

## **ANTI-DISCRIMINATION/ANTI-HARASSMENT POLICY AND GRIEVANCE PROCEDURE**

The Westfield Public School District is committed to maintaining and promoting an educational environment free from all forms of discrimination and harassment. The civil rights of all school community members are guaranteed by law, and the protection of those rights is of utmost importance and priority to the District. Discrimination, including harassment, on the basis of race, color, religion, national origin, ethnicity, genetic information or testing, sex, sexual orientation, gender identity, age, pregnancy, pregnancy related condition, or disability (hereinafter "membership in a protected class") will not be tolerated. Retaliation against any student or other individual who has complained of discrimination, including harassment, or individuals who have cooperated with an investigation of such a complaint, is also unlawful and will not be tolerated. The District will promptly investigate, remedy any harm, seek to prevent recurrence of such conduct, and will also develop procedures to accomplish this end. This policy applies to conduct directed toward persons associated with the educational community by all other persons associated with the educational community including, but not limited to, students, District employees, the School Committee, school volunteers, and independent contractors.

### **1. What Is Discrimination, including Harassment?**

A. Discrimination: Treating persons differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected class.

B. Harassment: Oral, written, graphic, electronic, or physical conduct relating to a person's actual or perceived membership in a protected class that is sufficiently severe, pervasive or persistent so as to interfere with or limit that person's ability to participate in the District's programs or activities by creating a hostile, humiliating, intimidating, or offensive educational environment.

Harassing conduct based on a person's protected status may include, but is not limited to:

- Degrading, demeaning, insulting, or abusive verbal or written statements;
- Taking personal belongings, taunting, teasing, name-calling, or spreading rumors;
- Drawing or writing graffiti, slogans, visual displays, or symbols on school or another's property;
- Telling degrading or offensive jokes;
- Unwanted physical contact of any kind;
- Physical violence, threats of bodily harm, physical intimidation, or stalking;
- Threatening letters, emails, instant messages, or websites that come within the scope of the District's disciplinary authority;
- Defacing, damaging, or destroying school or another's property.

- C. Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following:
1. A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e. pro quo); or
  2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the schools education program or activity; or
  3. Sexual assault (as defined in the Clery Act as: any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent), dating violence, domestic violence, or stalking (as defined in the Violence Against Women Act as: engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) Fear for the person's individual safety or the safety of others; or (2) Suffer substantial emotional distress.).

Massachusetts General Laws Ch. 119, Section 41A, 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.

## **2. Responsibilities of all Persons Associated with Educational Community**

Each member of the educational community is personally responsible for ensuring that his/her conduct does not in any way harass or discriminate against any other person that he/she has contact with in the performance of his/her duties or studies or while acting as a member of the school community. In addition, each member of the educational community is required to fully cooperate in any investigation of alleged discrimination, including harassment that are reported to them or of which they otherwise learn. Further, District employees are obligated to intervene and stop any discrimination, including harassment they witness and to immediately report to the appropriate party instances of discrimination including harassment that are reported to them or of which they otherwise learn.

## **4. Procedure for Reporting Discrimination and Harassment**

The following complaint procedure has been established to ensure prompt and effective investigation into allegations of discrimination, including harassment.

A person who believes that he or she had been discriminated against, including being harassed may, to the extent that they feel comfortable, immediately:

1. confront the harasser(s) or person believed to be discriminating against him/her;
2. state the conduct that he/she objects to;
3. indicate that he/she finds such conduct offensive, intimidating and/or embarrassing;
4. insist that the person(s) engaging in the conduct stop the conduct immediately; and/or
5. report the conduct immediately to the Civil Rights Coordinator(s);

If the individual with the concern is not comfortable with such a confrontation, or feels that such a confrontation is unsafe and/or otherwise inappropriate, he/she should instead report the situation to the Civil Rights Coordinator(s). Reports/complaints are to be filed within ninety (90) days after the conduct complained of occurred or within the time the individual reasonably

becomes aware of the conduct. (Note: this filing period may be extended for good cause.) Reports/complaints filed after ninety (90) days will still be accepted, however, it is important to know that the investigation may be impeded due to the passage of time after the conduct or occurrence. The report can be written or oral and should consist of the following:

1. the specific conduct objected to,
2. the date(s) and time(s) such conduct took place,
3. the name(s) of the alleged harasser(s) or person believed to be discriminating against them,
4. the location(s) where the conduct occurred,
5. the name(s) of any witness(es),
6. action sought to remedy the situation, and
7. any other details or information requested by the designated official.

The individual can contact the Civil Rights Coordinator(s) to file a report/complaint as well as to seek assistance in the filing of a report/complaint. If a report/complaint is filed, the person should provide the Civil Rights Coordinator(s) with any documentation (emails, notes, pictures, etc.) or other information in support of the allegation of discrimination, including harassment.

### **3. Designated Officials for Addressing Discrimination and Harassment Complaints**

The Civil Rights Coordinator(s)/Title IX Coordinator(s) are responsible for receiving reports and complaints of violations of this Policy. Individuals may file a report or complaint of discrimination, including harassment, with the Civil Rights Coordinator(s) or Title IX Coordinator(s). If the complaint involves allegations of discrimination based on disability, the person filing the complainant also has the option to file his/her complaint with the building level 504 Coordinator. A report or complain of a violation involving the Civil Rights Coordinator(s) and/or Title IX Coordinator(s) should be filed with the Superintendent. A report or complaint of violation involving the Superintendent should be filed with the Westfield School Committee.

The Civil Rights and Title VI Coordinator:

Paula Ceglowski, Human Resources Director  
94 North Elm Street, Suite 101, Westfield, MA 01085  
(413)572-6550 email: p.ceglowski@schoolsofwestfield.org

Title IX Coordinators:

Denise Ruzala, Director of Assessment & Accountability  
94 North Elm Street, Suite 101, Westfield, MA 01085  
(413) 642-9320 email: d.ruzala@schoolsofwestfield.org

Christopher Rogers, Administrator of Student Interventions  
94 North Elm Street, Suite 101, Westfield, MA 01085  
(413) 572-6397 email: c.rogers@schoolsofwestfield.org

Section 504/Title II Coordinator:

Susan Dargie, Director of Curriculum & Instruction  
94 North Elm Street, Suite 101, Westfield, MA 01085  
(413) 562-2298 email: s.dargie@schoolsofwestfield.org

#### **4. Procedure for Reporting Discrimination and Harassment**

The following complaint procedure has been established to ensure prompt and effective investigation into allegations of discrimination, including harassment.

A person who believes that he or she had been or is being discriminated against and/or being harassed may, to the extent that they feel comfortable, immediately:

1. confront the harasser(s) or person believed to be discriminating against him/her;
2. state the conduct that he/she objects to;
3. indicate that he/she finds such conduct offensive, intimidating and/or embarrassing;
4. insist that the person(s) engaging in the conduct stop the conduct immediately; and/or
5. report the conduct immediately to the Civil Rights Coordinator(s);

If the individual with the concern is not comfortable with such a confrontation, or feels that such a confrontation is unsafe and/or otherwise inappropriate, he/she should instead report the situation to the Civil Rights Coordinator(s)— Reports/complaints are to be filed within ninety (90) days after the conduct complained of occurred or within the time the individual reasonably becomes aware of the conduct. (Note: this filing period may be extended for good cause.) Reports/complaints filed after ninety (90) days will still be accepted, however, it is important to know that the investigation may be impeded due to the passage of time after the conduct or occurrence.

The report can be written or oral and should consist of the following:

1. the specific conduct objected to,
2. the date(s) and time(s) such conduct took place,
3. the name(s) of the alleged harasser(s) or person believed to be discriminating against them,
4. the location(s) where the conduct occurred,
5. the name(s) of any witness(es),
6. action sought to remedy the situation, and
7. any other details or information requested by the designated official.

The individual can contact the Civil Rights Coordinator(s) to file a report/complaint as well as to seek assistance in the filing of a report/complaint. If a report/complaint is filed, the person should provide the Civil Rights Coordinator(s) with any documentation (emails, notes, pictures, etc.) or other information in support of the allegation of discrimination, including harassment.

#### **5. Investigation of Complaints**

Upon receipt of a report or complaint, the Civil Rights Coordinator(s) should conduct a prompt investigation. The investigation must allow for the complainant, the subject of the complaint, the alleged harasser, and any other appropriate party to provide information, including witnesses or other evidence, relevant to the consideration and resolution of the complaint. The Civil Rights Coordinator(s) will also endeavor to promptly interview and obtain detailed written statements from potential witnesses. If further documentation or information is necessary, the Civil Rights Coordinator(s) will notify the appropriate party, asking that the information be provided within ten (10) school/working days.

The District will take interim steps, as necessary, to ensure the safety and well-being of the complainant and the alleged harasser while the investigation is being conducted. Interim measures are available even if the complainant does not file or continue to pursue a complaint. The Civil Rights Coordinator(s) shall notify the complainant and the alleged harasser of specific types of interim measures available, which may include measures to avoid contact with the other party, allowing employees to change work situations as appropriate or prohibiting contact between the parties pending the results of the District's investigation. At any time, a complainant or the alleged harasser may request either orally or in writing to the Civil Rights Coordinator that specific interim measures are taken pending the outcome of the investigation.

A written determination regarding the complaint and any resolution will be provided by the Civil Rights Coordinator to the complainant and the alleged harasser within thirty (30) school/working days of the complaint. The determination of whether the District's anti-discrimination policy has been violated will be based upon a preponderance of the evidence standard.

The complainant or the alleged harasser may request reconsideration of the determination and/or resolution of a complaint by notifying the Superintendent in writing or verbally within seven (7) school/working days of receipt of the written determination of the Civil Rights Coordinator. The Superintendent or his/her designee will respond to such request with notice to both parties within (30) thirty school/working days of receipt of the request for reconsideration; his/her decision is final.

If a violation is found to have occurred, the District will take steps to prevent recurrence of the violation and correct its discriminatory effect on the person(s) affected. Such steps may include appropriate disciplinary action, counseling, development of a safety plan and other remedies, as appropriate.

#### **6. Consequences of Violating Policy - Discipline & Discharge**

Any employee who violates this policy will be subject to disciplinary action consistent with the contractual provisions governing his/her employment. In appropriate circumstances, the District may also refer the matter to law enforcement officials for possible prosecution.

Any student who violates this policy will be subject to disciplinary action which may range from detention, suspension from schools, or expulsion from school. (Note: students with disabilities will be subject to the applicable disciplinary procedures set forth in the Students' Rights and Responsibilities District handbook, which adhere to Individuals with Disabilities Education Act and Section 504 of Rehabilitation Act of 1973.) In appropriate circumstances, the District may also refer the matter to law enforcement officials for possible prosecution.

#### **7. Confidentiality**

Investigations of discrimination, including harassment complaints shall be conducted in such a manner as to disclose information only to those with a need to know or those who may have information pertinent to the investigation. Please note, some level of disclosure may be necessary in the course of conducting interviews in connection with investigation of any complaint under this policy. The District shall endeavor to keep such information as confidential as it can without compromising the thoroughness of the investigation.

## **8. State and Federal Authorities**

In addition to the process described above, the complainant may, at any time, file a complaint with the U.S. Department of Education Office for Civil Rights, Massachusetts Commission Against Discrimination, Massachusetts Department of Elementary and Secondary Education, or other appropriate federal or state agency charged with enforcement of state and federal laws prohibiting discrimination, and/or harassment based on membership in a protected class.

U.S. Department of Education  
Office for Civil Rights  
5 Post Office Square, 8th Floor, Suite 900  
Boston, MA 02109-3921  
Telephone: (617) 289-0111  
<http://www.ed.gov>

Massachusetts Commission Against Discrimination  
436 Dwight Street, 2<sup>nd</sup> floor, Room 220  
Springfield, MA 01103  
Telephone: (413) 739-2145

Massachusetts Department of Elementary and Secondary Education  
75 Pleasant Street  
Malden, MA 02148-4906  
Telephone: (781) 338-3000

## **9. Procedure for Reporting and Investigating Harassment on the Basis of Sex**

**Notice:** The school is considered to have actual knowledge of a sexual harassment complaint if notice of sexual harassment or an allegation of sexual harassment is provided to a Title IX Coordinator, any school official, or any school employee. The School will investigate every formal complaint (which may be filed by a complainant or by a school's Title IX Coordinator). If the alleged conduct does not fall under Title IX, then a school may address the allegations under the school's code of conduct and can still provide supportive measures. The school is required to investigate the allegations in a complaint, send written notice of the allegations to both parties upon receipt of a formal complaint, and investigate under specified procedures. Schools are required to investigate every formal complaint and respond meaningfully to every known report of sexual harassment.

**Reporting:** Any person may file a report of sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), at any time either in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. However, if a person files a false complaint in bad faith, knowingly and intentionally; they will be subject to discipline.

**Investigations:** The School will investigate and adjudicate formal complaints of sexual harassment using a grievance process that incorporates due process principles, treats all parties fairly, and reaches reliable responsibility determinations. The school's grievance process will:

- Give both parties written notice of the allegations, an equal opportunity to select an advisor of the party's choice (who may be, but does not need to be, an attorney), and an equal opportunity to submit and review evidence throughout the investigation;
- Use trained Title IX personnel to objectively evaluate all relevant evidence without prejudgment of the facts at issue and free from conflicts of interest or bias for or against either party;
- Protect parties' privacy by requiring a party's written consent before using the party's medical, psychological, or similar treatment records during a grievance process;
- Obtain the parties' voluntary, written consent before using any kind of "informal resolution" process, such as mediation or restorative justice, and not use an informal process where an employee allegedly sexually harassed a student;
- Apply a presumption that the respondent is not responsible during the grievance process (often called a "presumption of innocence"), so that the school bears the burden of proof and the standard of evidence is applied correctly;
- Use the preponderance of the evidence standard for all complaints of harassment on the basis of sex, regardless of whether the complaint is against students or district employees;
- Ensure the decision-maker is not the same person as the investigator or the Title IX Coordinator (i.e., no "single investigator models");
- Parties may submit written questions for the other parties and witnesses to answer;
- Protect all complainants from inappropriately being asked about prior sexual history ("rape shield")
- Send both parties a written determination regarding responsibility explaining how and why the decision-maker reached conclusions;
- Effectively implement remedies for a complainant if a respondent is found responsible for sexual harassment;
- Offer both parties an equal opportunity to appeal;
- Protect any individual, including complainants, respondents, and witnesses, from retaliation for reporting sexual harassment or participating (or refusing to participate) in any Title IX grievance process;
- Make all materials used to train Title IX personnel publicly available on the school's website or, if the school does not maintain a website, make these materials available upon request for inspection by members of the public; and
- Document and keep records of all sexual harassment reports and investigations for at least seven years.

### **Record Keeping for Sexual Harassment Complaints**

Schools must create and maintain records documenting every Title IX sexual harassment complaint. Records relating to complaints of sexual harassment must be kept in accordance with the records retention schedule. Such records include: records of a school's investigation (including complaints (formal and informal), notices, the determination, investigative report, disciplinary measures or remedies, etc.); records of any appeals and materials associated with the appeal; records of any supportive measures taken in response to a complaint of sexual

harassment (even if the complainant does not file a formal complaint); records of any informal resolution process; all materials used to train Title IX Coordinators, Investigators, decision makers, and those facilitating an informal resolution. The training materials must be kept on the School's website.

**Retaliation is prohibited.**

Any person who experiences retaliation for exercising their rights under Title IX can file a retaliation complaint with the Title IX Coordinator. The school will keep the names/identity of parties and witnesses confidential unless such disclosure is required under another law, or is necessary to conduct a thorough grievance procedure.

**Supportive Measures**

When alleged sexual harassment is reported, the Title IX Coordinator must inform the victim to their right of supportive measures even if not formal complaint is filed. The school must consider the alleged victim's wishes with respect to supportive measures. Supportive measures for those involved in the sexual harassment complaint process may include: counseling, extending deadlines, modifications of work and/or class schedules, school escort services, increased school security and/or monitoring, mutual restrictions on contact between the individuals involved through a safety plan.

Supportive measures will be kept confidential whether they are provided to the alleged victim or accused person to the extent the confidentiality will not interfere with the supportive measure offered.

Legal References: Title VII, Section 703, Civil Rights Act of 1964 as amended 45  
Title VI of the Civil Rights Act of 1964  
Federal Regulation 74676 issued by EEO Commission  
Education Amendments of 1972, 20 U.S.C. 1681 et seq. (Title IX), as amended  
Board of Education 603 CMR [26:00](#)  
Rehabilitation Act of 1973, Section 504, as amended  
Title II, Americans with Disabilities Act of 1992, as amended

M.G.L. 151B:3A

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

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