedures which include appropriate steps to protect the privacy of the parties and witnesses.

Has the standard of proof changed?

The final regulations address the standard of proof to be applied when determining if sex discrimination occurred, allowing for the use of the lower "preponderance of the evidence" standard unless the higher "clear and convincing" standard is already used in other similar proceedings. This was already the default standard in the original model.

May a respondent still be removed on an emergency basis under the new regulations?

A district may remove a respondent (employee or student) from the district's education program or activity on an emergency basis following a safety and risk analysis that establishes an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This is a change from the prior regulations with the word "imminent" being substituted for the word "immediate" and provides the district with some greater flexibility.

How is retaliation addressed under the new Title IX regulations?

Although intimidation, threats, coercion, or discrimination against any person by the district, a student, or an employee for the purpose of interfering with Title IX rights were prohibited under the earlier Title IX regulations, the new regulations have:

- Incorporated those terms under a formal definition of retaliation, including a reference to peer retaliation.
- Provided that such retaliation is a Title IX violation subject to the district's grievance procedure and/or, as appropriate, an informal resolution process.
- Required the district to include a statement that retaliation is prohibited in its notice of allegations to the parties whose identities are known upon initiation of grievance procedures.

How has the Title IX Coordinator's role changed?

Although some might find the new multiple references to the duties of the Title IX Coordinator as encompassing actions that are reasonable and/or otherwise foreseeable, the new regulations (and in turn MASC's model materials) are perhaps more precise in their dictates. The Title IX Coordinator is clearly established as the individual who is responsible for all aspects of Title IX including the development of systems and procedures for awareness, training, enforcement and education.

What training obligations are imposed upon the district?

The new regulations mandate training for Title IX Coordinators and all others responsible for implementing and executing the school's grievance procedure as well as informal resolution. It is imperative to note that all employees must be trained on:

- (i) The district's obligation to address sex discrimination in its education program or activity;
- (ii) The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment; and
- (iii) All applicable notification and information requirements in response to reports of sexual discrimination and pursuant to the district's Title IX Grievance Procedure.

Additionally, all training materials must be publicly available.

Are there any additional requirements under Title IX when dealing with students with disabilities?

The new regulations require that the Title IX Coordinator consult with one or more members of a student's IEP or Section 504 team throughout the grievance procedures if either complainant or respondent is a student with a disability, in order to ensure compliance with the requirements of the IDEA and Section 504.

What is the impact of Title IX on a district's obligations to both students and employees based on pregnancy or pregnancy-related conditions?

The new regulations more specifically address a district's obligation to both students and employees based on pregnancy or related conditions. Districts must provide for reasonable modifications for students based on the above, must provide access to a clean, private lactation space for students and employees, as well as reasonable break time for lactation for employees. Districts are generally prohibited from revealing personally identifiable information about reasonable modifications for pregnancy or related conditions and district employees are required to advise a student (or parents of a minor student) of the school's obligations to prevent discrimination when informed of a student's pregnancy or related condition. This is another example of Title IX catching up to protections currently under MA law.

Are "supportive measures" still contemplated under the new regulations?

Supportive measures continue to be a major component of a district's response to potential or actual violations of Title IX. Supportive measures are individualized services designed to ensure equal educational access, protect safety, and/or deter sexual discrimination, which are reasonably available, non-punitive, non-disciplinary, and not unreasonably burdensome to the complainant or respondent. These may be offered before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. They are subject to confidentiality protections. A new requirement is the district's obligation to offer an opportunity for either party to appeal the implementation of supportive measures and to propose alternatives.

Are districts responsible for conduct off school grounds or are there any geographical limits to a district's responsibility to address potential violations of Title IX?

Conduct beyond the schoolhouse grounds may constitute sex discrimination when the conduct occurs in the course of activities under a district's education program or activities that are within the district's disciplinary authority. Even conduct which occurs outside the education program/activity or conduct outside of the U.S., which is alleged to be contributing to a sex-based hostile environment under a district's educational program or activity, must be considered by the district.

Are all employees required to report potential sex discrimination?

All non-confidential employees are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX. The new regulations discuss several requirements surrounding a district's confidential employee(s) to the extent that any exist. The district's designation of someone as a confidential employee and its implications should be discussed at length with your district's legal counsel well in advance.

A confidential employee is: An employee of the district whose communications are privileged or confidential under Federal or State law or an employee of the district whom the district has designated as confidential for the purpose of providing services to persons related to sex discrimination. The employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.

If your district has designated one or more employees as confidential then all participants in the district's education program or activity must be notified of how they may be contacted. The confidential employee must explain to any person who informs them of conduct that reasonably may constitute sex discrimination under Title IX:

- (i) The employee's status as confidential for purposes of Title IX, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
- (ii) How to contact the district's Title IX Coordinator and how to make a complaint of sex discrimination; and
- (iii) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

Do the new regulations provide any insight into the use of restrooms and locker rooms?

Although the use of restrooms and locker rooms were not specifically targeted under the new regulations, they do contain a reference to a "*de minimis*" harm standard for sex separation currently permitted by existing regulations. Where facilities are comparable, current regulations permit separate toilet, locker room, and shower facilities on the basis of sex. 34 CFR 106.33. According to the new regulations the "otherwise permissible sex separation is consistent with Title IX as long as it is carried out in a manner that does not impose more than *de minimis* harm on affected students." The regulations provide that a student who is prevented from participating in school (including in sex-separate activities) consistent with their gender identity suffers more than *de minimis* harm in Violation of Title IX.

We look forward to hearing your input as you adapt these materials to your individual needs. Please feel free to let us know what provisions may or may not be working for you and what additional challenges we can assist you in addressing. As always, do not hesitate to contact us with any questions, comments, or observations.

Patrick Francomano, Esq.
MASC General Counsel
pfrancomano@masc.org

File: ACA-R - NONDISCRIMINATION ON THE BASIS OF SEX UNDER TITLE IX INCLUDING SEX-BASED HARASSMENT

I. The _____ Public School’s obligation to respond under Title IX requires the District to be aware of discrimination based upon sex, including sex-based harassment. The District has actual notice when an allegation is made known to any school employee. Schools must treat seriously all reports of sexual discrimination, including sex based 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.

Title IX Sexual Discrimination applies to conduct that occurs within the United States in an education program or activity of the District, regardless of whether such District program or activity is conducted on or off school grounds. Additionally, under Title IX, the District has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient’s education program or activity or outside the United States. A District education program or activity includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurred.

II. Designation of a Title IX Coordinator, Responsibilities & Training

(1) Title IX Coordinator. The District shall designate and authorize at least one employee, referred to herein as a Title IX Coordinator, to coordinate its efforts to comply with its responsibilities under Title IX. In the event the District designates more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over those responsibilities and ensure the District’s consistent compliance with its responsibilities under Title IX.

The Title IX Coordinator is responsible for coordinating the District’s compliance with its obligations under Title IX and when notified of conduct that reasonably may constitute sex discrimination under Title IX is required to take actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects, pursuant to Title IX 106.44(f), in part by:

- (i) Treating the complainant and respondent equitably;**
- (ii) Offering and coordinating supportive measures, as appropriate, for the complainant and if the grievance procedures has been initiated or an informal resolution process has been offered, for the respondent as well.**
- (iii) Notifying parties of the grievance procedure and the informal resolution process if available and appropriate;**
- (iv) Initiating the grievance procedure or the informal resolution process if available, appropriate and agreed to by all parties;**
- (v) In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process,**

determining whether to initiate a complaint of sex discrimination that complies with the grievance procedures. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

- (1) The complainant's request not to proceed with initiation of a complaint;
- (2) The complainant's reasonable safety concerns regarding initiation of a complaint;
- (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- (5) The age and relationship of the parties, including whether the respondent is an employee of the District;
- (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- (7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- (8) Whether the District could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the recipient from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

(vi) If initiating a complaint under paragraph (v) above of this section, notifying the complainant prior to doing so and appropriately addressing reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures;

(vii) Regardless of whether a complaint is initiated, taking other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue or recur within the recipient's education program or activity.

Parental, family, or marital status; pregnancy or related conditions.

The Title IX Coordinator shall coordinate actions on behalf of the District to promptly and effectively prevent sex discrimination and ensure equal access to the District's education program or activity pursuant to the provisions of Title IX, § 106.40 once a student, or a person who has a legal right to act on behalf of the

student, notifies the Title IX Coordinator of the student's pregnancy or related conditions. These actions shall include

(i) Informing the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of the District's obligations under paragraphs Title IX, §§ 106.40(b)(1) through (5), § 106.44(j) and providing the District's notice of nondiscrimination.

(ii) Providing reasonable modifications to the District's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the District's education program or activity. Each reasonable modification must be based on the student's individualized needs following consultation with the student to determine what modifications are required. A modification is not reasonable if the District can demonstrate that it would fundamentally alter the nature of its education program or activity.

The student has discretion to accept or decline each reasonable modification; if a student accepts a recipient's offered reasonable modification, the District is obligated to implement it.

Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

(iii) Providing the student voluntary access to any separate and comparable portion of the District's education program or activity.

(iv) Providing the student a voluntary leave of absence from the District's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. If the student qualifies for leave under a leave policy maintained by the District that allows a greater period of time than the medically necessary period, the student may take voluntary leave under that policy instead if the student so chooses. When the student returns to the District's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

(v) Providing the student access to a lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

(vi) Not requiring supporting documentation under paragraphs (ii) through (v) above unless the documentation is necessary and reasonable for the District to determine the reasonable modifications to make or whether to take additional specific actions under paragraphs (ii) through (v) above

(vii) Treating pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's education program or activity.

(viii) Not requiring a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the recipient's class, program, or extracurricular activity unless:

- The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- The recipient requires such certification of all students participating in the class, program, or extracurricular activity; and
- The information obtained is not used as a basis for discrimination prohibited by this part.

(2) Delegation to designees. As appropriate, the District may delegate, or permit the Title IX Coordinator to delegate, specific duties to one or more designees.

(3) Training.

The District must ensure that the persons described in paragraphs (A) through (D) below receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX and annually thereafter. This training must not rely on sex stereotypes.

A. All employees.

All employees must be trained on:

(i) The District's obligation to address sex discrimination in its education program or activity;

(ii) The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment; and

(iii) All applicable notification and information requirements in response to reports of sexual discrimination and pursuant to the District's Title IX Grievance Procedure.

B. Investigators, decisionmakers, and other persons who are responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures.

In addition to the training requirements in paragraph A. above, all investigators, decisionmakers, and other persons who are responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures must be trained on the following topics to the extent related to their responsibilities:

(i) The District's obligations to respond to sexual discrimination under Title IX § 106.44;

(ii) The District's grievance procedures;

(iii) How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and

(iv) The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under Title IX.

C. Facilitators of informal resolution process.

In addition to the training requirements in paragraph A. above, all facilitators of an informal resolution process must be trained on the rules and practices associated with the District's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

D. Title IX Coordinator and designees.

In addition to the training requirements in paragraphs A. through C. above, the Title IX Coordinator and any designees must be trained on their specific responsibilities as set forth in paragraph (1) above and the requirements of the District's recordkeeping system.

III. Receipt of Complaint

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 a sex discrimination complaint, including sexual and sex-based harassment. The Title IX Coordinator shall be informed, as soon as possible, of the filing of the complaint. Nothing in the District's 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.

IV. Notification Requirements and Confidential Employees

All non-confidential employees are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX.

(1) The District shall notify all participants in the District's education program or activity of how to contact its confidential employees, if any.

(2) The District shall require a confidential employee to explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination under Title IX:

(i) The employee's status as confidential for purposes of Title IX, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;

(ii) How to contact the recipient's Title IX Coordinator and how to make a complaint of sex discrimination; and

(iii) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

A confidential employee is:

(1) An employee of the District whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

(2) An employee of the District whom the recipient has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.

V. Students With Disabilities

In the course implementing supportive measures, informal resolution, and/or a grievance procedure, and throughout the same, if either a complainant or respondent is an elementary or secondary student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

VI. Emergency Removal & Administrative Leave

1. The District may remove a respondent from the District's education program or activity on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision shall not be construed to modify any rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*
2. The District may place an employee respondent on administrative leave from employment responsibilities during the pendency of the District's grievance procedures. This provision shall not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*

VII. Use of Supportive Measures

Supportive Measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the Complainant or Respondent, while designed to ensure equal educational access, protect safety, and/or deter sexual discrimination

Supportive Measures may be offered before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party, while designed to ensure equal educational access, protect safety, and/or deter sexual discrimination.

Supportive measures available to complainants and respondents include but are not limited to: counseling; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the building and/or campus; and other similar measures. Violations of the restrictions imposed by supportive measures may be considered a violation of school rules and may also be considered in determining whether sexual discrimination has occurred.

VIII. Grievance Procedure

Allegations of conduct that meet the definition of **sexual discrimination, including sex-based harassment** ~~sexual harassment~~ under Title IX will be addressed through the Title IX **Sexual Discrimination Harassment** Grievance Procedure. Allegations of conduct that meet the

definition of **sexual discrimination, including sex-based harassment** ~~sexual harassment~~ under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual **Discrimination** ~~Harassment~~ Grievance Procedure.

The District's Title IX Grievance Procedure is available at: [Title IX Grievance Procedure].

Allegations of conduct that do not meet the definition of sexual **discrimination, including sex-based harassment** ~~Harassment~~ under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the District's Civil Rights Grievance Procedure. (See exception under Section II, Part 4, Step 4 below). The definitions of sexual harassment under Title VII, M.G.L. c. 151B, and M.G.L. c. 151C are set out in the Civil Rights Grievance Procedure.

The District's Civil Rights Grievance Procedure is available at: [Civil Rights Grievance Procedure].

IX. Informal Resolution

After a Formal Complaint is filed, and prior to determining whether sex discrimination occurred, the District may, at its discretion, opt to offer and facilitate informal resolution options, such as mediation or restorative justice. Both parties must give voluntary, informed, written consent to attempt any offered informal resolution. Any informal resolution under this Procedure will be facilitated by trained personnel.

- (1) The informal resolution process is not available to resolve allegations that an employee engaged in sex-based harassment of a student or if such a process would conflict with Federal, State or local law.
- (2) The informal process is voluntary, and the respondent may terminate or decline any informal process at any time and resume the Formal Complaint grievance process. The District, as a condition of participation, must not require the parties to waive the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or the exercise of any other right.
- (3) The informal process shall not exceed thirty (30) calendar days, during which time the timelines of the Formal Complaint process will be stayed.

X. Due Process and Fairness

The District shall provide due process protections which include the following:

- 1) Equitable treatment of complainants and respondents.
- 2) Presumption that the respondent is not responsible until a determination is made..
- 3) Prompt timeframes for all major stages.
- 4) Reasonable steps to protect privacy of parties and witnesses during the grievance procedures.

- 5) Objective evaluation of relevant evidence and the exclusion of impermissible evidence.
- 6) If the District adopts procedures that apply to the resolution of only some complaints, articulate principles for how the District will determine which procedures apply.
- 7) Notice of allegations to the parties containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation.
- 8) Permitted dismissals in certain circumstances so long as the District offers an appeal and, as appropriate, supportive measures, and takes other steps to ensure sex discrimination does not continue or recur.
- 9) Permitted consolidation of complaints in certain circumstances.
- 10) Burden on the District to gather evidence and decide what is relevant or impermissible.
- 11) Equal opportunity for the parties to present fact witnesses and other evidence.
- 12) Equal opportunity for the parties to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence (and if the District provides access to a description, it must provide access to the underlying evidence upon the request of any party); a reasonable opportunity to respond; and a requirement that the District take reasonable steps to prevent and address unauthorized disclosures.
- 13) A process for assessing credibility when credibility is in dispute and relevant.
- 14) Use of a preponderance of the evidence standard of proof to determine whether sex discrimination occurred, unless the clear and convincing evidence standard is used in all other comparable proceedings, in which case that standard may be used.
- 15) The decision maker shall not be the same person as the Title IX Coordinator or investigator unless the District otherwise provides for the same in the Grievance Procedure and specifically sets forth under what circumstances a single-investigator model may be used.
- 16) The facilitator for any informal resolution process shall not be the same person as the investigator or the decisionmaker in the District's grievance procedures.
- 17) The decisionmaker for any appeal shall not have taken part in an investigation of the allegations or dismissal of the complaint;
- 18) If it is determined that sex discrimination occurred, remedies for the complainant or others; disciplinary sanctions for those found responsible; and other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur..
- 19) Title IX Coordinators, investigators, and decision-makers must be free from bias or conflict of interest;
- 20) Equal opportunity for parties to appeal, where an appeal is offered;
- 21) 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.

22) An informal investigation process that may, upon the request of the complainant be followed by a formal process.

XI. Record Keeping

The District shall create records in accordance with its obligations under Title IX as noted below and maintain the same for a period of seven (7) years:

- (1) For each complaint of sex discrimination, records documenting the informal resolution process and/or the grievance procedures and the resulting outcome.
- (2) For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or records documenting the actions the District took to meet its obligations under Title IX.
- (3) For all training all materials used to provide training to meet its obligations under Title IX. A District must make these training materials available upon request for inspection by members of the public.

File: AC-R - NON-DISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION

_____ Public Schools will respond promptly to any reports or complaints of discrimination, including harassment and retaliation, or other violations of civil rights, pursuant to our detailed response protocol. Where it is determined that discrimination or harassment has occurred,

_____ Public Schools will act promptly to eliminate the conduct and will impose developmentally- appropriate disciplinary, restorative, and/or corrective action.

Any member of the school community who is found, after investigation, to have engaged in any form of discrimination, including harassment or retaliation, against another member of the school community, will be subject to consequences determined appropriate by the administration. Such consequences may include restorative measures and corrective action, and/or student discipline or staff disciplinary action, up to and including termination of employment.

Definitions

"Discrimination" and "Harassment" are defined as unwelcome conduct, whether verbal or physical, that is based on any individual's actual or perceived race*, color, sex, sexual orientation, gender identity, **sex stereotypes, sex characteristics**, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy or pregnancy-related conditions, homelessness, ancestry, ethnic background, national origin, or any other category protected by state or federal law, Discrimination and/or harassment includes, but is not limited to:

- Display or circulation of written materials or pictures that are degrading to a person or group described above.
- Verbal abuse or insults about, directed at, or made in the presence of, an individual or group described above.
- Any action or speech that contributes to, promotes or results in a hostile or discriminatory environment to an individual or group described above
- Any action or speech that is sufficiently severe, pervasive or persistent that it either (i) interferes with or limits the ability of an individual or group described above to participate in or benefit from employment or a program or activity of _____ Public Schools; or (ii) creates an intimidating, threatening or abusive educational or working environment.

Harassment may include, but is not limited to, any unwelcome, inappropriate, or illegal physical, written, verbal, graphic, or electronic conduct, and that has the intent or effect of creating a hostile education or work environment by limiting the ability of an individual to participate in or benefit from the district's programs and activities or by unreasonably interfering with that individual's education or work environment or, if the conduct were to persist, would likely create a hostile educational or work environment.

Harassment includes Sexual Harassment and Sex-Based Harassment which are more specifically addressed in File ACAB.

"Title IX Sexual Harassment" (effective August 14, 2020) means verbal, physical or other conduct that targets a person based on their sex, and that satisfies one or more of the following:

• A school employee conditioning educational benefits or services on participation in unwelcome sexual conduct (i.e., quid pro quo);

• Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's educational program or activity;

• Any instance of "sexual assault", "dating violence", "domestic violence", or "stalking", as those terms are defined by the Clery Act (20 U.S.C. 1092(f)(6)(A)(v)) and the Violence Against Women Act (34U.S.C. 12291(a)(8), (10) & (30)).

Allegations of Title IX Sexual Harassment shall be reported and investigated pursuant to the _____ Public Schools Protocol for Investigating Sexual Harassment and Retaliation Pursuant to Title IX.

Retaliation means intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or other Federal or State law providing protection against sex discrimination including sexual and sex-based harassment, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing as provided under District's , including in an informal resolution process, in grievance procedures and in any other actions taken by the District under § 106.44(f)(1) of Title IX.

Resources

The following individual is designated as the District ADA, Title VI, Title IX, and Sexual Harassment Coordinator, and Grievance Officer for the School Committee, administration, faculty, staff, volunteers in the schools, and for parties who are contracted to perform work for the _____ Public Schools, and can be reached at:

Name/Position

Address

Phone

The following individual is designated as the District ADA, Title VI, Title IX, and Sexual Harassment and Civil Rights Coordinator for students in the _____ Public Schools. In addition, the _____ is the District504 Coordinator, and can be reached at:

Name/Position

Address

Phone

Inquiries concerning the _____ Public Schools' policies and protocols, compliance with applicable laws, statutes, and regulations, and complaints may also be directed to the Director of Human Resources. Inquiries about laws, statutes, regulations and compliance may also be

directed to the Massachusetts Department of Elementary and Secondary Education or the Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Suite 900, Boston, MA 02109; (617) 289-0111; Email: OCR.Boston@ed.gov; Website:

www.ed.gov/ocr

*race to include traits historically associated with race, including, but not limited to, hair texture, hair type, hair length and protective hairstyles.

LEGAL REFS.: Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 Executive Order 11246, as amended by E.O. 11375

Equal Pay Act, as amended by the Education Amendments of 1972 Title IX, Education Amendments of 1972

Rehabilitation Act of 1973

Education for All Handicapped Children Act of 1975

No Child Left Behind Act of 2001, 20 U.S.C. § 7905 (The Boy Scouts of America Equal Access Act)

M.G.L. [71B:1](#) et seq. (Chapter 766 of the Acts of 1972)

Acts of 2022, Chapter 117 -
<https://malegislature.gov/Laws/SessionLaws/Acts/2022/Chapter117>

CROSS REF: [ACE](#), Nondiscrimination on the Basis of Disability

[ACAB](#), Sexual Harassment

[GBA](#), Equal Employment Opportunity

[IJ](#), Instructional Materials

[JB](#), Equal Educational Opportunities

[Title IX Sexual Harassment Grievance Procedure](#) **Change to “Title IX Sexual Discrimination Grievance Procedure”**

[Civil Rights Grievance Procedure](#)

SOURCE: MASC **July 2024**

File: ACAB – SEXUAL **& SEX-BASED** HARASSMENT **AND RETALIATION**

The _____ School Committee and _____ Public Schools are committed to maintaining an education and work environment for all school community members. that is free from all forms of harassment, including sexual **and sex-based** harassment as provided under MA and Federal law. The members of the school community include the School Committee, employees, administration, faculty, staff, students, volunteers in the schools, and parties contracted to perform work for the _____ Public Schools.

Because the District takes allegations of harassment, including sexual harassment, seriously, ~~we will~~ **the District shall** respond **promptly and meaningfully to every known report of sexual harassment and shall investigate every formal** complaint of harassment including sexual **and sex-based** harassment as well as retaliation and following an investigation where it is determined that such inappropriate conduct has occurred, the **District shall** ~~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~~ **the District's** goals of promoting an environment that is free of harassment including sexual **and sex-based** harassment, the policy is not designed or intended to limit ~~our~~ **the District's** 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 **or sex-based** harassment.

Definitions of Sexual Harassment

TITLE IX

Sex-based harassment prohibited by Title IX is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including as described in § 106.10 of Title IX, that is:

(1) Quid pro quo harassment. An employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity explicitly or Impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity (i.e., creates a hostile environment).

(3) Specific offenses. (i) Sexual assault (ii) Dating violence; (iii) Domestic violence; (iv) Stalking

TITLE VII

Title VII of the Civil Rights Act of 1964 prohibits sexual harassment which is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile environment on the basis of sex is created when the conduct is sufficiently severe or pervasive to alter the conditions of employment.

M.G.L. c. 151B

M.G.L. c. 151B, § 1 - the term "sexual harassment" is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

M.G.L. c. 151C

M.G.L. c. 151C, § 2 (g) prohibits the sexual harassment of students in any program or course of study in any educational institution and M.G.L. c. 151C, § 1 (e) defines "sexual harassment" as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.

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.

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;
- Discussion of one's sexual activities; and
- Sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion as well as 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)

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).

Retaliation against a complainant, because they have filed a harassment or sexual harassment complaint 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~~ **NOTE * Portion of this is in 2nd paragraph t the beginning of this file & a portion is in new File TBD – ACA-R????**

~~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.~~

DUE PROCESS PROTECTIONS **NOTE * This is in new File TBD – ACA-R????**

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 clear and convincing evidence or 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.

NOTE * The below is in new File TBD – ACA-R????

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.

NOTE * A revised version of the below is in new File TBD – ACA-R????

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.

Allegations of conduct that meet the definition of **sexual discrimination, including sex-based harassment** ~~sexual harassment~~ under Title IX will be addressed through the Title IX Sexual **Discrimination** ~~Harassment~~ Grievance Procedure. Allegations of conduct that meet the definition of **sexual discrimination, including sex-based harassment** ~~sexual harassment~~ under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual **Discrimination** ~~Harassment~~ Grievance Procedure.

The District's Title IX Grievance Procedure is available at: [Title IX Grievance Procedure].

Allegations of conduct that do not meet the definition of sexual **discrimination, including sex-based harassment** ~~Harassment~~ under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the District's Civil Rights Grievance Procedure. (See exception under Section II, Part 4, Step 4 below). The definitions of sexual harassment under Title VII, M.G.L. c. 151B, and M.G.L. c. 151C are set out in the Civil Rights Grievance Procedure.

The District's Civil Rights Grievance Procedure is available at: [Civil Rights Grievance Procedure].

This policy, or a summary thereof that contain the essential policy elements shall be distributed by the (**Name of District**) School District 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 District 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

[Title IX Sexual Harassment Grievance Procedure](#) **Change to “Title IX Sexual Discrimination Grievance Procedure”**

[Civil Rights Grievance Procedure](#)

SOURCE: MASC **July 2024**

~~**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 December 2021~~

The School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school district does not and will not discriminate on the basis of sex, sexual orientation, gender identity, in the educational programs and activities of the public schools. This policy will extend not only to students with regard to educational opportunities, but also to employees with regard to employment opportunities. **sex stereotypes, sex characteristics, marital status, familial status, pregnancy or pregnancy-related conditions and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.**

The School Committee will continue to ensure fair and equitable educational and employment opportunities, without regard to sex, sexual orientation or gender identity, to all of its students and employees.

The Committee will designate an individual to act as the school district's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.

The _____ Public Schools shall provide a notice of non-discrimination along with the contact information for its Title IX Coordinator as set forth below. The notice shall be given to students; parents, guardians, or other authorized legal representatives of elementary school and secondary school students; employees; applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the _____ Public Schools.

NOTICE OF NONDISCRIMINATION & RELATED TITLE IX INFORMATION

The _____ School Committee and _____ Public Schools do not discriminate on the basis of sex and prohibits sex discrimination, including sex-based harassment in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Inquiries about Title IX may be referred to _____ Public Schools' Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. _____ Public Schools' Title IX Coordinator is [name or title, office address, email address, and telephone number].

The _____ Public Schools' nondiscrimination policy and grievance procedures can be located at [include link to location(s) on website or otherwise describe location(s)].

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to [include link to location(s) on website or otherwise describe location(s)].

The District shall prominently include all elements of its notice of nondiscrimination set out above on its website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to persons entitled to notice under this section, or which are otherwise used in connection with the recruitment of students or employees.

LEGAL REFS.: Title IX of the Education Amendments of 1972

45 CFR, Part 86, (Federal Register, 6/4/75)

M.G.L. [76:5](#); [76:16](#) (Chapter 622 of the Acts of 1971)

BESE 603 CMR [26:00](#)

REFERENCE: USDOE Notice of Interpretation - <https://www.ed.gov/news/press-releases/us-department-education-confirms-title-ix-protects-students-discrimination-based-sexual-orientation-and-gender-identity>

CROSS REF.: [AC](#), Nondiscrimination Policy Including Harassment and Retaliation

SOURCE: MASC - ~~Updated 2022~~ **July 2024**

File: AC - NON-DISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION

The _____ School Committee and _____ Public Schools are committed to maintaining an education and work environment for all school community members. that is free from all forms of discrimination, including harassment and retaliation. The members of the school community include the School Committee, employees, administration, faculty, staff, students, volunteers in the schools, and parties contracted to perform work for the _____ Public Schools.

_____ Public Schools does not exclude from participation, deny the benefits of _____ Public Schools from or otherwise discriminate against, individuals on the basis of race*, color, sex, sexual orientation, gender identity, **sex stereotypes, sex characteristics**, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy, or pregnancy-related condition, homelessness, ancestry, ethnic background, national origin, or any other category protected by state or federal law in the administration of its educational and employment policies, or in its programs and activities.

This commitment to the community is affirmed by the following statements. The School Committee commits to:

1. Promoting the rights and responsibilities of all individuals as set forth in the State and Federal Constitutions, pertinent legislation, and applicable judicial interpretations.
2. Encouraging positive experiences in human values for children, youth and adults, all of whom have differing personal and family characteristics and who come from various socioeconomic, racial and ethnic groups.
3. Working toward a more integrated society and enlisting the support of individuals as well as groups and agencies, both private and governmental, in such an effort.
4. Using all appropriate communication and action techniques to air and address the grievances of individuals and groups.
- 5.** Carefully consider, in all the decisions made within the school district, the potential benefits or adverse consequences that those decisions might have on ~~the~~ human relations.
6. Initiating a process of reviewing policies and practices of the school district in order to achieve to the greatest extent possible the objectives of this statement.

The _____ Public Schools requires all members of the school community to conduct themselves in accordance with this policy.

It shall be a violation of this policy for any member of the school community to engage in any form of discrimination, including harassment and retaliation, or to violate any other civil right of any member of the school community. We recognize that discrimination can take a range of forms and can be targeted or unintentional; however, discrimination in any form, including harassment and retaliation, will not be tolerated.

It shall also be a violation of this policy for any school community member to subject any other member of the school community to any form of retaliation, including, but not limited to, coercion, intimidation, interference, punishment, discrimination, or harassment, for reporting or

filing a complaint of discrimination, cooperating in an investigation, aiding or encouraging another member of the school community to report such conduct or file a complaint, or opposing any act or practice reasonably believed to be prohibited by this policy.

*race to include traits historically associated with race, including, but not limited to, hair texture, hair type, hair length and protective hairstyles.

LEGAL REFS: Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 Executive Order 11246, as amended by E.O. 11375

Equal Pay Act, as amended by the Education Amendments of 1972 Title IX, Education Amendments of 1972

Rehabilitation Act of 1973

Education for All Handicapped Children Act of 1975

No Child Left Behind Act of 2001, 20 U.S.C. § 7905 (The Boy Scouts of America Equal Access Act)

M.G.L. [71B:1](#) et seq. (Chapter 766 of the Acts of 1972)

Acts of 2022, Chapter 117

- <https://malegislature.gov/Laws/SessionLaws/Acts/2022/Chapter117>

CROSS REF: [ACE](#), Nondiscrimination on the Basis of Disability

[ACAB](#), Sexual Harassment

[GBA](#), Equal Employment Opportunity

[IJ](#), Instructional Materials

[JB](#), Equal Educational Opportunities

SOURCE: MASC ~~August 2022~~ **July 2024**

Title IX Sexual **Discrimination** ~~Harassment~~ Grievance Procedure

OVERVIEW

The _____ Public Schools is committed to maintaining school environments free of sexual **discrimination** ~~harassment~~.

Sexual **discrimination** ~~harassment~~ in any form or for any reason is prohibited. This includes sexual **discrimination** ~~harassment~~ by administrators, personnel, students, vendors, and other individuals in school or at school related events.

The School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school district does not and will not discriminate on the basis of sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, marital status, familial status, pregnancy or pregnancy-related conditions and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

~~The District does not discriminate on the basis of sex in its educational programs or activities and is required by Title IX of the Education Amendments of 1972 not to discriminate on the basis of sex. Such non-discrimination also extends to admissions and the employment application process. Retaliation against any individual who has brought sexual **discrimination** ~~harassment~~ to the attention of school officials, or against an individual who has participated, or refused to participate, in the investigation thereof is unlawful and will not be tolerated by the _____ Public Schools.~~
Conduct that reasonably may constitute retaliation is subject to this Grievance Procedure.

The _____ Public Schools has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

SCOPE

The Title IX Sexual **Discrimination** ~~Harassment~~ Grievance Procedure has been developed in accordance with the revised Title IX regulations, 34 CFR Part 106, effective August **1, 2024** ~~14, 2020~~, which established a new definition of sexual harassment under Title IX and which mandate specific procedures for responding to and investigating allegations of sexual **discrimination** ~~harassment~~ under Title IX. **This Grievance Procedure applies to all allegations of sexual discrimination under Title IX, including sex-based harassment which is further defined in the Definitions section below. For the purposes of this procedure the term “sexual discrimination” shall include the terms “sex-based harassment” and “sexual harassment” except as may otherwise be distinguished .**

~~The Title IX Sexual Harassment Grievance Procedure applies only to allegations of sexual harassment under Title IX, which includes harassment based on sex, sexual orientation, and/or gender identity, and is defined in the Definitions section below.~~

The Title IX Sexual **Discrimination Harassment** Grievance Procedure applies to conduct that occurs within the United States in an education program or activity of the District, regardless of whether such District program or activity is conducted on or off school grounds. **Additionally, this Grievance Procedure applies to the District's obligation under Title IX to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity or outside the United States.** A District education program or activity includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurred.

Allegations of conduct that meet the definition of **sexual discrimination, including sex-based harassment** ~~sexual harassment~~ under Title IX will be addressed through the Title IX Sexual **Discrimination Harassment** Grievance Procedure. **Allegations of conduct** that meet the definition of **sexual discrimination, including sex-based harassment** ~~sexual harassment~~ under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual **Discrimination Harassment** **Grievance Procedure.**

Allegations of conduct that do not meet the definition of sexual **discrimination, including sex-based harassment** ~~Harassment~~ under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the District's Civil Rights Grievance Procedure. (See exception under Section II, Part 4, Step 4 below). The definitions of sexual harassment under Title VII, M.G.L. c. 151B, and M.G.L. c. 151C are set out in the **Civil Rights Grievance Procedure.**

The District's Civil Rights Grievance Procedure is available at: [[Civil Rights Grievance Procedure](#)].

Essential Requirements of Title IX Grievance Procedure:

- A. The _____ Public Schools will treat complainants and respondents equitably.**
- B. The _____ Public Schools requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.**
- C. The _____ Public Schools presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.**
- D. The _____ Public Schools has established timeframes for the major stages of the grievance procedures which are set forth in detail below.**

- E. The _____ Public Schools allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay as set forth below.
- F. The _____ Public Schools will take reasonable steps to protect the privacy of the parties and witnesses and keep the identity of complainants, respondents, and witnesses confidential, except as permitted by the Family Educational Rights and Privacy Act (FERPA), as otherwise required by law, and/or as necessary during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.
- G. The _____ Public Schools will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
- H. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the _____ Public Schools to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless The _____ Public Schools obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
 - Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.
- I. In the course implementing supportive measures, informal resolution, and/or a grievance procedure, and throughout the same, if either a complainant or respondent is an elementary or secondary student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals

with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

CONFIDENTIALITY

The District will keep the identity of complainants, respondents, and witnesses confidential, except as permitted by the Family Educational Rights and Privacy Act (FERPA), as otherwise required by law, and/or as necessary to carry out this Procedure.

PF NOTE SEE NEW "F" ABOVE

DEFINITIONS

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual **discrimination harassment** under Title IX. Parents and/or legal guardians of a complainant are not considered a complainant but may file a Formal Complaint on behalf of a minor child and act on behalf of the minor child in any Title IX matter. For the purpose of this Procedure the terms "complainant" and "alleged victim" shall have the same meaning.

Formal Complaint: A document or electronic submission filed by a complainant, that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the Formal Complaint, or a document signed by the Title IX coordinator, that:

- (1) alleges sexual **discrimination harassment** against a respondent; and
 - (2) requests that the District investigate the allegation of sexual **discrimination harassment**
- At the time of filing a Formal Complaint, the complainant must be participating in or attempting to participate in the District's education program or activity with which the Formal Complaint is being filed.

Sex-Based Sexual Harassment: Under Title IX, **Sex-Based Harassment** the term "sexual harassment" **is a form of sexual discrimination which** includes three (3) types of misconduct based on sex:

- (1) any instance of quid pro quo harassment by a school employee;
- (2) unwelcome conduct on the basis of sex, including unwelcome conduct based on sex stereotyping or on the basis of traditional notions of masculinity and femininity, that is sufficiently severe and pervasive and objectively offensive conduct, effectively denying a person equal educational access; or
- (3) any instance of sexual assault, dating violence, domestic violence, or stalking as defined below.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system and set out below:

- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her

age or because of his/her temporary or permanent mental incapacity. In Massachusetts, pursuant to M.G.L. c. 265, § 13B, a child under the age of 14 is incapable of giving consent to indecent touching.

- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. In Massachusetts, pursuant to M.G.L. c. 265, § 23, the statutory age of consent is 16 years of age.

For the purposes of the definition of sexual assault, the term “consent” shall be defined in a manner consistent with Massachusetts laws.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence: A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Stalking: Engaging in a “course of conduct” directed at a specific person that would cause a “reasonable person” to fear for the person’s safety or the safety of others or suffer “substantial emotional distress.”

For the purposes of this definition:

“Course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

“Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

“Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Party or Parties: The complainant and/or respondent.

Principal: The Principal or Principal’s designee.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual **discrimination** harassment

Superintendent: The Superintendent or Superintendent's designee.

Supportive Measures: Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the Complainant or Respondent, while designed to ensure equal educational access, protect safety, and/or deter sexual **discrimination** harassment . Supportive Measures may be offered before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party, while designed to ensure equal educational access, protect safety, and/or deter sexual **discrimination** harassment

. Supportive measures available to complainants and respondents include but are not limited to: counseling; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the building and/or campus; and other similar measures. Violations of the restrictions imposed by supportive measures may be considered a violation of school rules and may also be considered in determining whether sexual **discrimination** harassment has occurred.

Title IX Coordinator: Employee(s) designated by the District to coordinate its efforts to comply with Title IX.

I. REPORTING SEXUAL **DISCRIMINATION** HARASSMENT

- A. Who May Report Sexual **Discrimination** harassment: Anyone may report an allegation of sexual **discrimination** harassment
- B. How to Report Sexual **Discrimination** Harassment: Individuals are encouraged to report allegations of sexual **discrimination** harassment to the Title IX Coordinator or the Principal, but any District employee who receives a report of sexual **discrimination** harassment will respond to the report as outlined below.
- C. Internal Reporting: Any District employee who receives a report of sexual **discrimination** harassment shall respond by promptly informing the Principal or Title IX Coordinator of the report. Any District employee who observes sexual **discrimination** harassment of a student should intervene to stop the conduct and shall promptly inform the Principal or Title IX Coordinator of the incident. If a report involves an allegation against the Principal or Title IX Coordinator, the District employee shall instead report the allegation to the Superintendent.

Any Principal who receives a report of sexual **discrimination** harassment shall promptly inform the relevant Title IX Coordinator of the report.

D. District's Response to Report: The District will respond to all reports of sexual **discrimination harassment** promptly and equitably, and in a manner consistent with this Procedure and any other relevant District procedures and policies. Upon receipt of a report, the Title IX Coordinator shall:

- (1) Promptly and confidentially contact the complainant to discuss the availability of supportive measures;
- (2) Inform the complainant of the availability of supportive measures with or without the filing of a Title IX Formal Complaint;
- (3) Consider the complainant's wishes with respect to supportive measures;
- (4) If the District does not provide the complainant with supportive measures, document the reasons why such response was reasonable; and
- (5) Explain to the complainant the process for filing a Title IX Formal Complaint. Only the filing of a Title IX Formal Complaint will trigger the Title IX Formal Complaint grievance process, outlined in Section II.

II. FILING A TITLE IX FORMAL COMPLAINT

Only the filing of a Title IX Formal Complaint will trigger the Title IX Formal Complaint grievance process, outlined below.

A. Who may file a Title IX Formal Complaint: Although anyone may report sexual harassment, only a complainant or a Title IX Coordinator may file a Title IX Formal Complaint. If a complainant chooses not to file a Formal Complaint, the complainant's choice to not initiate an investigation will generally be respected, unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances. The Title IX Coordinator will take into account concerns articulated by the parties, the best interests of the community, fairness to all concerned, and the District's legal obligations under applicable state and federal laws. Where the Title IX Coordinator signs the Formal Complaint, the Title IX Coordinator is not a complainant or a party during the grievance process and must comply with the requirement to be free from conflicts or bias.

B. Processing of a Title IX Formal Complaint: Title IX Formal Complaints will be investigated promptly and equitably by the Title IX Coordinator or designee, as follows:

Step 1: Title IX Formal Complaint is filed:

- (1) A Formal Complaint shall state (if known to the reporter or alleged victim) the name(s) of the persons involved, witnesses to the conduct, if any, a description of the conduct, and to the extent possible, the dates and locations of the conduct. A Formal Complaint will not be dismissed solely because it was not completely filled out or it was filled out incorrectly.

- (2) A Formal Complaint may be filed at any time, including during non-business hours. Formal Complaints submitted outside of normal business hours will be deemed received on the following school working day.
- (3) At the time of the filing of the Formal Complaint, the alleged victim must be participating in or attempting to participate in the education program or activity of the school district with which the Formal Complaint is filed.
- (4) A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator listed in this Procedure, and by any additional method designated by the school.
- (5) Consolidation of Formal Complaints: **The District may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable. The District is not permitted to consolidate complaints if consolidation would violate the Family Educational Rights and Privacy Act (FERPA). Consolidation would not violate FERPA when the District obtains prior written consent from the parents or a student who has reached 18 years of age to the disclosure of their education records.** Schools may consolidate Formal Complaints where the allegations arise out of the same facts.
- (6) ~~Consideration of~~ **The District may consider** the use of the Informal Resolution Process with the consent of the parties. See Section II **(E)** ~~(D)~~.
- (7) Throughout this process, there shall be a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Step 2: Consider Supportive Measures for both the complainant and the respondent: Once a Formal Complaint is filed, the Title IX Coordinator will ensure that supportive measures are considered for both parties. See Section I(D).

Step 3: Written Notice of Allegations: Upon receipt of a Formal Complaint, the District shall send written notice **to the parties** of the allegations, including the identity of the parties, to both the complainant and the respondent, if their identities are known. The written notice must **which shall** include:

- 1) The District's Title IX grievance procedures and any informal resolution process;**
- 2) Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);**
- 3) A statement prohibiting retaliation.**

- 4) A statement prohibiting knowingly submitting false information;

~~Sufficient details known at the time to allow the respondent the opportunity to respond to the allegations;~~

- 5) A statement that the respondent is presumed not responsible for the alleged conduct;
- 6) That a determination regarding responsibility is made at the conclusion of the grievance process;
- 7) that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney; and

- 8) **That the parties/advisors may inspect and review evidence in accordance with this Procedure. the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If the District provides a description of the evidence the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.**

If, in the course of the investigation, the District decides to investigate allegations of sexual harassment that are not included in the initial written notice of allegations, the District shall provide notice of the additional allegations to the parties whose identities are known.

Step 4: Consider Whether Dismissal of Formal Complaint Warranted: Some Formal Complaints will be subject to mandatory or discretionary dismissal under Title IX.

1. The District may dismiss a complaint of sex discrimination if:

- The District is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the District's education program or activity and is not employed by the District;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the District determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the District will make reasonable efforts to clarify the allegations with the complainant.

2. **Upon dismissal, the District will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been**

- notified of the allegations, then the District will also notify the respondent simultaneously of the dismissal and the basis for the dismissal.
3. The District will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the District will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:
 - Procedural irregularity that would change the outcome;
 - New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
 - The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
 4. If the dismissal is appealed, the District will:
 - Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
 - Implement appeal procedures equally for the parties;
 - Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 - Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;^{9 9} *Note to Drafter:* Training requirements are set forth in § 106.8(d).
 - Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 - Notify the parties of the result of the appeal and the rationale for the result.
 5. When a complaint is dismissed, the District will, at a minimum:
 - Offer supportive measures to the complainant as appropriate;
 - If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
 - Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the District's education program or activity.

- (1) ~~Mandatory Dismissal of Formal Complaint: The Title IX Coordinator shall dismiss a Formal Complaint under Title IX when the conduct alleged:~~
- a. ~~even if proved, would not meet the definition of sexual~~
discrimination ~~harassment under Title IX;~~
 - b. ~~did not occur in an education program or activity of the District; or~~
 - e. ~~did not occur against a person in the United States.~~
- (2) ~~Discretionary Dismissal of Formal Complaint: The Title IX Coordinator may dismiss a Formal Complaint or allegations therein for purposes of Title IX at any time if:~~

- a. ~~the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the Formal Complaint or allegations;~~
 - b. ~~the respondent is no longer enrolled or employed by the District; or~~
 - c. ~~specific circumstances prevent the District from gathering sufficient evidence to make a determination.~~
- (3) ~~The Title IX Coordinator must provide the parties with written notice of any dismissal of a Formal Complaint and the reasons for the dismissal.~~
6. Dismissal of a Formal Complaint for purposes of Title IX shall not preclude the District from addressing the allegations under any other relevant District policies or procedure(s), including but not limited to, the Civil Rights Grievance Procedure, the Bullying Prevention and Intervention Plan, the Student Code of Conduct, and/or a collective bargaining contract, nor will it preclude the District from addressing the allegations pursuant to the grievance process set out in Section II of this Procedure. The Title IX Coordinator shall have the discretion to make any such referrals and proceed as appropriate in regard to the allegations.

Step 5: Initial Investigation: All Formal Complaints will be investigated by the Title IX Coordinator or other individual designated to serve as the investigator by the Title IX Coordinator. The investigator shall be responsible for seeking and gathering evidence relative to the investigation. Any Formal Complaint against an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor’s authority. During the Formal Complaint resolution process:

- (1) The District will provide for adequate, reliable, and impartial investigation of complaints.
- (2) Standard of Proof: The investigator shall make factual findings based on a preponderance of the evidence standard.
- (3) **The burden is on the District—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.** ~~for gathering evidence and the burden of proof remains on the District, not on the parties.~~
- (4) The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.**
- (5) The District shall provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- (6) The District shall not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no “gag” orders).
- (7) Each party may have one (1) advisor of their own selection and at their own expense participate in this grievance process. In the case of a student under the age of 18, this advisor may be in addition to the student’s parents/guardians. Any restrictions on the participation of an advisor will be applied equally to each party. The advisor may, but is not required to, be an attorney. Any evidence received by an advisor in this process is subject to confidentiality and may be used only for the purpose of the grievance process. Advisors are prohibited from disseminating or disclosing such evidence outside of the grievance process.

- (8) The District shall send prior written notice to the parties of any investigative interviews, meetings, or hearings in which their participation is invited or expected.
- (9) Privacy of Medical Treatment and Mental Health Treatment Records: The District may not access or use either the complainant's or the respondent's medical, psychological, or similar treatment records unless the District obtains the party's written consent to do so.
- (10) The investigator may impose reasonable timeframes on all parties as required to facilitate the timely completion of the investigation. The investigator may extend any of the timeframes beyond the time periods identified in this Procedure for good cause. If a complaint or report of sexual **discrimination harassment** is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the applicable time frames, but may extend the investigation period to account for the unavailability of witnesses while school is not in session. If the investigator extends the investigation, the investigator will notify the parties of the extension and the reasons therefore in writing.

Step 6: Opportunity for Parties to **Access and** Respond to Evidence: **The District must provide the parties with an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. send the parties, and their advisor(s) (if they have one)** evidence directly related to the allegation, in electronic format or hard copy. **If the District provides a description of the evidence it will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party** Parties shall be afforded ten (10) calendar days to inspect, review and respond to the evidence. The District shall not require, allow, rely upon, or otherwise use evidence that constitutes information protected from disclosure by a legally recognized privilege, unless it has been waived by the holder of the privilege.

- (1) Prior to providing evidence to the parties, the investigator may redact confidential information that is not directly related to the allegations or that is otherwise barred from use under Title IX or by privilege (e.g., treatment records), the Family Educational Rights and Privacy Act and/or 603 CMR 23.00. Information that is directly related to the investigation, and that is not expressly barred from disclosure under Title IX (e.g., treatment records), the Family Educational Rights and Privacy Act, and/or 603 CMR 23.00, must be made available for review by both parties.
- (2) The parties and their advisors shall be prohibited from dissemination of any of the evidence for any purpose not directly related to this grievance procedure.

Step 7: Completion of the Investigative Report: The District must send the parties, and their advisor, an Investigative Report that fairly summarizes relevant evidence but does not reach any conclusions regarding responsibility, in electronic format or hard copy, within twenty-five (25) school days of receipt of the Formal Complaint, unless otherwise extended for good cause. A copy of the Investigative Report will also be sent to the decision-maker. **The decision maker shall not be the same person as the Title IX Coordinator or**

investigator unless the District has otherwise provided for the same in this Grievance Procedure and has specifically sets forth under what circumstances the single-investigator model may be used.

Step 8: Parties' Opportunity to Respond to Investigative Report: The District shall provide each party ten (10) calendar days for the parties to respond to the investigative report. The Investigative Report will notify the parties of the opportunity to submit to the decision-maker directed questions of the other party and/or any witness within that same ten (10) calendar days. (See Step 9).

Step 9: Directed Written Questions from the Parties: After the Investigative Report has been sent to the parties, but prior to reaching a determination regarding responsibility, the decision-maker shall afford both the complainant and the respondent the opportunity to submit to the decision-maker written, relevant questions of the other party or any witness, provide the party with the other party's and/or witness's written responses to said written questions, and allow for additional, limited follow-up questions from each party in writing. Questions that seek disclosure of information protected under a legally recognized privilege, Family Educational Rights and Privacy Act, and/or 603 CMR 23.00 shall not be permitted, unless the person holding the privilege has waived the privilege.

- (1) The complainant shall be protected from answering questions about the complainant's prior sexual behavior unless such questions and evidence about the [complainant's](#) prior sexual behavior are offered to prove that someone other than the [respondent](#) committed the conduct alleged by the [complainant](#), or if the questions and evidence concern specific incidents of the [complainant's](#) prior sexual behavior with respect to the [respondent](#) and are offered to prove [consent](#). **The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.**
- (2) Upon receipt of the Investigative Report, each party shall have ten (10) calendar days to submit directed relevant questions to the decision-maker in writing.
 - a. All questions must be posed in a respectful manner (e.g., without profanity and without attacking a person's character or motivations).
 - b. Questions that are not relevant will be excluded, and the decision-maker shall explain to the party posing the question the reason(s) for excluding any question.
- (3) Upon receipt of the directed questions from the District, each party and witness shall have five (5) calendar days to respond to those questions in writing.¹
- (4) After receipt of the answers by the parties, any follow-up questions by the parties shall be submitted to the decision-maker in writing within three (3) calendar days, and those follow-up questions shall be responded to in writing within three (3) calendar days of receipt.

¹ The parent or guardian may act on behalf of the party in drafting questions and submitting written answers. In the case of young children, reasonable accommodation based on disability, and/or other good cause, either party and/or any witness may request and have their oral responses reduced to writing by the investigator or Title IX Coordinator.

- (5) Each party will be provided a copy of the other party's or witness's written answers.

Step 10: Determination of Responsibility/Findings of Fact by the Decision-Maker:

- (1) The decision-maker shall issue a written determination **of regarding** responsibility for any sex discrimination that was determined to have occurred under Title IX. **The determination shall be sent to all parties and shall include** a description of the procedural steps taken, findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, the range of disciplinary sanctions to which the respondent may be subject, whether remedies will be provided to the complainant, and procedures and bases for appeal. **The decision-maker's written determination shall not be completed by the Title IX Coordinator or the investigator.**
 - (2) Standard of Proof: The decision-maker shall make factual findings **to determine whether sex discrimination occurred** based on a preponderance of the evidence standard. **The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred**
 - (3) The decision-maker's findings shall be based on an objective review of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a complainant, respondent, or witness.
 - (4) The decision-maker shall not draw inferences about the determination of responsibility based solely on a party's failure or refusal to answer questions.
 - (5) The written determination must be sent simultaneously to both parties.
 - (6) This determination shall be sent within twenty (20) school days of the issuance of the investigative report unless an extension is agreed upon by the parties or if the process is otherwise reasonably delayed. Except where the parties have agreed to an extension of the timeline or where the process is otherwise reasonably delayed, the written determination shall be issued within sixty (60) school days of receipt of the Formal Complaint.
- C. Remedies: If the decision-maker determines that sexual **discrimination harassment** has occurred, the Title IX Coordinator will, as appropriate:
- (1) Coordinate the provision and implementation of remedies to a complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by sex discrimination;
 - (2) Eliminate the harassing environment, which must include but need not be limited to providing remedies to a complainant that are designed to restore or preserve the complainant's equal access to the District's education programs and/or activities. These remedies may be the same individualized services as the supportive measures outlined in Section I(D) above and/or may consist of alternative interventions and/or punitive or disciplinary sanctions that burden the respondent.

(3) Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.

D. Discipline: Persons who engage in sexual **discrimination** harassment or retaliation may be subject to disciplinary action, including, but not limited to, reprimand, suspension, termination, expulsion (if applicable under M.G.L. c. 71, §§ 37H or 37H ½), or other sanctions as **determined by the District administration**, subject to applicable procedural requirements. **The Title IX Coordinator will, as appropriate:**

- (1) Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions**
- (2) Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.**
- (3) Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and**
- (4) Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.**

Although the respondent may, in accordance with Title IX, be subject to emergency removal at any time, pursuant to JIC Student Discipline Emergency, the respondent may not be subject to disciplinary sanctions for the misconduct defined under this Procedure until after this grievance process has been completed.

No discipline may be imposed on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.

Notwithstanding the above paragraph a determination of no responsibility for purposes of Title IX shall not preclude the District from addressing the allegations under any other relevant District policies or procedure(s), including but not limited to, the Civil Rights Grievance Procedure, the Bullying Prevention and Intervention Plan, the Student Code of Conduct, and/or a collective bargaining contract, nor will it preclude the District from addressing the allegations pursuant to the grievance process set out in Section II of this Procedure. The Title IX Coordinator shall have the discretion to make any such referrals and proceed as appropriate in regard to the allegations.

E. Informal Process:- At any time prior to determining whether sex discrimination occurred pursuant to the district's grievance procedure ~~Only after a Formal Complaint is filed, and prior to determining whether sex discrimination occurred,~~ may the district, **at its discretion, may** opt to offer and facilitate informal resolution options, such as mediation or restorative justice. **The district may determine whether or not it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute sex discrimination under Title IX or**

when a complaint of sex discrimination is made. Both parties must give voluntary, informed, written consent to attempt any offered informal resolution. Any informal resolution under this Procedure will be facilitated by trained personnel.

- (1) The informal resolution process is not available to resolve allegations that an employee engaged in sex-based harassment of sexually harassed a student or such a process would conflict with Federal, State or local law.**
- (2) The informal process is voluntary, and the alleged victim and/or respondent may terminate or decline any informal process at any time and resume the Formal Complaint grievance process. The District, as a condition of participation, must not require the parties to waive the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or the exercise of any other right.**
- (3) The informal process shall not exceed thirty (30) calendar days, during which time the timelines of the Formal Complaint process will be stayed.**
- (4) During the informal process the Title IX Coordinator shall take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.**

~~Participation in the informal process will stay the timelines of the Formal Complaint process.~~

- E. Emergency Removal under Title IX: The District may remove a respondent on an emergency basis at any time provided that the District: (1) undertakes an individualized safety and risk analysis; (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual **discrimination harassment** justifies removal and that there is no alternative to the respondent's emergency removal to mitigate the threat presented; and (3) provides the respondent with notice and the opportunity to challenge the decision immediately following the removal.
- F. Anonymous Reports: The District may be on notice of an allegation of sexual **discrimination harassment** through receipt of an anonymous report. In cases of anonymous reports, the District's obligation is to respond in a manner that is not clearly unreasonable in light of the known circumstances. If the anonymous reporter is the complainant and they request confidentiality, the District can and should offer supportive measures to the extent consistent with maintaining the request for confidentiality. If an anonymous report is received without a disclosure of the complainant's identity, the District will be unable to provide the complainant supportive measures in response to that report. The District may in conformance with applicable state laws and regulations be required to report sexual **discrimination harassment** identified in an anonymous complaint to state and/or local authorities such as the Massachusetts Department of Children and Families in conformance with state statutes and regulations and/or take actions to protect the safety of the school community (contacting the police, for example) that may result in the identity of the reporting person being disclosed. Although the District shall respond to anonymous

reports of sexual **discrimination** harassment in accordance with this Procedure, a Formal Complaint cannot be filed anonymously.

- G. Appeals: The complainant or respondent may appeal from a determination regarding responsibility and/or from the District's dismissal of a Formal Complaint or any allegations therein, only on the following bases:
- (1) procedural irregularity that affected the outcome of the matter;
 - (2) newly discovered evidence that could affect the outcome of the matter; and/or
 - (3) Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

An appeal may be made to the Superintendent or designee within five (5) calendar days after receiving the determination of responsibility or dismissal. **Appeals must be made in writing (email is sufficient) to the Superintendent, _____ Public Schools XXXXXXXXXXX,XXXXXXXXX, Massachusetts 00000 xxxxx @xxxxxxxx.xxx.**

The Superintendent or designee shall:

- (1) Notify the parties of any appeal, including notice of the allegations consistent with paragraph (c) of this section if notice was not previously provided to the respondent;**
- (2) Implement appeal procedures equally for the parties;**
- (3) Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;**
- (4) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging the outcome;**
- (5) Decide the appeal no later than thirty (30) calendar days of the date of receipt of the written appeal.**

~~The Superintendent will decide the appeal no later than thirty (30) calendar days of the date of receipt of the written appeal.~~

In cases in which it has been determined that a respondent student is subject to long-term suspension as a result of a finding of sexual **discrimination** harassment in accordance with this Procedure, the respondent may elect to exercise their appeal under the disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, §§ 37H, 37H ½ or 37H ¾) in place of this appellate procedure. ~~Appeals must be made in writing (email is sufficient) to the Superintendent, Appeals must be made in writing (email is sufficient) to the Superintendent, _____ Public Schools 566 Main Street, _____, Massachusetts 01845.~~

The Title IX Formal Complaint grievance process is deemed complete when either the time period for appeal has lapsed or upon the issuance of the Superintendent's decision on a timely filed appeal.

- H. Recordkeeping: Records related to this Procedure will be maintained for a period of seven (7) years:

(1) For each complaint of sex discrimination, records documenting the informal resolution process and/or the grievance procedures and the resulting outcome.

(2) For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or records documenting the actions the District took to meet its obligations under Title IX.

(3) For all training all materials used to provide training to meet its obligations under Title IX. A District must make these training materials available upon request for inspection by members of the public.

- I. Employment Agencies: The contact information for state and federal employment discrimination enforcement agencies is as follows: (1) Federal: United States Equal Employment Opportunity Commission (EEOC); John F. Kennedy Federal Building; 15 New Sudbury Street, Room 475; Boston, MA 02203-0506; 1-800-669-4000; [EEOC Boston Area Office Website: https://www.eeoc.gov/field-office/boston/location](https://www.eeoc.gov/field-office/boston/location); and (2) State: Massachusetts Commission Against Discrimination (MCAD); Boston Headquarters; One Ashburton Place; Sixth Floor, Room 601; Boston, MA 02108; (617)-994-6000; [MCAD Website: https://www.mass.gov/orgs/massachusetts-commission-against-discrimination](https://www.mass.gov/orgs/massachusetts-commission-against-discrimination)

- J. Identification of key personnel involved in Title IX process for reports and/or Formal Complaints of sexual **discrimination** ~~harassment~~:

Identification of key personnel involved in Title IX process for reports and/or Formal Complaints of sexual **discrimination** ~~harassment~~:

- Title IX Coordinator: [NAME], [TITLE] , _____ Public Schools, [ADDRESS, [TEL] [FAX] [EMAIL]
- Investigator(s):
 - Elementary Level: Title, Name, Phone, Email
 - (Each) High School: Title, Name, Phone, Email
 - (Each) Middle School: Title, Name, Phone, ,Email
 - All Staff: Title, Name, Phone, Email
- Decision-maker:
 - (list each School Title, Name, Phone, Email
 -
- Appeal Officer: Title, Name, Phone, Email
- Informal Resolution Facilitator: Title,, Name Phone, Email

The District will notify students, employees, applicants for admission or employment, parents and legal guardians of students, and unions of the name, title, office address, email address and telephone number of the Title IX Coordinator. This information will be prominently displayed on the District's website.

Legal Refs: Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act; Title IX of the Education Amendments of 1972; the Age Act; M.G.L. c. 151B and c. 151C; and M.G.L. c. 76, § 5; SC Policy JICFB, Bullying Prevention; SC Policy AC, Nondiscrimination.

Civil Rights Grievance Procedure

The _____ Public Schools is committed to maintaining school environments free of discrimination, harassment or retaliation based on race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, age, or disability.

Harassment, discrimination, and retaliation in any form or for any reason is prohibited. This includes harassment or discrimination by administrators, personnel, students, vendors and other individuals in school or at school related events. Retaliation against any individual who has brought harassment or discrimination to the attention of school officials or who has cooperated in an investigation of a complaint under this Procedure is unlawful and will not be tolerated by the _____ Public Schools.

Persons who engage in harassment, discrimination or retaliation may be subject to disciplinary action, including, but not limited to reprimand, suspension, termination/expulsion or other sanctions as determined by the school district administration, subject to applicable procedural requirements.

Non-Applicability of This Procedure to Title IX Sexual ~~Harassment~~ **Discrimination** Allegations

The *Civil Rights Grievance Procedure* shall not apply to reports of sexual ~~harassment~~ **discrimination** as defined under Title IX of the Education Amendment of 1972 and its implementing regulations (“Title IX”) effective August of 2024.

Allegations of conduct that could, if proven, meet the definition of sexual harassment under Title IX shall be addressed through the District’s *Title IX Sexual ~~Harassment~~ **Discrimination** Grievance Procedure*. Similarly, allegations of conduct that meet the definition of ~~sexual~~ **sex-based** harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the *Title IX Sexual ~~Harassment~~ **Discrimination** Grievance Procedure*. [[Sexual Harassment Grievance Procedure](#)].

Allegations of conduct that do not meet the definition of ~~sexual~~ **sex-based** harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the *Civil Rights Grievance Procedure*.

Definitions

For the purposes of this Procedure:

- A. “Discrimination” means discrimination or harassment on the basis of race, age, color, national origin, sex, sexual orientation, gender identity, disability or religion by which an

individual is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity of the school district.

- B. “Harassment” means unwelcome conduct on the basis of race, , age, color, national origin, sex, sexual orientation, gender identity disability, or religion that is sufficiently severe, persistent or pervasive to create or contribute to a hostile environment for the individual at school. Harassment may include insults, name-calling, off color jokes, threats, comments, innuendoes, notes, display of pictures or symbols, gestures or other conduct which rises to the level of a hostile environment. A hostile environment is one which unreasonably interfered with an individual’s participation in, denied the individual the benefits of, or otherwise subjected the individual to discrimination under any program or activity of the District.

a. Non-Title IX Sexual Harassment

M.G.L. c. 151B, § 1 - the term “sexual harassment” is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

M.G.L. c. 151C, § 1 - the term “sexual harassment” is defined as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.

Title VII of the Civil Rights Act of 1964 - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for

employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile environment on the basis of sex is created when the conduct is sufficiently severe or pervasive to alter the conditions of employment.

When determining whether an environment is hostile, the District shall consider the context, nature, frequency, and location of the incidents as well as the credibility of witnesses and the identity, number and relationships of the persons involved. The District must consider whether the alleged harassment was sufficient to have created such an environment for a reasonable person of the same age, gender, and experience as the Complainant, and under similar circumstances. Off-campus conduct may constitute harassment if it creates a hostile environment at school for the victim; however, conduct does not constitute harassment where the incident occurs off-campus at a non-school sponsored activity and does not create a hostile environment at school for the victim.

- C. Retaliation: Retaliatory acts against any individual who exercises his or her rights under the civil rights statutes covered by this Procedure or the Title IX Sexual Harassment Grievance Procedure are considered to be discrimination and are unlawful. Individuals are prohibited from coercing, intimidating, threatening, or interfering with an individual because the individual exercised any right granted or protected under these procedures and/or the Title IX Sexual Harassment Grievance Procedure.
- D. Complainant: An individual who is alleged to be the victim of conduct that could constitute discrimination, harassment, or retaliation under this Procedure. Parents and/or legal guardians of a complainant are not considered a complainant but may file formal complaints on behalf of a minor child and act on behalf of the minor child in any civil rights matter.
- E. Party or Parties: The complainant and/or respondent.
- F. Principal: The Principal or Principal's designee.
- G. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute discrimination, harassment, or retaliation under this Procedure.

How to make a complaint

Any student or employee who believes that he/she has been discriminated against or harassed should report their concern promptly to the Principal or Civil Rights Coordinator. Students may

also report incidents of harassing conduct to a teacher, administrator, or guidance counselor. Any complaint received by a school personnel shall be promptly reported to the Principal or Civil Rights Coordinator. A complaint will not be dismissed because it was reported to the incorrect school personnel. Students or employees who are unsure whether discrimination, harassment, or retaliation has occurred are encouraged to discuss the situation with the Principal. There may be instances where another third-party, who has not experienced but is aware of the occurrence of prohibited conduct, may bring a complaint under this Procedure. In such circumstances, that person is referred to as the “reporter.”

- A. Any District employee who observes or receives a report of discrimination, harassment or retaliation shall promptly notify the Principal or Civil Rights Coordinator, identified below. Any District employee who observes discrimination, harassment or retaliation against a student should intervene to stop the conduct and report it to Principal. Upon receipt of a report of discrimination, harassment or retaliation, the Principal shall promptly inform the relevant Civil Rights Coordinator of the report, and the District will respond in a manner consistent with this Procedure. If the report involves an accusation against the Principal or Civil Rights Coordinator, the employee shall report the incident to the Superintendent or designee.
- B. Informal Reports: Individuals may wish to file a formal complaint of discrimination, harassment or retaliation, or to report informally (i.e., without initiating a formal complaint). Such informal reports may be made to the Principal or Civil Rights Coordinator. The District shall inform anyone making an informal report that he or she may initiate a formal complaint at any time, regardless of what steps are being or have been taken in response to an informal report.
- C. Anonymous Reports: Complainants and reporters should be aware that although the District will often be able to maintain confidentiality of reporting persons, the District may sometimes be required to take actions to protect the safety of the school community that may result in the identity of the reporting person being disclosed (to the police, for example). When reporters or Complainants seek to remain anonymous or have their identities kept confidential, they will be informed that honoring such a request may limit the ability of the District to respond fully to any reported event, including limitations on the ability to take disciplinary action against an Respondent.
- D. Informal Process: If the District concludes that it is possible to resolve a matter, whether after formal complaint or an informal report, in a prompt, fair and adequate manner through an informal process involving, and with the consent of, the Complainant and Respondent, the District may seek to do so. The informal process is voluntary, and the

Complainant and/or Respondent may terminate or decline any informal process at any time, without penalty.

- E. **Formal Process:** A formal complaint shall state (if known to the reporter or Complainant) the name(s) of the persons involved and witnesses to the conduct, describe the conduct, and identify, to the extent possible, the dates and locations of the conduct. The complaint shall be signed and dated by the reporter and/or Complainant. Complaints will be investigated promptly and equitably by the Civil Rights Coordinator or Principal. Investigations may be initiated whenever warranted, in the absence of a formal complaint, or after a formal complaint has been withdrawn.
- F. **Initial Assessments:** The Civil Rights Coordinator or Principal will make an initial assessment following a complaint. Based on that assessment, the Civil Rights Coordinator or Principal may: (a) if the conduct, even if substantiated, would not constitute harassment, discrimination or retaliation, dismiss the complaint; (b) if the alleged conduct (or complaint) could not, even if true, constitute discrimination, harassment or retaliation, but is within the scope of another procedure, the Civil Rights Coordinator shall refer the matter to the appropriate personnel; (c) if the Civil Rights Coordinator or Principal concludes that it is possible to resolve the complaint in a prompt, fair and adequate manner through an informal process involving and with the consent of both parties, the Civil Rights Coordinator or Principal may seek to do so in accordance with Section D, above; or (d) if the alleged conduct, if substantiated, would constitute discrimination, harassment or retaliation, the Civil Rights Coordinator or Principal will initiate an investigation. The Civil Rights Coordinator or Principal may also identify and initiate any interim measures. See Section G.
- G. **Interim Measures:** The District will provide prompt and reasonable interim measures during the pendency of the investigation, if appropriate, to support and protect the safety of the parties, the educational environment, and the District and/or school community; to deter retaliation; and to preserve the integrity of the investigation and resolution process. Any interim measures will be monitored to ensure they are effective based on the evolving needs of the parties. Violations of the restrictions imposed by interim measures could be considered a violation of school rules and may be considered in determining whether discrimination, harassment or retaliation has occurred.
- H. **Timeframes:** The District will seek to complete any investigation within twenty (20) school days after receipt of a complaint and provide the written notice of the outcome of the investigation within twenty-five (25) school days. The investigator may impose

reasonable timeframes on all parties to facilitate the timely completion of the investigation. The investigator may extend the investigation period beyond the time period identified due to extenuating circumstances, including but not limited to availability and cooperation of witnesses, complexity of the investigation, school vacation periods, and the involvement of law enforcement and other outside agency investigations. If a complaint or report of discrimination, harassment or retaliation is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the above-referenced time frame, but may extend the investigation period to account for the availability of witnesses during the summer vacation period. If the investigator extends the investigation, he or she will notify the Complainant and Respondent of the extension. A report to the law enforcement will not automatically delay an investigation; however, a request from law enforcement to delay the investigation may require a temporary suspension of an investigation, and the District will promptly resume its investigation upon being advised that law enforcement's evidence gathering is completed. Any interim measures provided to the parties may continue during the period of postponement. See Section G.

- I. Under the formal resolution procedure, the complaint will be investigated by the Principal, Civil Rights Coordinator or other individual designated by the Principal or Civil Rights Coordinator who has responsibility for seeking and gathering evidence relative to the investigation. A formal complaint against an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. During the formal resolution procedure:
 1. The Complainant shall be provided with an opportunity to be heard and have the opportunity to identify witnesses and other relevant evidence to the investigator.
 2. The Respondent will be provided with an opportunity to be heard as part of the investigation including the opportunity to provide relevant information and identify witnesses for the investigator's consideration.
 3. The privacy rights of the parties shall be maintained in accordance with applicable state and federal laws.
 4. The investigator will keep a written record of the investigation process.
 5. The investigation will be completed within twenty (20) school days of the date of receipt of the complaint.
 6. The notification of the outcome of the investigation, including, if appropriate, a description of the remedies taken, will be provided to the parties within twenty-five (25) school days of the receipt of the complaint, unless extended for good cause.

7. Nothing in this Procedure will preclude the investigator, in his or her discretion, from completing the investigation sooner than the time period described above.
- J. Standard of Proof: The investigation shall made factual findings based on a preponderance of the evidence standard.
- K. If the investigator determines that discrimination, harassment or retaliation has occurred, the District shall take steps to eliminate the discriminatory or harassing environment, which shall include but not be limited to:
1. Identifying what steps are necessary to prevent recurrence of any discriminatory behavior, including but not limited to harassment or retaliation, and to correct its discriminatory effects if appropriate; and
 2. Informing the Complainant and Respondent or, in the case of minor children, the parties' parent(s)/legal guardian(s) of the results of the investigation (in accordance with applicable state and federal privacy laws) in accordance with the above timelines. The notification will include the notice of the opportunity for appeal; however, failure to provide notice of appeal shall not constitute a violation of this policy.

The school district administration may also refer the offender for disciplinary procedures to be conducted in accordance with federal and state law. Nothing in the Civil Rights Grievance Procedure shall be interpreted as limiting or prohibiting the District's ability to take appropriate disciplinary action against the offender in accordance with the applicable code(s) of conduct or employment contracts or policies, where appropriate, prior to completion of the investigation, in accordance with the due process rights of employees and students, as applicable. When informing the parties' parent(s)/legal guardian(s) about the results of the investigation, the school district may consider appropriate notification processes when special circumstances may apply (e.g., disclosure of sexual orientation or gender identity/expression).

- L. Appeal: If the Complainant or the Respondent is dissatisfied with the results of the investigation, an appeal may be made to the Superintendent or designee within seven (7) calendar days after receiving notice of the outcome of the investigation, except for circumstances in which the Respondent is subject to long-term suspension as a result of a finding of discrimination, harassment or retaliation. In such an instance, the appeal rights of the Respondent will be provided in a manner consistent with the disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, 37H, 37H ½ or 37H ¾). Appeals must be made in writing (email is sufficient) to the Superintendent, _____ Public Schools _____ Street, _____, Massachusetts _____. The

Superintendent will decide the appeal within thirty (30) calendar days of the date of receipt of the written appeal.

- M. Identification of Civil Rights Coordinator for complaints of discrimination, harassment, and retaliation under this Procedure is:

Title, Name, address, phone, email

- N. Employment Agencies: The contact information for state and federal employment discrimination enforcement agencies is as follows: (1) Federal: United States Equal Employment Opportunity Commission (EEOC); John F. Kennedy Federal Building; 15 New Sudbury Street, Room 475; Boston, MA 02203-0506; 1-800-669-4000; [EEOC Boston Area Office Website: https://www.eeoc.gov/field-office/boston/location](https://www.eeoc.gov/field-office/boston/location); and (2) State: Massachusetts Commission Against Discrimination (MCAD); Boston Headquarters; One Ashburton Place; Sixth Floor, Room 601; Boston, MA 02108; (617)-994-6000; [MCAD Website: https://www.mass.gov/orgs/massachusetts-commission-against-discrimination](https://www.mass.gov/orgs/massachusetts-commission-against-discrimination).

Legal Ref: Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; the Age Act; M.G.L. c. 151B and c. 151C; M.G.L. c. 76, § 5; SC Policy JICFB, Bullying Prevention; SC Policy AC, Nondiscrimination.



Town of Arlington, Massachusetts

24-25 Policy Review Planning - Sections I, J and K



Town of Arlington, Massachusetts

Other New Business



Town of Arlington, Massachusetts

Future Agenda Items



Town of Arlington, Massachusetts

Adjournment (L. Kardon)



Town of Arlington, Massachusetts

Submitted by Len Kardon, Chair