



**FAIRHAVEN SCHOOL COMMITTEE MINUTES**  
**August 14, 2024**

**FAIRHAVEN TOWN CLERK**  
**RCUD 2024 SEP 20 PM2:47**

**MEMBERS PRESENT:** Colin Veitch, Stephanie Pickup, Erik Andersen, Nicole Pacheco, Brendalee Smith

**MEMBERS ABSENT:** Brian Monroe

**STAFF PRESENT:** Superintendent Tara Kohler, Assistant Superintendent Mark Balestracci, School Business Manager Nicole Potter

The meeting was called to order by Mr. Veitch at 6:38 pm

***Delegations, Visitors, Etc:***

Andy Kulak, Principal Fairhaven High School (FHS), Robert Foster, President FHS Alumni Association, Attorney Jennifer King, Villario, Dominello, & Hillman LLC

***Approval of Minutes:***

Motion to approve regular session minutes from June 18, 2024 made by Ms. Pickup, seconded by Ms. Smith, approved (5-0).

Motion to approve executive session minutes or content only from June 18, 2024 made by Ms. Pickup, seconded by Ms. Smith, approved (5-0).

Motion to approve regular session minutes from July 31, 2024 made by Ms. Smith, seconded by Ms. Pacheco, approved with one abstention (4-0).

Motion to approve executive session minutes for content only from July 31, 2024 made by Ms. Smith, seconded by Ms. Pacheco, approved with one abstention (4-0).

***Reports and Recommendations of the Superintendent:***

***Restoration of Chairs in Room 107 at Fairhaven High School (FHS):***

Superintendent Kohler introduced Mr. Robert Foster, President of the FHS Alumni Association. Mr. Foster informed the Committee that the FHS Alumni Association was able to begin restoring the 102 historical desks in the FHS Classroom 107 (Attachment A). He noted these original desks were 118 years old as well as spoke about some of the school's history. Mr. Foster also noted they will also be replacing the cushions in the botanic library (attachment B). The Committee expressed how grateful they are to the FHS Alumni Association for their support of the Fairhaven Public Schools (FPS) building, grounds, and students.

Superintendent Kohler requested through the Chair that the Committee take the agenda item, Update of Title IX, out of order due to having Attorney King in attendance via Zoom to answer questions regarding this update. Mr. Veitch asked the Committee if there were any objections, seeing none, Mr. Veitch moved the Update of Title IX to be the next item discussed.

***Update on Title IX:***

Superintendent Kohler told the Committee the Civil Rights Law, Title IX, updated August 1, 2024. She introduced Attorney Jennifer King, from Villario, Dominello, & Hillman LLC to answer any questions the committee may have regarding the changes to this law. Mrs. Kohler then gave an overview of the nine main differences of prior regulations to the updated regulations (Attachment C). Superintendent Kohler informed the Committee that Assistant Superintendent Balestracci will now be the Title IX Coordinator for the staff, and Tanya Dawson, Director of Student Services will continue to be the Coordinator for the Students. The Administration had a training with Attorney King on a previous date, the staff will be trained upon returning to school, and parents will be notified of the changes via a link with the handbooks. The discussion ensued with Committee members, Attorney King, and Superintendent Kohler regarding the changes.

***Fundraising Methods for Facilities:***

Due to the fact that Mr. Monroe was not in attendance, Mr. Andersen made a motion to table this agenda item until October, seconded by Ms. Pacheco, approved (5-0).

***Update Regarding School & Facilities:***

Superintendent Kohler gave a brief update on the ongoing facilities projects. The Leroy Wood School (Wood) Playground is complete, it is really beautiful, but most importantly, safe for the children. It will reopen at the beginning of the school year.

There will be construction ongoing during the year at Wood on Sconticut Neck Road. This is part of the Safe Routes to School grant that we have been working on for a number of years. I am working with the BPW and we are on weekly calls for any concerns or updates. We can't avoid disruption or discomfort, but they are very aware of our concerns during drop off and pick up times, and are creating workarounds.

The Storage Facility at FHS will resume construction mid to the end of September. We did have to rent a storage container and move the wood due to the delay. A big thank you to our maintenance crew and Mr. Balestracci for making that happen.

The FHS Phase I project has morphed into more when it was discovered that the leaks are being caused by the incorrect windows being installed when the new portion of the school was built, not the roof. So we will have to address that in order to proceed, forcing the timeline to be pushed out. Financially, the amount the Town contributed to this project was very helpful. Also, with our new Communication Plan, we will work hard to share updates with the community quarterly.

The Elementary Schools Outdoor Classroom projects are moving forward. Assistant Superintendent Balestracci and Mrs. Potter will be resubmitting for a grant with all the data. Once it is a go, we will be posting and letting the kids know and updating the community. She reminded the Committee this is coming from the Esser money, which is post Covid. It's getting the kids outside and socializing.

The Commission on Disabilities toured the schools / facilities with Mr. Balestracci. They have requested some updates such as cutting shrubbery back, updating handicap signs and stencils, etc. The BPW is assisting with the updates. This has been a very positive inter departmental project.

Mrs. Potter will be working with contractors again tomorrow for the ramp at the Administration Building. It is an immediate access and safety hazard.

Mrs. Pacheco asked about a Safe Route to Schools project for the East Fairhaven Elementary School (East) due to families having to cross Route 6. Superintendent Kohler stated that Route 6 is a State, not a Town highway. There was a Route 6 study and the concern was brought up a few years ago, but she has not heard anymore since. Superintendent Kohler assured the Committee that the transportation routes will be looked at in order to ensure the safety of getting those children to school. Superintendent Kohler also mentioned a transportation survey went out to the eligible families. She is encouraging all families to complete the survey. The two most important items we address the first week of school are do we have all the teachers in place and how are our kids going to get to school.

#### *Staffing Update:*

Superintendent Kohler stated she is very excited about this year's staff, stating we have great people on board. She stated we have posted the Innovation position at Wood School and is very close to being able to post for the Float Nurse.

#### *Received & Placed on File: Fairhaven High School 24-25 Handbook:*

The Committee acknowledged they have received the FHS 24-25 handbook with changes due to the Title IX update.

#### *Upcoming Events:*

Opening of School is August 28, 2024.

Next School Committee meeting will be September 11, 2024 at 6:30 pm.

A Special Town Meeting will be held November 19, 2024 at 7:00 pm.

Superintendent Kohler told the Committee she will be meeting with the Town Administrator and Town Accountant, Assistant Town Administrator regarding her concerns with the Chapter 70 money, IT, and placing articles in the Special Town Meeting Warrant regarding transfers of funds, etc. She will have another update at the September meeting. Superintendent Kohler confirmed with the Committee they would like her to continue to pursue the Chapter 70 funds being transferred, they concurred.

#### *Unfinished Business:*

Mr. Balestracci told the Committee that the Policy Subcommittee has been working on this for some time, the use of online fundraising. A Committee discussion took place regarding Policy Subcommittee Policy GBED: Online Fundraising and Solicitations - Crowdfunding. Concerns of property ownership, maintaining inventory, ethical issues, oversight of funds, number of sites, policy, etc. need to be addressed. It was suggested to look into how other Districts handle the online fundraising to get ideas. The Committee will table this topic until October in order to gather more information.

#### *New Business:*

The Committee received the Policy Subcommittee policies AC, AC-R, and ACA (Attachment D) for the first read.

A motion was made by Mr. Andersen to accept a donation valued at \$5,000 from the AdoptAClassroom / Burlington for East Fairhaven Elementary School, seconded by Ms. Pacheco, approved (5-0).

A motion was made by Mr. Andersen to approve both the proposed Elementary and Middle School handbooks, seconded by Ms. Pacheco, approved (5-0).

***Questions from individual Committee Members:***

Mr. Andersen asked for the Committee to be introduced to the new SRO. Superintendent Kohler will offer the invitation to him.

***Any Business Not Reasonably Anticipated 48 Hours Prior to the Posting of the Meeting:***

Superintendent Kohler mentioned to the Committee that the Town has moved to a Regional Dispatch Center. There is a slight delay with the police part of 911 that they are working on. She has had meetings with the SRO's and Detective Scott Gordon to create workarounds in order to receive the quickest response time possible. The faculty have been trained on using a direct number to call in that will get them the fastest route to police in a crisis situation. She assured the Committee that the District is safe and in very good hands.

Motion to go adjourn made by Mr. Andersen, seconded by Ms. Pacheco, approved (5-0).

Adjourned at 8:12 pm.

*Sheri Souza*  
Secretary to the School Committee  
Fairhaven Public Schools

Approved September 11, 2024





### Title IX Policy Changes

Prior Regulations	New Regulations
<b>Definitions:</b> Only covered a narrow definition of sexual harassment	<b>Definitions:</b> Broadly address both discrimination and harassment on basis of sex, gender identity, sexual orientation, and pregnancy
<b>Investigator:</b> Could not be Title IX Coordinator or Decisionmaker	<b>Investigator:</b> Can be Title IX Coordinator or Decisionmaker
<b>Supportive Measures:</b> Did not address students receiving special education services	<b>Supportive Measures:</b> If student receives special education services, Title IX Coordinator must consult members of a student's Team to ensure compliance during investigation
<b>Notice:</b> "Actual knowledge", a high threshold, triggered obligations under Title IX	<b>Notice:</b> Any employee made aware of allegations that reasonably may constitute sex discrimination obligated to contact Title IX Coordinator
<b>Participation in Educational Program:</b> Complainants need to presently participate in educational program or activity	<b>Participation in Educational Program:</b> Complainants can file complaints after leaving program (Respondents must be participating in educational program)
<b>Off-School Conduct:</b> Could not investigate off-school conduct that is not school-sponsored/takes place outside the U.S.	<b>Off-School Conduct:</b> Can investigate off-school conduct when contributing to a hostile environment
<b>Timeframes:</b> Designated timeframes required for all investigatory steps	<b>Timeframes:</b> Designated timeframes only required for major investigation steps
<b>Pregnancy Supports:</b> None	<b>Pregnancy Supports:</b> Pregnant students must be notified to contact Title IX Coordinator and receive information on reasonable accommodations
<b>Questioning by Parties:</b> Parties could submit written questions to other parties/witnesses	<b>Questioning by Parties:</b> No longer required

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

The Fairhaven School Committee and Fairhaven 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 Fairhaven Public Schools.

Fairhaven Public Schools does not exclude from participation, deny the benefits of Fairhaven 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 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 Fairhaven 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 July 2024

ADOPTED:

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

Fairhaven 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, Fairhaven 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 Fairhaven 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.

*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 Fairhaven Public Schools, and can be reached at:

Name/Position: Tanya Dawson, Director of Student Services

Address: 128 Washington Street Fairhaven, MA 02719

Phone: (508) 979-4000

The following individual is designated as the District ADA, Title VI, Title IX, and Sexual Harassment and Civil Rights Coordinator for students in the Fairhaven Public Schools. In addition, the Assistant Superintendent is the District 504 Coordinator, and can be reached at:

Name/Position: Mark Balestracci, Assistant Superintendent

Address: 128 Washington Street Fairhaven, MA 02719

Phone (508) 979-4000

Inquiries concerning the Fairhaven 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

ACGA, Civil Rights Grievance Procedure

ACGB, Title IX Sexual Discrimination Grievance Procedure

SOURCE: MASC July 2024

## **NON-DISCRIMINATION ON THE BASIS OF SEX**

Sex-based discrimination, sex-based harassment and sexual harassment (collectively, "sex discrimination") in the education programs, activities and workplace of the Fairhaven Public Schools ("District") is unlawful and prohibited in the District's education program and activity. All persons associated with the District including, but not limited to, School Committee members, District employees, volunteers, and students, are expected to conduct themselves at all times to maintain a workplace, education program and activity free from sex discrimination.

Any person who engages in sex discrimination while participating in the education program or activity, or acting as a member of the school community, will be in violation of this policy. Further, any retaliation against an individual who has complained about sex discrimination or retaliation against any individual for cooperating in an investigation of a sex discrimination complaint is unlawful and will not be tolerated.

Because the District takes allegations of sex discrimination seriously, it will respond promptly to complaints of sex discrimination and where it is determined that inappropriate conduct, whether or not such conduct constitutes sex discrimination, has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace and school environment that is free of sex discrimination, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace or school conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sex discrimination. This policy shall be located and accessible within the School Committee policy manual.

### **Definitions:**

*Complainant* – A student, employee, or other person participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination.

*Complaint* – An oral or written request to the District that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination.

*Confidential Employee* – A District employee: (1) whose communications are privileged or confidential under federal or state law; or (2) who the District has designated as confidential for the purposes of providing services to persons related to sex discrimination.

*Day* – When used in this policy, "day" shall mean: (1) during the school year, school days; or (2) during the summer, business days except for holidays.

*Respondent* – A person who is alleged to have violated the District's prohibition on sex discrimination.

*Retaliation* – Intimidation, threats, coercion or discrimination against any person by the District, a student, an employee or another person authorized to provide an aid, benefit or service to the District's education program or activity for the purpose of interfering with any right or privilege secured by Title IX or its accompany regulations, 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 under this policy<sup>1</sup>.

*Sex-based Discrimination* – Discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

*Sex-based Harassment* – A form of sex discrimination, including but not limited to sexual harassment and other harassment on the basis of sex, 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 recipient's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the recipient's education program or activity; or

(3) *Specific offenses*.

- (i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

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<sup>1</sup> Nothing in this definition precludes the District from requiring an employee or another person authorized to provide an aid, benefit or service to the District's education program or activity to participate as a witness in, or otherwise assist with, an investigation pursuant to this policy.

(ii) Dating violence meaning violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

(iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

*Supportive Measures* – Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to: (1) restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or (2) provide support during the complaint procedure.

#### **Title IX Coordinator and Reporting Sex Discrimination**

**<INSERT NAME/S, OFFICE ADDRESS, EMAIL ADDRESS, TELEPHONE NUMBER>**

The Superintendent will annually appoint one or more Title IX Coordinators who will be vested with the authority and responsibility of managing all sex discrimination complaints. The Title IX Coordinator shall be responsible for handling inquiries about the applicability of Title IX, unless a person prefers to contact one of the governing agencies addressed below.

Any person may report 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). Reports may be made at any time including during non-business hours. Reports may be made 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.

All employees who are not confidential employees must immediately notify the Title IX Coordinator upon receipt of information of conduct toward another individual/s that may constitute sex discrimination under this policy.

All employees who are confidential employees who are made aware by another individual of conduct toward that individual that may constitute sex discrimination under this policy must inform that individual: (1) of the employee's status as a confidential employee who is not required to notify the Title IX Coordinator of the alleged conduct; (2) how to contact the Title IX Coordinator and make a complaint of sex discrimination; and (3) 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 this policy.

#### *Receipt of Complaint*

Upon notice of allegations that reasonably may constitute sex discrimination, and in treating the complainant and respondent equitably, the Title IX Coordinator will: (1) treat the complainant and respondent equitably; (2) contact the complainant to discuss the availability of and coordinate supportive measures; and (3) notify the complainant or individual reporting the conduct of the informal resolution and investigation processes under this policy.

If a complaint is made under this policy, the Title IX Coordinator will then: (1) contact the respondent to discuss the availability of and coordinate supportive measures; and (2) notify the respondent of the information resolution and investigation processes under this policy.

The Title IX Coordinator must determine whether to initiate a complaint of sex discrimination pursuant to this policy: (1) in the absence of a complaint but where there is notice of allegations that reasonably may constitute sex discrimination; (2) in the absence or termination of an informal resolution process; or (3) if complaint is withdrawn in whole or in part. In making this determination, the Title IX Coordinator will consider the following factors:

- (1) The complainant's request not to proceed with the initiation of a complaint;
- (2) The complainant's reasonable safety concerns regarding the 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 District to remove the respondent or impose another disciplinary sanction to end the discrimination and end its recurrence;

- (5) The age and relationship of the parties, including whether the respondent is a District employee;
- (6) The scope of the alleged sex discrimination, including information suggesting a pattern of 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 a complaint.

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 District from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint. However, if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX or this policy, the District is not obligated to initiate an investigation into the allegations.

The Title IX Coordinator will notify the complainant prior to initiating the complaint and appropriately address any of the complainant's reasonable concerns about their safety or the safety of others, including the provisions of supportive measures. Regardless of whether or not a complaint is initiated, the Title IX Coordinator will take other appropriate prompt or effective steps to effectuate remedies to deter further instances of the alleged sex discrimination.

If a complaint is initiated under this policy, the District will notify the known parties as to:

- (1) Sufficient information available at the time concerning the allegations which may reasonably constitute sex discrimination under this policy;
- (2) The District's procedures for the informal resolution and investigation process;
- (3) The District's prohibition against retaliation;
- (4) The parties' equal opportunity to access relevant and not otherwise impermissible evidence or descriptions of evidence.

If during the course of an investigation additional allegations are uncovered that were not included in the notice or a consolidated complaint, the District will provide a supplemental notice to the known parties.

The District may remove a respondent on an emergency or administrative leave basis after undertaking an individualized safety and risk analysis and determining that an imminent and serious threat to the physical health or safety of any employee, student or other individual arising from the allegations justifies removal. The District will provide the respondent with written notice and an opportunity to challenge the decision immediately following the removal in accordance with any applicable laws, collective bargaining agreements and student handbooks.

### **Supportive Measures**

The District shall offer and coordinate supportive measures through the Title IX Coordinator and other appropriate staff. However, the District is not required to alter the alleged discriminatory conduct for the purpose of providing supportive measures.

Supportive measures vary depending on reasonably available resources and circumstances. These measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; escort services; increased security and monitoring of certain areas within a school building; contact restrictions between one or more parties; leaves of absence; changes in classes, work or other education program or activities; and training and education. Supportive measures cannot unreasonably burden either party and must be designed to protect the safety of the parties of the District's educational environment, or to provide support during an informal resolution or investigation process. These measures will not be imposed for punitive or disciplinary reasons, and may be modified, continued or terminated at the conclusion of the informal resolution or investigation process or at any time upon request of a party if circumstances have materially changed and the Title IX Coordinator grants such request. If the Title IX Coordinator denies a party's requested supportive measures, or if circumstances it will provide the party an opportunity to seek a review of the decision to a Central Office administrator. Information concerning supportive measures will be kept strictly confidential unless necessary to preserve a party's access to the District's education program or activity.

If either party is a student with a disability with an individualized education program (IEP) or 504 plan, the Title IX Coordinator shall consult, confidentially and as appropriate, with one or more members of the student's team to determine how to comply with the student's IEP or 504 plan in implementing supportive measures.

### **Confidentiality**

The District will not disclose personally identifiable information ("PII") obtained in the course of following processes under this policy unless:

- (1) It has obtained prior written consent to disclose such information from a person with such legal right of consent;
- (2) The information is disclosed to a parent, guardian or other legal representative with the legal right to receive disclosures on behalf of the person whose PII is at issue;
- (3) Necessary to carry out the purposes of Title IX or its accompany regulations or to address conduct that reasonably may constitute sex discrimination;
- (4) As required by federal or state law; or
- (5) To the extent such disclosures do not otherwise conflict with Title IX, when required by state/local law or if permitted by FERPA or its accompanying regulations.

During an informal resolution or investigation process, the District will take reasonable steps to protect the privacy of parties and witnesses without restriction to a party's ability to obtain and access evidence, including speaking with witnesses (with witness consent and in a non-retaliatory manner); consulting with family members, confidential resources or advisors; or otherwise preparing for or participating in either process.

### **Informal Resolution**

After a complaint is filed, the District may offer and facilitate an informal resolution process (such as but not limited to mediation or restorative justice) before a determination is made. This process is not available when the complaint alleges sex-based harassment by a Committee member, District employee or volunteer towards a student or if such process would conflict with federal, state or local law. The District retains the right to decline to offer or facilitate an informal resolution at its own discretion, even if one or more parties seeks to pursue this process.

The parties must give voluntary, written consent to participate in this informal process. When both parties consent to an informal process, the District shall facilitate a resolution-based meeting as soon as practicable, subject to the availability of the involved parties and any mediator or facilitator. Prior to initiating the informal resolution process, the District will provide each party a written notice explaining the allegations and requirements of the informal resolution process. The individual facilitating an informal resolution process will not be the same individual that is investigating or deciding the outcome of the complaint.

If informal resolution is unsuccessful, the complainant may choose to continue the investigation process by providing written notice to the Title IX Coordinator within three (3) days of the unsuccessful informal resolution meeting. In this event, the District will commence or resume the investigation.

### **Consolidation of Complaints**

If the allegations are against more than one respondent or by more than one complainant, the District may consolidate multiple formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances.

### **Investigation**

All evidence will be weighed objectively using the preponderance of the evidence standard. Credibility determinations are not based on an individual's status as a complainant, respondent or witness. The investigator will presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation process.

The Title IX Coordinator shall assign an individual to investigate the matter. The investigator shall have no conflicts with or biases against either the complainant or the respondent. If the District has appointed more than one Title IX Coordinator, the individual not assigned to be the Title IX Coordinator in the matter may serve as the investigator. The investigator will collect and review evidence, interview parties and witnesses, and complete an investigative report.

The investigator shall strive to complete investigations within twenty-five (25) days of the filing of the complaint or resumption of the investigation after an unsuccessful informal resolution meeting, which may be extended for good cause with notice to the parties. The timeline for an investigation may be suspended during any informal resolution procedure or meeting.

During the investigation, the investigator shall take the following steps:

- 1) Interview the complainant and respondent and provide each party with the opportunity to identify fact witnesses and submit relevant, legally permissible evidence to the investigator.
- 2) Interview available witnesses, including those identified by the complainant or respondent provided the witness is available.
- 3) Provide the parties with an equal opportunity to access relevant, legally permissible gathered evidence or an accurate description of such evidence and to respond to the investigator regarding the gathered evidence or accurate description of such evidence. The District will take reasonable steps to ensure that the parties do not engage in authorized disclosure of gathered evidence.

The investigator will draft an investigation report that fairly summarizes the relevant evidence including, but not limited to, interviews with parties and witnesses, written evidence, audio/video recordings, and site visits.

#### **Determinations**

The investigator will provide the decision maker with a report including all evidence obtained during the course of the investigation. The decision maker assigned will have no conflicts with or biases against either the complainant or the respondent, and the Title IX Coordinator or investigator may also be the decision maker for the complaint.

The decision maker shall review all of the evidence. If the decision maker is a different person than the investigator and the investigator's report leaves a party or witness's credibility in dispute when it is relevant to evaluating one or more allegations, the decision maker may engage in supplemental interviews in order to adequately assess the party or witness's credibility.

The decision maker shall then issue a written determination within fifteen (15) days of the conclusion of the investigation, absent extenuating circumstances. The decision maker shall thereafter notify the parties in writing of the determination as to whether sex discrimination occurred and the procedures and permissible basis for appeal.

If it is determined that sex discrimination occurred, the Title IX Coordinator shall coordinate and implement any necessary remedies and disciplinary actions. An employee found responsible for engaging in sex discrimination is subject to discipline up to and including termination. A student found responsible for engaging in sex discrimination is subject to discipline consistent with state law and applicable student handbook.

#### **Dismissal of a Complaint**

The District may dismiss a complaint if:

- (1) The District is unable to identify the respondent after taking reasonable steps to do so;
- (2) The respondent is not participating in the District's education program or activity and is not a District employee;

- (3) The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator 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 or this policy even if proven; or
- (4) The District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX or this policy.

Upon a dismissal of this section, the District will promptly send written notice of the dismissal and reason(s) to the parties, as well as procedures for appeal. The District will offer supportive measures to the parties as appropriate and take other necessary and effective measures to ensure that the conduct does not continue or recur.

### **Withdrawal of a Complaint**

While Title IX allegations may be withdrawn, the District may investigate under other state and federal laws and District policies.

### **Appeals**

Either party may appeal the outcome of the investigation for one of the following reasons:

- (1) Procedural irregularity affected the outcome;
- (2) New evidence that was not reasonably available at the time that the determination was made which could affect the outcome;
- (3) The Title IX Coordinator, investigator, and/or decision-maker had a conflict of interest or bias.

Appeals must be submitted to the Title IX Coordinator within three (3) days of the District's understood date of receipt of the written determination and contain a written statement in support or challenge of the outcome.

When an appeal is filed, the District shall notify the other party and ensure that the individual deciding the appeal is not the same person as the decision maker who reached the determination regarding responsibility and that the individual has no conflicts of interests and is free of bias. The non-appealing party shall have three (3) days from the date of receipt of the notice of the appeal to submit a written statement to support or oppose the outcome.

The individual deciding the appeal shall issue a written decision describing the result of the appeal and rationale for the decision and provide the decision to both parties generally within ten (10) days of receipt of the non-appealing party's written statement, or in the event no statement is submitted, the date the statement would have been due.

In addition to the above, if you believe you have been subjected to sex discrimination, you may file a complaint with any of the governing agencies set forth below.

- 1) United States Department of Education Office for Civil Rights – Region 1  
J.W. McCormack Post Office and Court House

Post Office Square  
Boston, MA 02108  
(617) 289 – 0111

2) Equal Employment Opportunity Commission  
JFK Federal Building  
15 New Sudbury Street, Room 475  
Boston, MA 02203  
(800) 669 – 4000

3) The Massachusetts Commission Against Discrimination (“MCAD”)  
One Ashburton Place – Room 601  
Boston, MA 02108  
(617) 994 – 6000

LEGAL REFS.: Title VII, Section 703, Civil Rights Act of 1964 as amended 45

Federal Regulation 74676 issued by EEO Commission

Education Amendments of 1972, 20 U.S.C. 1681 et seq. (Title IX)

Board of Education 603 CMR 26:00

REVISED: -----, 2024