

# NORTHAMPTON PUBLIC SCHOOLS

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## SCHOOL COMMITTEE

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Dina Levi                Emily Serafy-Cox  
Susan Voss



**John A. Provost, Ed.D.**  
Superintendent

**Nick Bernier**  
Business Administrator

October 12, 2021

Dear NPS Community:

Our current District Improvement Plan renews our district's commitment to equity and the success of each student. Among other things, this commitment involves protecting individuals from communities that have been marginalized from discrimination, harassment, and bullying. The district has a core set of policies which protect students and staff from discrimination on the basis of age, color, disability, economic status, ethnic background, gender identification, marital status, national origin, pregnancy, pregnancy-related conditions, race, religion, sex, or sexual orientation. These policies also protect students and staff from retaliation for filing good faith complaints and participating in good faith in investigations.

The purpose of this communication is to raise awareness of these policies so that students, staff, and caregivers understand their rights and the protocols to be used if they feel these rights have been violated. In the sections that follow, each of these policies will be summarized and the framework for addressing complaints arising under any of these policies will be clarified.

## **Policy AC- Nondiscrimination**

### **Summary**

Nondiscrimination policies are coded with a series of letters beginning with AC. As the first in the AC series, this policy describes the district's overall commitment to nondiscrimination. It prohibits NPS students and staff from "doing or say anything that would, in any way, tend to cast aspersions on the age, color, disability, economic status, ethnic background, gender identification, marital status, national origin, pregnancy, pregnancy-related conditions, race, religion, sex, sexual orientation of any individual or group or otherwise engage in racist or other discriminatory behavior". It also protect individuals from being excluded from school programs or activities on the basis of basis of age, color, disability, economic status, ethnic background, gender identification, marital status, national origin, pregnancy, pregnancy-related conditions, race, religion, sex, or sexual orientation.

## **Policy ACA- Nondiscrimination on the Basis of Sex**

### **Summary**

This policy guarantees students and staff equitable educational and employment opportunities, without regard to sex. All complaints involving alleged discrimination on the basis of sex are directed to the attention of the Director of Health, Equity and Safety Programs, who serves as the district's Title IX coordinator.

## **Policy ACAB- Prohibition Against Sexual Harassment and Other Forms of Harassment and Discrimination**

### **Summary**

This policy guarantees students, staff, caregivers, and members of the public an educational environment and workplace free from bigotry and intolerance. It prohibits any form of intimidation, threat, coercion and/or harassment that insults the dignity of others and interferes with their freedom to learn or work..

Discrimination and harassment under this policy is defined as unwelcome conduct, whether verbal or physical, that is based on a protected class status such as race, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, gender expression, sexual orientation, pregnancy, or pregnancy-related condition.

Examples of discrimination and harassment include, but are 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 (as described above) to participate in or benefit from employment or a program or activity of the Northampton Public Schools; or (ii) creates an intimidating, threatening or abusive educational or working environment.

Sexual harassment includes as unwelcome conduct of a sexual nature. It includes sexual advances, requests for sexual favors, and verbal, non-verbal, or physical conduct of a sexual nature when:

- Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly as a term or condition of employment, academic standing, school-related opportunities, or as a basis for employment decisions.
- Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual's academic or work performance by creating an intimidating, hostile, humiliating, or sexually offensive work or educational environment.

Sexual harassment includes, but is not limited to:

- Unwelcome sexual advances, whether they involve physical touching or not.
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
- Sexual epithets, jokes, written or verbal references to sexual conduct, comments about an individual's body, comments about an individual's sexual activity, deficiencies, or prowess.
- Discussions of one's own sexual activities or inquiries into others' sexual experiences.
- Displaying sexually suggestive objects, pictures, or cartoons.
- Acts of sexual violence.

The definitions of discrimination, harassment, and sexual harassment are broad.

In addition to the above examples, other unwelcome conduct, whether intended or not, that has the effect of creating a school or work environment that is hostile, offensive, intimidating, or humiliating to either male, female or non-binary students or workers also may constitute discrimination, harassment and/or sexual harassment.

### **Policy ACABA- Title IX**

#### **Summary**

This policy ensures that no student or staff is excluded from participation in, or denied benefits of, or subject to discrimination in any NPS programs or activities on the basis of sex, including sexual orientation or gender identity. Under this policy, the definition of sexual harassment is broad and includes: 1) unwelcome conduct based on sex that is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a district education program or activity; 2) the conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct, commonly referred to as quid pro quo sexual harassment; and 3) sexual assault, dating violence, domestic violence, and/or stalking by a Committee member, District employee, volunteer or student. The policy explains the investigative processes that will be used to process complaints involving potential Title IX violations.

### **Policy ACAC- Bullying and Harassment**

#### **Summary**

The policy protects all students and staff from bullying, cyberbullying, harassment, cyber-harassment, and hazing.

Bullying is the repeated use by one or more members of the school community of a written, verbal, or electronic expression or a physical act or gesture or any combination thereof, directed at a target that:

- i. causes physical or emotional harm to the target or damage to the target's property;
- ii. places the target in reasonable fear of harm to himself or herself or of damage to his or her property;
- iii. creates a hostile environment at school for the target;
- iv. infringes on the rights of the target at school; or
- v. materially and substantially disrupts the education process or the orderly operation of a school.

Harassment is defined as unwelcome, intentional, unprovoked discriminatory behavior toward an individual or individuals, motivated by membership (real or perceived) in a protected category including: race, color, religion, ethnicity/natural origin, disability, gender, gender identity, sexual orientation and age.

Cyberbullying and cyber-harassment are bullying and harassment accomplished through the use of technology.

Hazing is defined as any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person.

### **Policy ACB- Nondiscrimination on the Basis of Transgender and Gender Nonconforming Status**

#### **Summary**

This policy guarantees every student equal access to the District's educational programs and activities, regardless of sex, sexual orientation, gender identity, or gender expression. It promises that The Northampton Public Schools will take reasonable steps to protect students' privacy related to their gender, transgender or gender nonconforming status. It gives students 14 years of age or older or students who have entered grade nine or above the right to decide to discuss and express their gender identity openly and may decide when, with whom, and how much to share private information. It guarantees students the right to be addressed by a name and pronoun that corresponds to the student's gender identity. It ensures students access to restrooms, locker rooms, and changing facilities that correspond to their gender identity. It allows students to participate in physical education classes, intramural sports, and interscholastic athletics in a manner consistent with their gender identity. It ensures that no student will be denied the right to participate in an overnight school trip because of their transgender status. It also discusses the process for amending student records to conform to students' gender identities.

### **Policy ACE- Nondiscrimination on the Basis of Disability**

#### **Summary**

This policy guarantees that students are not denied access to the District's educational programs and activities or subject to any other form of discrimination on the basis of disability. It ensures that the district's facilities will be accessible to individuals with disabilities. Furthermore, it guarantees reasonable modification in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability. It ensures that the district will provide auxiliary aids and services needed for individuals with disabilities to receive services or participate in programs offered by the district. It also ensures that the district will comply with requirements of Title II of the American Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (504).

## Complaint Process

### **For Students**

Students who feel they have observed an act of discrimination or been discriminated against themselves should tell the nearest teacher or adult staff member, unless the complaint is against the teacher or adult staff member. In that case, they should go to their principal, associate principal or the principal's designee. If the alleged perpetrator is another student, the administrator will respond to the complaint using the *Code of Conduct* to guide strategies to be used to address the concern. If the alleged perpetrator is a staff member, the administrator will investigate the concern following procedures in the relevant *Collective Bargaining Agreement* and other procedures as may be outlined in state and federal law.

### **For Staff**

Staff who feel they have observed an act of discrimination or been discriminated against themselves should tell their principal, unless the complaint is against the principal. In that case, they should go to the superintendent. If they feel the superintendent has discriminated against them they should make their complaint to the chair of the School Committee.

**Exception-** All complaints involving alleged discrimination on the basis of sex or alleged sexual harassment **are directed by the administrators who receive them to the** Director of Health, Equity and Safety Programs, who serves as the District's Title IX coordinator for formal complaints. Students and staff may also file complaints directly to the District's Director of Health, Equity and Safety Programs.

## Investigations of Complaints

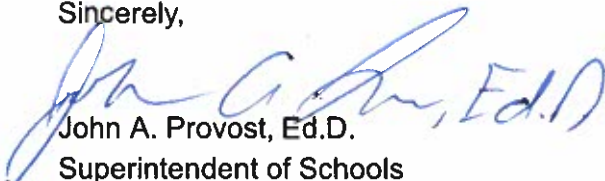
In all instances of good faith complaints, the District owes all parties involved the opportunity to participate in a prompt, thorough, and fair investigation of complaints. Depending on the nature of the allegations, the laws and policies potentially implicated, and who is involved (e.g., students, staff, third party witnesses), different investigatory procedures or rights may be implicated as required by policy, state and federal law. The District's administrators work with the Director of Health, Equity and Safety Programs and the Superintendent's Office so that the rights of complainants and the accused are ensured through the investigatory process.

Where a student is found to have violated a policy, the *Code of Conduct* and other procedures as may be outlined in state and federal law are used to guide strategies to address the concern.

Where a staff member is found to have violated a policy, the *Collective Bargaining Agreement* and other procedures as may be outlined in state and federal law are used to address the concern.

If none of these internal complaint options seems appropriate, external complaints may be made directly with the U.S. Dept. of Education: Office for Civil Rights (OCR) and other organizations listed in those policies.

Sincerely,



John A. Provost, Ed.D.  
Superintendent of Schools

## **NONDISCRIMINATION**

The Northampton Public Schools are committed to promoting multi-cultural understanding, appreciation and harmony, to ensuring that no student is denied access to any educational program or other activity of the Northampton Public Schools for reason of age, color, disability, economic status, ethnic background, gender identification, marital status, national origin, pregnancy, pregnancy-related conditions, race, religion, sex, sexual orientation, and to compliance with all applicable state and federal laws, including state and federal civil rights and anti-discrimination laws relating to the employment practices, the educational programs and all other activities of the Northampton Public Schools. Northampton Public Schools shall comply with all such law, all applicable federal and state law pertaining to individuals with disabilities.

Students and staff of the Northampton Public Schools shall not, at any time, do or say anything that would, in any way, tend to cast aspersion on the age, color, disability, economic status, ethnic background, gender identification, marital status, national origin, pregnancy, pregnancy-related conditions, race, religion, sex, sexual orientation of any individual or group or otherwise engage in racist or other discriminatory behavior.

The School Committee commits to:

1. Promote the rights and responsibilities of all individuals as set forth in the State and Federal Constitutions, pertinent legislation, and applicable judicial interpretations.
2. Encourage positive experiences for all children, youth and adults.
3. Work toward a more inclusive society and to enlist the support of individuals as well as groups and agencies, both private and governmental, in such an effort.
4. Use all appropriate communication and action techniques to air and reduce the grievances of individuals and groups.
5. Carefully consider, in all the decisions made within the school system, the potential benefits or adverse consequences that those decisions might have on of all segments of the community.
6. Initiate a process of reviewing policies and practices of the school system in order to achieve to the greatest extent possible the objectives of this policy.

The Committee's policy of nondiscrimination will extend to students, staff, the general public, and individuals with whom it does business. No person shall be excluded from or discriminated against in admission to a public school of the city of Northampton, or in obtaining the advantages, privileges, and courses of study of such public school on account of age, color, disability, economic status, ethnic background, gender identification, marital status, national origin, pregnancy, pregnancy-related conditions, race, religion, sex, sexual

orientation. If you have a complaint or feel that you have been discriminated against because of your age, color, disability, economic status, ethnic background, gender identification, marital status, national origin, pregnancy, pregnancy-related conditions, race, religion, sex, sexual orientation, register your complaint with the Title IX compliance officer.

Adoption Date:        March 13, 2003  
                              June 13, 2019

Revised:                August 12, 2004                                November 12, 2015  
                              March 25, 2019

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  
                              M.G.L. 71B:1 et seq. (Chapter 766 of the Acts of 1972)  
                              M.G.L. 76:5; Amended 2011  
                              M.G.L.76:16  
                              BESE Regulations 603 CMR 26.00 Amended 2012  
                              Pregnancy Workers Act

CROSS REFS.:        ACA- ACE Subcategories for Nondiscrimination  
                              GBA, Equal Opportunity Employment  
                              JB, Equal Educational Opportunities  
                              GCF Professional Staff Hiring

## **NONDISCRIMINATION ON THE BASIS OF SEX**

The School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the Northampton Public Schools does not and will not discriminate on the basis of sex 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, to all of its students and employees.

The Committee will designate an individual to act as the school system'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.

Adoption date:        March 13, 2003

Revised:              August 13, 2015

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

CROSS REF.:         AC, Nondiscrimination



**PROHIBITION AGAINST SEXUAL HARASSMENT AND OTHER FORMS OF HARASSMENT AND DISCRIMINATION**

The Northampton Public Schools has a commitment to maintaining an educational environment and workplace where bigotry and intolerance. Discrimination and/or harassment on the basis of any protected class status, including race, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, sexual orientation, pregnancy, or pregnancy-related condition are not tolerated. Any form of intimidation, threat, coercion and/or harassment that insults the dignity of others and interferes with their freedom to learn or work is unacceptable.

The Northampton Public Schools strictly enforces a prohibition against harassment and discrimination, sexual or otherwise, of any of its employees, students, students' parents/guardians/caregivers or members of the public by anyone, including any fellow student, teacher, supervisor, co-worker, vendor, or other third party, as such conduct is contrary to the mission of the Northampton Public Schools and its commitment to equal opportunity in education and employment.

Discrimination and harassment consist of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law, such as race, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, gender expression, sexual orientation, pregnancy, or pregnancy-related condition. The Northampton Public Schools will not tolerate harassing or discriminatory conduct that affects employment or educational conditions, that interferes unreasonably with an individual's school or work performance, or that creates an intimidating, hostile, or offensive work or school environment.

Discrimination and/or harassment of employees, students, students' parents/guardians or members of the public occurring in the schools or workplace is prohibited by law and will not be tolerated. For purposes of this policy, "workplace" or "school" includes school sponsored social events, trips, sports events, work-related travel or similar events connected with school or employment, including without limitation, extracurricular and athletic activities and programs, traveling to and from school or on a school-sponsored field trip.

Further, any retaliation against an individual who has complained about discrimination, harassment or retaliation; or any retaliation against any individual who has cooperated with an investigation of a discrimination, harassment or retaliation complaint is similarly unlawful and will not be tolerated.

The Northampton Public Schools takes allegations of discrimination and harassment seriously and will respond promptly to complaints. Where it is determined that inappropriate conduct has occurred, the Northampton Public Schools will act promptly to eliminate the conduct and will

impose corrective action as necessary, including disciplinary action where appropriate, which may include termination of employment or school related discipline.

**Definition of Discrimination and Harassment:**

“Discrimination” and “Harassment” is defined as unwelcome conduct, whether verbal or physical, that is based on a protected class status such as race, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, gender expression, sexual orientation, pregnancy, or pregnancy-related condition.

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 (as described above) to participate in or benefit from employment or a program or activity of the Northampton Public Schools; or (ii) creates an intimidating, threatening or abusive educational or working environment.

Many forms of harassment and discrimination have been recognized as violations of the civil rights laws (including Section 504 of the Rehabilitation Act of 1973, Title VI and Title IX), by federal courts, state courts, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education, Office for Civil Rights and the Massachusetts Commission Against Discrimination.

**Definition of Sexual Harassment in the Workplace:**

“Sexual harassment” in the workplace is defined as unwelcome conduct of a sexual nature. It includes sexual advances, requests for sexual favors, and verbal, non-verbal or physical conduct of a sexual nature when:

- Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly as a term or condition of employment, academic standing, school-related opportunities or as a basis for employment decisions.
- Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual’s academic or work performance by creating an intimidating, hostile, humiliating, or sexually offensive work or educational environment.

Sexual harassment includes acts of sexual violence, including without limitation, physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol, or is unable to give consent due to age, an intellectual impairment or other disability.

A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.

Under the definition stated above, direct or implied requests by a teacher, supervisor or any individual in a position of work or school authority for sexual favors in exchange for actual or promised job or school benefits such as favorable reviews, salary increases, promotions, increased benefits, continued employment, better grades, recommendations or other advantages constitutes sexual harassment.

Employees of the Northampton Public Schools are expressly prohibited from engaging in any sexual relationship with a student. Such conduct is not allowed under any circumstances regardless of the student's age as such relationships are considered sexual violence whether the adult's behavior is unwanted or not.

While it is not possible to list all circumstances that may be considered sexual harassment, the following are examples of conduct that are inappropriate and that, if unwelcome, may constitute sexual harassment. In each case, such a determination will depend upon the totality of the circumstances, including the severity of the conduct and its pervasiveness. Sexual harassment includes, but is not limited to:

- Unwelcome sexual advances, whether they involve physical touching or not.
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
- Sexual epithets, jokes, written or verbal references to sexual conduct, comments about an individual's body, comments about an individual's sexual activity, deficiencies, or prowess.
- Discussions of one's own sexual activities or inquiries into others' sexual experiences.
- Displaying sexually suggestive objects, pictures, cartoons. The definitions of discrimination, harassment and sexual harassment are broad.

In addition to the above examples, other unwelcome conduct, whether intended or not, that has the effect of creating a school or work environment that is hostile, offensive, intimidating, or humiliating to either male, female or non-binary students or workers also may constitute discrimination, harassment and/or sexual harassment.

**Definition of Sexual Harassment in the Educational Setting Under Title IX:**

Under Title IX, Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

1. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity;
2. A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct, commonly referred to as quid pro quo sexual harassment.
3. Sexual assault, dating violence, domestic violence and/or stalking by a Committee member, District employee, volunteer or student.

**Reporting Complaints of Discrimination and Harassment.**

If any Northampton Public School student or employee believes, in good faith, that they or someone else in the school community has been subjected to sexual harassment or any form of harassment or discrimination described above, the individual has a right to file a complaint with the Northampton Public Schools with the Director of Health, Safety, and Equity Programs, who is also the Title IX Coordinator. Currently the person serving in that role is:

Lisa Safron BSN, RN, NCSN  
Director of Health, Safety, and Equity Programs  
Northampton Public Schools  
380 Elm Street, Northampton, MA 01060  
phone: 413-587-1364  
fax: 413-587-1379  
email: [lsafron@northampton-k12.us](mailto:lsafron@northampton-k12.us)

All staff may report allegations of discrimination and/or harassment against staff, including sexual harassment, to the building principal, their direct supervisor, the Director of Health, Safety & Equity Programs, or the Superintendent.

Teachers or other staff members who observe incidents of harassment involving students or who receive such a report shall report such incidents immediately to the student's Principal, an Associate/Assistant Principal, the Director of Health, Safety & Equity programs, or the Superintendent.

Administrators aware of harassment involving any employee shall report such incidents to the Director of Health, Safety & Equity programs.

If at any time during a complaint or investigation raises a concern regarding any abuse or neglect of a child, then as mandated reporters the school department will file a 51-A with the Department of Social Services.

**Complaint Investigation.** When the Northampton Public Schools receives a complaint of discrimination or harassment, either through the formal or informal procedures, it will investigate the allegation in a fair and expeditious manner. If the complaint involves conduct that occurred off school grounds, outside of a school's education program or activity, the Northampton Public Schools will, as part of its investigation, consider the effects of the off-school grounds conduct when evaluating whether there is a hostile environment on school grounds or that interferes with the school environment.

The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. If the individual filing the complaint of discrimination or harassment is under the age of eighteen (18), the school will notify the parents/guardians/caregivers of the student before beginning the investigation. The investigation may include an interview with the person filing the complaint and also may include interviews with witnesses or other individuals who the Northampton Public School believes would be useful to the investigation. Where the complaint is also one that falls under Title IX, the District's Title IX Sexual Harassment Procedures and Grievance Process, Policy ACAB, will also be followed.

The Northampton Public Schools also will interview the person alleged to have committed the discrimination or harassment. When the Northampton Public Schools has concluded its investigation, it will, to the extent appropriate and in compliance with its legal obligations, inform the person filing the complaint and the person alleged to have committed the conduct of the results of the investigation.

These complaint investigation procedures cover complaints alleging discrimination or harassment based on lawfully protected status, including race, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, gender expression, sexual orientation, pregnancy, or pregnancy-related condition. The procedures are designed to promote the sensitive handling of employee and student issues, the thorough investigation of complaints, and to facilitate a prompt and expeditious internal review and a fair and equitable resolution of complaints alleging discrimination based on race, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, gender expression, sexual orientation, pregnancy, or pregnancy-related condition.

#### **Disciplinary Action**

If it is determined that inappropriate conduct has occurred, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate

under the circumstances. In that case of student misconduct, action will be made consistent with our Code of Conduct. Such action may range from counseling, restorative practices, to discipline, up to and expulsion.

The Northampton Public Schools also reserves the right to take appropriate disciplinary action against any student or employee who makes a false or bad faith claim of harassment or discrimination.

Please note that while these procedures relate to the Northampton Public School's policy of promoting a workplace and educational setting free from discrimination and harassment, including sexual harassment, as detailed further in this policy, these procedures are not designed nor intended to limit the Northampton Public School's authority to discipline or take remedial action for workplace and educational conduct which the Northampton Public Schools deems unacceptable, including but not limited to action under its Code of Conduct and other policies.

**No Retaliation:**

No reprisals or retaliation shall be invoked against any employee or any student for processing, in good faith, a complaint, either on an informal or formal basis, or for participating in any way in these complaint procedures.

No reprisals or retaliation shall be invoked against any employee or any student who, in good faith, has testified, assisted or participated in any manner in any investigation, proceeding, or hearing of a complaint or for otherwise participating in any way in these complaint procedures.

Whenever possible, a conference should be scheduled during a time that does not conflict with regularly scheduled work and/or school programs.

The Northampton Public Schools will work with an individual who files a complaint of discrimination or harassment, including investigating and holding conferences as deemed necessary by the District, in order to fairly and expeditiously resolve the complaint.

**State and Federal Remedies:**

It should be noted that using the Northampton Public Schools complaint process does not prohibit you from filing a complaint with State and Federal agencies.

For students, complaints may be taken to the:

Office for Civil Rights  
U.S. Department of Education  
5 Post Office Square  
8th Floor, Boston, MA 02109-3921  
Phone: 617-289-0111;  
Fax: 617-2889-0150;

TDD: 1-800-877-8339;  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov);

The Program Quality Assurance Services,  
Massachusetts Department of Elementary and Secondary Education (DESE)  
75 Pleasant Street, Malden, MA 02148-4906  
Phone: 781-338-3700  
Fax: 781-338-3710  
TTY: N.E.T. Relay: 1-800-439-2370  
Email: [compliance@mass.edu](mailto:compliance@mass.edu)

at the Massachusetts Commission Against Discrimination (MCAD) and the U.S. Equal Employment Opportunity Commission (“EEOC”) at the addresses listed below; or other appropriate state or federal agency.

For employees or applicants for employment, complaints may be taken to the:

Massachusetts Commission Against Discrimination,  
One Ashburton Place, Boston, Massachusetts 02108  
Phone: 617-994-6000  
TTY: 617-994-6196  
Fax: 617-994-6024  
Email: [assistanttochairman@state.ma.us](mailto:assistanttochairman@state.ma.us) or other MCAD offices listed below

U.S. Equal Employment Opportunity Commission  
John F. Kennedy Federal Building  
475 Government Center, Boston, Massachusetts 02203  
Phone: 1-800-669-6820  
TTY: 1-800-669-6820;  
fax: 617-565-3196  
ASL Video: 844-234-5122

or other appropriate state or federal agency.

In some cases, the conduct complained of may also criminal activity. If you believe that the conduct also constitutes a crime you have a right to file a criminal complaint at any time, including during or after the School Department’s investigation into your complaint.

**Adoption Date: September 15, 2020**

**LEGAL REFS:**

Title VI of the Civil Rights Act of 1964;  
Title VII, Section 703, Civil Rights Act of 1964 as amended;  
Title IX of the Education Amendment Act of 1972;  
Section 504 of the Rehabilitation Act of 1973;  
the Americans With Disabilities Act;  
Federal Regulation 74676 issued by EEO Commission;  
Education Amendments of 1972, 20 U.S.C. 1681 et seq. (Title IX);  
M.G.L. c. 76, § 5;  
M.G.L. c. 151B;  
603 CMR 26.00 et seq.  
34 CFR 106.00, et. seq.

**Cross-References:**

ACAC: Bullying and Harassment  
ACA: Nondiscrimination on the Basis of Sex  
ACB: Nondiscrimination on the Basis of Transgender & Gender Nonconforming Status  
ACE: Nondiscrimination on the Basis of Disability  
AC: Non-Discrimination  
GBA: Equal Opportunity Employment  
GBEB: Staff Conduct.  
JB: Equal Educational Opportunities  
GCF: Professional Staff Hiring  
ACABA Title IX Sexual Harassment Complaint Procedure and Grievance Process.



**NORTHAMPTON PUBLIC SCHOOLS  
TITLE IX SEXUAL HARASSMENT PROCEDURES AND GRIEVANCE PROCESS**

The Northampton Public Schools is committed to maintaining a safe and healthy educational and work environment for our students and employees. NPS wants to ensure that no student or staff is excluded from participation in, or denied benefits of, or subject to discrimination in any NPS programs or activities on the basis of sex, including sexual orientation or gender identity.

Sexual harassment, including sexual violence, is a form of sex discrimination in that it denies an individual equal access to NPS's programs or activities. Northampton Public Schools is committed to taking all appropriate steps to eliminate prohibited conduct, prevent its recurrence and address its effects. Individuals found responsible for a violation under this policy may face disciplinary sanctions up to and including dismissal from NPS. NPS will not tolerate retaliation against an individual who makes a report or participates in any proceedings under this policy. NPS policy prohibits any form of retaliation and NPS students or employees engaging in retaliation will be subject to disciplinary action, whether such acts are implicit or explicit, or committed directly or indirectly.

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While this policy sets forth goals for promoting a workplace and school environment that is free of sexual harassment, the policy is not designed or intended to limit authority to discipline or take remedial action for workplace or school conduct which is deemed unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment under Title IX. A live hearing process is not required for the grievance process for formal complaints in the K-12 setting.

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**DEFINITIONS**

**Complainant:** An individual (student or employee) who is alleged to be the victim of conduct that could constitute sexual harassment.

**Respondent:** An individual (student or employee) who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**Actual Knowledge:** Notice of sexual harassment or allegations of sexual harassment to the District's Title IX Coordinator or any district official who has the authority to institute corrective measures on behalf of the district, or to any employee of an elementary and secondary school, other than the Respondent.

**Formal Complaint:** A document filed by a complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation.

**Retaliation:** Actions including, but not limited to, intimidation, threats, coercion, or discrimination against a victim or other person because they report conduct that may constitute discrimination or harassment, including Title IX sexual harassment, in accordance with School Committee policy and procedures, participate in an investigation or other process addressing discrimination or Title IX sexual harassment, or act in opposition to discriminatory practices.

**The following actions shall not constitute retaliation:**

1. An individual exercising free speech under the rights protected by the First Amendment.
2. The assignment of consequences consistent when an individual knowingly makes a materially false statement in bad faith in an investigation.

The fact that the charges of discrimination were unfounded or unsubstantiated shall not be the sole reason to conclude that any party made a materially false statement in bad faith.

**Supportive Measures:** Nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures shall be designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but are not limited to:

1. Counseling or Employee Assistance Program
2. Extensions of deadlines or other course-related adjustments
3. Modifications of work or class schedules
4. Campus escort services
5. Mutual restrictions on contact between the parties
6. Changes in work locations
7. Leaves of absence
8. Increased security
9. Monitoring of certain areas of the campus
10. Assistance from domestic violence or rape crisis programs
11. Assistance from community health resources including counseling resources

All supportive measures provided by the district shall remain confidential, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the

supportive measures. The district will treat complainants and respondents equitably by offering complainant and respondent supportive measures.

**Sexual Harassment:** Conduct on the basis of sex that satisfies one or more of the following:

1. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity;
2. A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct, commonly referred to as quid pro quo sexual harassment.
3. Sexual assault, dating violence, domestic violence and/or stalking by a Committee member, District employee, volunteer or student.

**Title IX Coordinator:** The Title IX Coordinator is responsible for coordinating the Districts response to complaints of sex-based discrimination.

All questions regarding Title IX or this policy may be referred to the Title IX Coordinator”

Lisa Safron BSN, RN, NCSN  
Director of Health, Safety, and Equity Programs  
Northampton Public Schools  
380 Elm Street, Northampton, MA 01060  
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## COMPLAINT PROCEDURE

**General Complaint:** Any person (student or employee), whether the alleged victim or not, may report Title IX sexual harassment by making a general report verbally or in writing to the building principal or building administrator, or by 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.

Upon receipt of a report, school staff shall immediately notify the building principal or building administrator.

If a student is identified as a party in the report, parents/guardians have the right to act on behalf of the student at any time.

Upon having actual knowledge of sexual harassment, the Title IX Coordinator must immediately and promptly contact the Complainant (alleged victim) and gather additional information. The Title IX Coordinator must also discuss and offer supportive measures to the Complainant.

The Title IX coordinator will consider the Complainant's wishes with respect to supportive measures. The Title IX Coordinator shall make an initial assessment of the following:

1. Is the definition of Title IX sexual harassment met?
2. Did the actions occur in a district program or activity under the control of the district and against a person in the United States?
3. An individualized safety and risk analysis--Is there an immediate threat to the physical health or safety of an individual?

If the result of this initial assessment determines that none of the allegations fall within the scope of Title IX sexual harassment, but the matter merits review and possible action under other NPS policies, then the Title IX Coordinator shall address the complaint.

If the result of the initial assessment determines that the allegation does constitute Title IX sexual harassment, the Title IX Coordinator shall promptly explain to the Complainant the process for filing a formal complaint.

**Administrative Leave:** When an employee, based on an individualized safety and risk analysis, poses an immediate threat to the health or safety of any student or other individual, the employee may be removed on an emergency basis. An accused, district employee may be placed on administrative leave during the pendency of the grievance process for formal complaints.

**Receipt of Formal Complaint:** Upon receiving a formal complaint, the District must initiate an investigation into the allegation of sexual harassment. If the complainant declines to file a formal complaint, the Title IX Coordinator must consider whether to sign the formal complaint and start an investigation despite the Complainant's preference.

1. When actions limited to supportive measures are not a sufficient response to the behavior; and
2. When safety or similar concerns lead the District to conclude it must investigate and potentially sanction a respondent (i.e. if respondent is a supervisor);
3. And where state law requires action.

Only the Title IX Coordinator is authorized to initiate the formal complaint process despite a complainant's wishes.

**Dismissal of Formal Complaint:** The complaint may be dismissed if:

1. A complainant provides written notification of withdrawal of any allegations or of the formal complaint.

2. The respondent is no longer enrolled or employed by the district in a district program or activity.
3. Specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.
4. If it is determined during the investigation or written determination that none of the allegations, if true, would meet the definition and parameters of Title IX sexual harassment within the district's jurisdiction, the Title IX Coordinator shall dismiss the formal complaint under Title IX.
5. If the matter merits review and possible action under other NPS Policies.

Written notification shall be promptly issued to the parties simultaneously of any allegations found not to qualify or that are dismissed in compliance with Title IX.

**Timeframes:** Reasonably prompt shall be the time frame that the District will follow for investigations, but it can be extended for good cause. Good cause may include, but is not limited to:

1. The absence of a party, a party's advisor or a witness.
2. Concurrent law enforcement activity.
3. Need for language assistance or accommodation of disabilities. Written notice of the delay or extension and the reason for such action shall be provided to the complainant and the respondent, and documented with the records of the complaint.

**Consolidation of Title IX Formal Complaints:** The district may consolidate formal complaints against more than one (1) respondent, or by more than one (1) complainant against one or more respondents, or by one (1) individual against another individual, where the allegations of sexual harassment arise out of the same facts or circumstances.

**Complaint Investigation:** The Title IX Coordinator, investigator, decision-maker, or any individual designated to facilitate the informal resolution process, each must complete the required training for such roles. The named individuals shall not have a conflict of interest or bias for or against an individual complainant or respondent, or for or against complainants or respondents in general.

**Presumption of Innocence:**

A presumption of innocence exists throughout the grievance process, with the burden of proof on the school.

**Notice Requirements:** Before any investigation can begin, the District must send written notice to the parties and the parents/guardians if applicable. The Notice shall include:

1. Notice of the district's grievance process for formal complaints and any informal resolution process that may be available.
2. Notice of the allegations potentially constituting Title IX sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.
3. Sufficient details include: a. The identity of the parties involved, if known. b. The conduct allegedly constituting sexual harassment. c. The date and location of the alleged incident(s), if known.
4. A statement that a written determination regarding responsibility shall be made at the conclusion of the grievance process for formal complaints and, until that time, the respondent is presumed not responsible for the alleged conduct.
5. Notice that parties may have an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may inspect and review evidence.
6. Notice to all known parties of any additional allegations that the district decides to investigate during the course of the investigation.

**Informal Resolution Process.** Where appropriate in light of the nature of the allegations and facts involved, the District may offer the parties the option to pursue an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. All parties must voluntarily agree to the informal resolution after receiving a full written disclosure of the allegations and their options for formal resolution.

**The Investigation.** The Title IX Coordinator will designate an investigator and a decision maker, who may not be the same person.

The Title IX Coordinator shall work with investigators to assess the scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation.

When investigating a formal complaint, the investigator shall:

1. Gather evidence and conduct interviews sufficient to reach a written determination.
2. Objectively evaluate all available evidence, including inculpatory and exculpatory evidence.
3. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

The district may request a nondisclosure agreement be signed by the parties and their advisor(s), if any, stating that they will not disseminate or disclose evidence and documents exchanged in the investigation.

5. Provide the parties with the same opportunities to have others present during any interview or other meeting, including an advisor of the party's choice. The district may establish restrictions, applicable to both parties, regarding the extent to which the advisor may participate.

6. Provide written notice to any party whose participation is invited or expected during the investigation process with the following information, in sufficient time for the party to prepare to participate: a. Date. b. Time. c. Location. d. Participants. e. Purpose of all investigative interviews or other meetings.

Before completing an investigative report, the investigator will offer both parties the opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint.

Both parties will have ten (10) school days to submit a written response to the evidence, which the investigator will consider prior to completion of the investigative report. If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Title IX Coordinator, who shall promptly inform law enforcement authorities about the allegations and make any additional required reports, in accordance with the law.

The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded.

**Written Findings (Decision Maker):** A written determination of responsibility (written determination) must not be finalized less than ten (10) days after the investigator completes the investigative report and provides it to all parties. Before the decision-maker reaches a determination regarding responsibility, the decision-maker shall afford each party the opportunity to submit written, relevant questions that a party wants to be asked of any party or witness, shall provide each party with the answers, and shall allow for additional, limited follow-up questions from each party.

Relevant questions for a party or witness must be submitted by each party within three (3) school days following receipt of the investigative report.

Follow-up questions must be submitted by each party within three (3) school days of being provided the answers to the initial questions.

The decision-maker shall explain to the party proposing the questions about any decision to exclude a question as not relevant.

**Written Determination:** After the written question phase, the decision-maker will apply a preponderance of the evidence standard to determine whether the alleged misconduct has occurred. The decision-maker will issue a written decision to both parties at the same time. If the decision-maker(s) finds that the alleged misconduct occurred, the decision-maker(s) will also determine the appropriate disciplinary consequence for the respondent.

The Title IX Coordinator will be responsible for ensuring that any disciplinary consequence has been imposed and is reflected in appropriate files.

**Appeal Process:** Both parties have the right to appeal a determination of responsibility and the right to appeal the District's dismissal of a Title IX formal complaint or any allegation in the Title IX formal complaint. The scope of appeals related to Title IX sexual harassment are limited to the following reasons for appeal as stated in the Title IX regulations:

1. A procedural irregularity that affected the outcome of the matter.
2. New evidence that that could affect the outcome was not reasonably available at the time the decision to dismiss or determination of responsibility was made.
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the individual complainant or respondent or for or against complainants or respondents generally that affected the outcome of the matter.

Written notice of a party's appeal shall be submitted to the Title IX Coordinator within five (5) school days after the date of the written determination.

Notice of appeal shall include a brief statement describing the basis for the appeal. The designated appeal authority shall be the Superintendent or her designee. The appeal authority shall:

1. Determine whether the appeal meets the grounds for permitted reasons for appeal and justifies modifying the written determination.
2. Issue a written decision setting forth the respects, if any, in which the written determination is modified and the rationale for the result within five (5) school days.
3. Provide the written decision simultaneously to both parties. A copy of the written decision shall also be provided to the Title IX Coordinator. The appeal decision shall be final.

**Recordkeeping:** The NPS shall maintain the following records for a period of a minimum of seven (7) years after conclusion of procedures and implementation of disciplinary sanctions and/or remedies.

**Complaints to External Agencies:** Nothing in this policy is intended to discourage a complainant from reporting acts of unlawful sexual harassment or sexual violence to local law enforcement. In the event a complainant chooses to file a report with local law enforcement in addition to filing a



complaint with the Department under this policy, the Department will conduct its own investigation, independent of any law enforcement investigation.

**Students and Employees may contact:**

The Massachusetts Commission Against Discrimination ("MCAD")  
One Ashburton Place, Room 601  
Boston, MA 02108  
(617) 727-3990

Office for Civil Rights  
U.S. Department of Education  
5 Post Office Square  
8th Floor, Boston, MA 02109-3921  
Phone: 617-289-0111;  
Fax: 617-2889-0150;  
TDD: 1-800-877-8339;  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov);

The Program Quality Assurance Services,  
Massachusetts Department of Elementary and Secondary Education (DESE)  
75 Pleasant Street, Malden, MA 02148-4906  
Phone: 781-338-3700  
Fax: 781-338-3710  
TTY: N.E.T. Relay: 1-800-439-2370  
Email: [compliance@mass.edu](mailto:compliance@mass.edu)

Massachusetts Commission Against Discrimination,  
One Ashburton Place, Boston, Massachusetts 02108  
Phone: 617-994-6000  
TTY: 617-994-6196  
Fax: 617-994-6024  
Email: [assistanttochairman@state.ma.us](mailto:assistanttochairman@state.ma.us) or other MCAD offices listed below

U.S. Equal Employment Opportunity Commission  
John F. Kennedy Federal Building  
475 Government Center, Boston, Massachusetts 02203  
Phone: 1-800-669-6820  
TTY: 1-800-669-6820;  
fax: 617-565-3196  
ASL Video: 844-234-5122

or other appropriate state or federal agency.

**Adoption Date: September 15, 2020**

**Cross-References:**

**LEGAL REFS:**

Title IX of the Education Amendments of 1972

34 CFR 106.00, et. seq.

Cross-References:

ACAB:	Prohibition Against Sexual Harassment and Other Forms of Harassment and Discrimination
ACAC:	Bullying and Harassment
ACA:	Nondiscrimination on the Basis of Sex
ACB:	Nondiscrimination on the Basis of Transgender & Gender Nonconforming Status
ACE:	Nondiscrimination on the Basis of Disability
AC:	Non-Discrimination
GBA:	Equal Opportunity Employment
GBEB:	Staff Conduct.
JB:	Equal Educational Opportunities
GCF:	Professional Staff Hiring

**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.**

## **BULLYING AND HARASSMENT**

### **Guiding principle:**

The Northampton School Committee believes that preventing bullying and/or harassment is critical for creating and maintaining a safe, secure and positive school climate and culture, which in turn supports academic achievement, increases school engagement, respects the rights of all individuals and groups, and purposefully builds community.

### **Goals:**

The Northampton School district will not tolerate bullying or harassment of/by any student, teacher, administrator, staff member, parent or community partner participating in any sanctioned school activity.

### **This policy will:**

- comply with state law
- clearly define what constitutes actions of bullying and/or harassment
- reinforce the district's commitment to respond to bullying and harassing behaviors
- through the development of a prevention and intervention plan and procedures, clarify the response of the district to reports of such behaviors
- clarify the extent to which the administrators of the Northampton Public Schools are directed to apply disciplinary actions, as specified in the following Northampton School Committee policies and school district procedures: Student Rights and Responsibilities, Code of Conduct, Student Discipline, and the School Safety Plan

### **Definitions:**

**Aggressor** is a member of the school community who engages in bullying, cyberbullying, or retaliation towards another member of the school community.

**Bullying**, as defined in M.G.L. c. 71, § 37O, is the repeated use by one or more members of the school community of a written, verbal, or electronic expression or a physical act or gesture or any combination thereof, directed at a target that:

- i. causes physical or emotional harm to the target or damage to the target's property;
- ii. places the target in reasonable fear of harm to himself or herself or of damage to his or her property;
- iii. creates a hostile environment at school for the target;
- iv. infringes on the rights of the target at school; or
- v. materially and substantially disrupts the education process or the orderly operation of a school.

**Cyberbullying** is bullying through the use of technology or electronic devices such as telephones, cell phones, computers, and the Internet. It includes, but is not limited to, email, instant messages, text messages, and Internet postings. See M.G.L. c. 71, § 37O for the legal definition of cyberbullying.

**Cyber-harassment** is defined as any willful and repeated harm inflicted through, but not limited to, Web pages, social networking sites, email, instant messaging or text messaging using computers, cell phones and other electronic devices which is motivated by the target individual or individuals membership in a protected group, whether real or perceived.

**Harassment** is defined as unwelcome, intentional, unprovoked discriminatory behavior toward an individual or individuals, motivated by membership (real or perceived) in a protected category including: race, color, religion, ethnicity/natural origin, disability, gender, gender identity, sexual orientation and age. Harassment includes **cyber-harassment** (see definition above).

**Hazing** is defined as any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

**Hostile environment**, as defined in M.G.L. c. 71, § 37O, is a situation in which bullying causes the school environment to be permeated with intimidation, ridicule, or insult that is sufficiently severe or pervasive to alter the conditions of a student's education.

**Retaliation** is any form of intimidation, reprisal, or harassment by a student directed against any student, staff or other individual for reporting or filing a complaint, for aiding or encouraging the filing of a report or complaint, for cooperating in an investigation under the district's Policy, or for taking action consistent with the policy.

**School Community Member** is defined as any student, district or school employee, school committee member, independent contractor, school volunteer, parent or legal guardian of a student, or a visitor on school premises or at a school-related or school-sponsored function or activity.

**School Staff** includes, but is not limited to: educators, administrators, counselors, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, support staff, or paraprofessionals.

**Sexual harassment** is defined in Massachusetts as: sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

1. 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 or decisions regarding student evaluation or participation in school programs or activities (**quid pro quo** sexual harassment); or,

2. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work or school performance by creating an intimidating, hostile, humiliating or sexually offensive environment (**hostile environment** sexual harassment).

Sexual harassment may occur student to student, adult to student, student to adult, adult to adult, male to female, female to male, female to female, and/or male to male.

**Target** is a school community member against whom bullying, cyberbullying, or retaliation has been perpetrated.

**Policy scope:**

Any form of bullying, harassment, cyberbullying, and/or cyber-harassment is prohibited, whether in the classroom, on school premises, immediately adjacent to school premises, traveling to or from school, or at school-sponsored events, whether or not held on school premises.

“Traveling to or from school” includes on a school bus or other school related vehicle, at official school bus stops, and walking to or from school within a reasonable time before or after school hours.

Bullying or harassment, including cyberbullying and/or cyber-harassment, that is not conducted at locations noted above are covered by this policy if the incident results, or could result, in a substantial disruption of the school learning environment for one or more individuals and/or the orderly day-to-day operations of the school.

**Reporting and Investigations:**

Each member of the school community is responsible for reporting any observations of bullying or harassment, or credible information that such an act has taken place.

Reports of bullying or harassment incidents, including cyberbullying and/or cyber-harassment, occurring outside the scope (see above) of the school/district will be investigated to determine if the incident(s) resulted in a potential or actual disruption of the school learning environment for one or more individuals and/or the orderly day-to-day operations of the school.

Parent(s)/guardian(s) of both targets and alleged perpetrators of bullying or harassment incidents, including cyberbullying and/or cyber-harassment, will be notified of such incidents within a timeframe that will be set per the district's procedures. Results of investigations of incidents will be communicated to parent(s)/guardian(s) of both targets and alleged perpetrators within a timeframe that will be set per the district's procedures, and also within the restrictions of the Federal Education Rights and Privacy Act. If additional time is required to conduct the investigation, this will be communicated to the parent(s)/guardian(s) and no more than two such extensions shall be permitted under this policy.

**District Procedures:**

The Superintendent, and/or his/her designee, will define the guidelines and procedures to implement this policy in the district's "Bullying and Harassment Prevention and Intervention Plan and Procedures". The written plan and procedures developed by the the Superintendent, and/or his/her designee, to enforce this policy shall comply with applicable laws, including without limitation the Federal Educations Rights and Privacy Act, as amended.

The plan shall provide for schools, at each level, appropriate procedures for reporting and investigating incidents of bullying and/or harassment. Specific staff positions responsible for receiving and following up on reports will be identified in these procedures. The procedures will include a standard reporting form that may be used by any school community member for all incidents and types of bullying and/or harassment. The purpose of the reporting form is to trigger an investigation, which protects the safety of the target, bystanders, and/or concerned family/community members.

The plan will also specify procedures, in conjunction with the district's memorandum of understanding with the Northampton Police Department and Northwestern District Attorney's office, for notifying local law enforcement where criminal charges may be pursued against the perpetrator.

Within the requirements of FERPA, the guidelines and procedures to implement the Bullying and Harassment Policy shall include a specific amount of time within which parents will be informed of a complaint and a specific amount of time for investigations to be completed.

Additionally, the plan will include procedures for communicating with parent/guardians, including dissemination of prevention information; a professional development plan for all staff; and instruction for students at all school levels in social-emotional learning and violence prevention.

**Consequences:**

Consequences and appropriate remedial action for students who commit acts of bullying and/or harassment may range from positive behavioral interventions up to and including suspension or expulsion as outlined in the schools' Codes of Conduct.

Retaliation or threats of retaliation in any form designed to intimidate the target of bullying and/or harassment, those who are witnesses to such behavior or those who are investigating such behavior will be subject to discipline as outlined in each school's student Code of Conduct and the Staff Handbook [to be developed].

Acts of bullying or harassment allegedly committed by adult members (including teachers, administrators, staff members, other school personnel, parents/guardians, community partners, or other visitors to the school) of the school community will be reported to school

administrators and/or the Superintendent's office, for investigation and consequences, in accordance with applicable procedures, including appropriate legal actions.

Retaliation or threats of retaliation by adult members (including teachers, administrators, staff members, other school personnel, parents/guardians, community partners, or other visitors to the school) of the NPS community in any form designed to intimidate the victim of bullying or harassment, those who are witnesses or those investigating an incident of bullying or harassment, will be subject to additional consequences, in accordance with appropriate procedures.

**Oversight and Accountability:**

The "Bullying Prevention and Intervention Plan" will be reviewed and revised by the district administrative team every two years and such revisions will subsequently be presented to the School Committee.

The Superintendent, and/or his/her designee, will report on the total number of complaints, investigations, verified acts and any trends of bullying, harassment, cyberbullying and/or cyber-harassment district-wide at least annually to the School Committee.

**Other Legal Remedies:**

Any school community member may also pursue legal remedies or other avenues of recourse, including, but not limited to, filing a complaint with:

Department of Elementary and Secondary Education Program Resolution System (PRS). That information can be found at: <http://www.doe.mass.edu/pqa>, emails can be sent to [compliance@doe.mass.edu](mailto:compliance@doe.mass.edu) or individuals can call 781-338-3700.

The Massachusetts Commission Against Discrimination (MCAD)

U.S. Department of Health & Human Services, the Office for Civil Rights (OCR)

Adoption Date: July 8, 2010

Revised: May 14, 2015

Legal References: Chapter 92 of the Acts of 2010:  
AN ACT RELATIVE TO BULLYING IN SCHOOLS

M.G.L. 71:37H  
STUDENT CONDUCT

M.G.L CH. 269, S.17.  
CRIME OF HAZING; DEFINITION; PENALTY

M.G.L. Chapter 71, S. 37H and 37L;  
M.G.L. Chapter 76, S. 16 and 17;  
Chapter 380 of the Acts of 1993 and Chapter 766 Regulations, S. 338.0  
also Mass. Dept. Of Education, Advisory Opinion on  
STUDENT DISCIPLINE

M.G.L. 71:37H  
STUDENT HANDBOOKS

M.G.L. 71:55C and Acts of 1985c 614 Sec 1  
Board of Education 603 CMR 36:00  
SCHOOL SAFETY

Title II, ADA of 1992  
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  
M.G.L. 71B:1 et seq. (Chapter 766 of the Acts of 1972)  
M.G.L. 76:5; Amended 1993  
M.G.L.76:16 (Chapter 622 of the Acts of 1971)  
Board of Education Chapter 622 Regulations Pertaining to Access to  
Equal Educational Opportunity, adopted 6/24/75, as amended 10/24/78  
Board of Education 603 CMR 2600  
Board of Education Chapter 766 Regulations, adopted 10/74, as  
amended through 3/28/78  
RELATING TO DISCRIMINATION

Title VII, Section 703, Civil Rights Act of 1964, as amended  
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  
RELATING TO SEX DISCRIMINATION AND SEXUAL  
HARASSMENT



## **NONDISCRIMINATION ON THE BASIS OF TRANSGENDER AND GENDER NONCONFORMING STATUS**

### GUIDING PRINCIPLE

The Northampton Public Schools are committed to providing an educational environment that is safe and free from discrimination for all students, regardless of sex, sexual orientation, gender identity, or gender expression and to guaranteeing that every student shall have equal access to the District's educational programs and activities.

### GOALS

This policy is not intended to anticipate every possible situation that may occur with respect to students who are transgender or gender nonconforming. Consequently, the needs of each student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of the students who are transgender or gender nonconforming while maximizing the students' social integration and minimizing stigmatization of the students. Similarly, for employees who are transgender or gender nonconforming, the goal is to ensure a safe and supportive work environment.

### DEFINITIONS

Understanding the terminology associated with gender identity is important to providing a safe and supportive school environment for students whose rights are protected under the law. The following terms are not intended to label students but are defined to assist in understanding the guidance presented. Although these are commonly used terms, students may prefer other terms to describe their gender identity, appearance, or behavior.

- Cisgender: the term to describe a person whose gender identity corresponds to their assigned sex at birth.
- Gender Expression: the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
- Gender Identity: as defined in part at G.L. c. 4, § 7, is a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth.
- Gender Marker: the designation on school and other records that indicates a person's gender.
- Gender Nonconforming: a term used to describe people whose gender expression differs from stereotypic expectations. The terms gender variant or gender atypical are also used.

- Gender Transition: refers to the process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth.
- Genderqueer: a term used by some people who experience their gender identity and/or gender expression as falling outside the categories of man and woman. They may define their gender as falling somewhere in between man and woman, or they may define it as wholly different from these terms.
- Intersex: a term used for people who are born with a reproductive or sexual anatomy and/or chromosome pattern that does not seem to fit typical definitions of male or female.
- Preferred Name: the name with which a student identifies and prefers others to use.
- Sexual Orientation: describes an individual's enduring physical, romantic and/or emotional attraction to another person based on the gender of the other person.
- Transgender: an umbrella term used to describe a person whose gender identity or gender expression is different from that traditionally associated with the assigned sex at birth.

## PRIVACY AND CONFIDENTIALITY

The Northampton Public Schools will take reasonable steps to protect students' privacy related to their gender, transgender or gender nonconforming status, including their birth name or sex assigned at birth to the extent permissible by law.

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. One circumstance is when authorized school personnel require the information to provide administrative, teaching, counseling, or other services to the student in the performance of their official duties. Authorized school personnel could include individuals such as the principal, school nurse, classroom teachers, or guidance or adjustment counselor.

Transgender and gender nonconforming students may decide to discuss and express their gender identity openly and may decide when, with whom, and how much to share private information. A student who is 14 years of age or older, or who has entered the ninth grade, may consent to disclosure of information from his or her student record. If a student is under 14 and is not yet in the ninth grade, the student's parent (alone) has the authority to decide on disclosures and other student record matters.

## STUDENT TRANSITIONS

The Northampton Public Schools accept a student's assertion of their gender identity when there is consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.

The responsibility for determining a student's gender identity rests with the student and/or with the parent/guardian in the case of young students not yet able to advocate for themselves. As such, any student or parent/guardian may inform a school staff member of the student's desire to be consistently recognized at school using their stated gender identity.

Students may choose to involve their parents/guardians in their transition process, but parental participation is not required. Cases where students have not disclosed their transgender status to their parents/guardians will be assessed on an individual basis. The School District may be required to disclose to a minor's parents the student's transition, gender identity or gender non-conforming status in some instances, such as a request for student records that contain such information. The paramount consideration in such situations shall be the health and safety of the student, while also ensuring that the student's gender identity is affirmed in a manner that maintains privacy and confidentiality.

School personnel will make every effort to engage the student and the parent/guardian, as appropriate, to develop a plan that addresses and supports the individual needs of the student with respect to their transition.

### NAMES AND PRONOUNS

Every student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity. Northampton Public Schools will respect student wishes to be referred to by a name and pronoun based on an affirmed change in gender identity, regardless of the student's assigned sex at birth. A court-ordered name or gender change is not required, and the student need not change their official records. Under Title IX, a school must treat students consistent with their gender identity even if their education records or identification documents indicate a different sex.

### STUDENT RECORDS

The Northampton Public Schools will respond to requests to amend information related to a student's transgender status consistent with its general practices for amending other students' records. Upon request by the student and/or by the parent/guardian, the school will amend a student's education records to reflect the student's preferred name, pronoun and gender marker. When possible, the chosen name will be included in the District's student information system. Please note that the name in the database is part of an official educational record and is therefore covered by FERPA, meaning that if parents/guardians request access to see their student's records, they will have access to the student's preferred name.

The Northampton Public Schools will also respond to requests from transgender students who transition after having completed high school, to amend school records or a diploma or transcript that include the student's birth name and gender. When requested, and when satisfied with the gender identity information provided, the school will amend the student's record, including reissuing a high school diploma or transcript, to reflect the student's current name and gender.

The District shall maintain a permanent student record that includes a student's legal name and legal gender, but such records shall be kept confidential.

### **Student Health Records**

School nurses and other licensed health professionals need accurate and reliable information to ensure that the student receives appropriate care to enable them to coordinate care with other health care providers. A school nurse should use the transgender student's preferred name and identified gender except when necessary to ensure the health and safety of the student.

### **ACCESS TO GENDER-SEGREGATED ACTIVITIES AND AREAS**

Title IX's implementing regulations permit a school to provide sex-segregated restrooms, locker rooms, shower facilities, housing, and athletic teams, as well as single-sex classes under certain circumstances. When a school provides sex-segregated activities and facilities, transgender students must be allowed to participate in such activities and access such facilities consistent with their gender identity.

### **Restrooms, Locker Rooms, and Changing Facilities**

All students are entitled to have access to facilities that are sanitary, safe, and adequate, so they can comfortably and fully engage in their school program and activities. Students in the Northampton Public Schools shall have access to restrooms, locker rooms, and changing facilities that correspond to their gender identity.

In any gender-segregated facility, any student who is uncomfortable using a shared facility shall be provided with a safe and non-stigmatizing alternative. To the extent possible, given existing school facilities, schools will designate single stall and/or all gender restrooms that are accessible to students regardless of gender. However, under no circumstances will a student be required to use gender neutral facilities because they are transgender or gender nonconforming.

### **Physical Education Classes and Intramural and Interscholastic Athletics**

All students shall be permitted to participate in physical education classes, intramural sports, and interscholastic athletics in a manner consistent with their gender identity. The Massachusetts Interscholastic Athletic Association (MIAA) will rely on the gender determination made by the student's district; it will not make separate gender identity determinations.

### **Housing and Overnight Accommodations**

No students will be denied the right to participate in an overnight school trip because of their transgender status. The Northampton Public Schools allow students to access overnight accommodations during school trips that are consistent with their gender identities. Any student who has a need or desire for increased privacy shall be provided with a reasonable accommodation. Transgender students shall not be required to stay in single-occupancy accommodations or to disclose personal information when not required of other students.

**Dress Codes**

Transgender and gender nonconforming students have the right to dress in a manner consistent with their gender identity or expression within the constraints of the dress codes adopted for all students at their schools.

**Other Gender-Based Activities, Rules, Policies, and Practices**

Whenever students are separated by gender in classes, classroom activities, extra-curricular activities or are subject to otherwise lawful gender-specific rules, policies, or practices, students in the Northampton Public Schools shall be permitted to participate in such activities or conform to such rules, policies, or practices in a manner consistent with their gender identity.

**SAFE AND NONDISCRIMINATORY ENVIRONMENT**

Complaints alleging discrimination or harassment based on a person's actual or perceived transgender identity or gender nonconformity are to be handled in the same manner as other discrimination or harassment complaints.

Adoption date: August 10, 2017

SOURCE: Developed by and for the Northampton Public School District

LEGAL REFS: AN ACT RELATIVE TO GENDER IDENTITY, St.2011, c.199

Access to Equal Educational Opportunity regulations, 603 CMR 26.00

Chapter 92 of the Acts of 2010: AN ACT RELATIVE TO BULLYING IN SCHOOLS

M.G.L. 71:37H STUDENT CONDUCT

Title II, ADA of 1992

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  
M.G.L. 71B:1 et seq. (Chapter 766 of the Acts of 1972)  
M.G.L. 76:5; Amended 1993 M.G.L.76:16 (Chapter 622 of the Acts of 1971)  
Board of Education Chapter 622, Regulations Pertaining to Access to Equal Educational Opportunity, adopted 6/24/75, as amended 10/24/78  
Board of Education 603 CMR 2600  
Board of Education Chapter 766 Regulations, adopted 10/74, as amended through 3/28/78 RELATING TO DISCRIMINATION

Title VII, Section 703, Civil Rights Act of 1964, as amended 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 RELATING TO SEX DISCRIMINATION AND SEXUAL HARASSMENT

CROSS REFS:       ACA- ACE, Subcategories for Nondiscrimination  
                      ACAC, Bullying & Harassment  
                      GBA, Equal Opportunity Employment  
                      JB, Equal Educational Opportunities

OTHER REFS:

- Massachusetts Department of Elementary and Secondary Education, *Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment Nondiscrimination on the Basis of Gender Identity* (2014), <http://www.doe.mass.edu/ssce/GenderIdentity.pdf>
- Massachusetts Interscholastic Athletic Association: *MIAA Gender Identity Policy Clarification* (2014), [http://www.miaa.net/gen/miaa\\_generated\\_bin/documents/basic\\_module/GenderIdentityIcon.pdf](http://www.miaa.net/gen/miaa_generated_bin/documents/basic_module/GenderIdentityIcon.pdf)
- U.S. Department of Education, Office for Civil Rights and U.S. Department of Justice, Civil Rights Division, *Dear Colleague Letter on Transgender Students* (May 13, 2016), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>
- U.S. Department of Education, Office of Elementary and Secondary Education and Office of Safe and Healthy Students, *Examples of Policies and Emerging Practices for Supporting Transgender Students* (May 2016), <http://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf>
- U.S. Department of Education, Office for Civil Rights, *Title IX Resource Guide* (2015), <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>

**Policy: ACE**

**NONDISCRIMINATION ON THE BASIS OF DISABILITY**

The Northampton Public Schools are committed to insuring that no qualified individual with a disability shall be excluded from participation in, or be denied the benefits of the services, programs, and activities of the district, or be subject to discrimination because the district's facilities are inaccessible or unusable by individuals with disabilities. The Northampton Public Schools will adhere to the regulations set forth in Title II of the American Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (504). The district will set procedures in compliance with these regulations to include prompt and equitable resolution of complaints.

**Definition:** A "qualified individual with a disability" is an individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the District.

**Reasonable Modification:** The District shall make reasonable modification in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the District can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

**Communications:** The District shall take the appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. To this end, the District shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy benefits of, a service, program, or activity conducted by the District. In determining what type of auxiliary aid or service is necessary, the District shall give primary consideration to the requests of the individuals with disabilities.

**Auxiliary Aids and Services:** "Auxiliary aids and services" includes (1) qualified interpreters, note takers, transcription services, written materials, assisted listening systems, and other effective methods for making aurally delivered materials available to individuals with hearing impairments; (2) qualified readers, taped texts, audio recordings, Braille materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments; (3) acquisition or modification of equipment or devices and (4) other similar services and actions.

**Limits of Required Modification:** The District is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. Any decision that, in compliance with its responsibility to provide effective communication for individuals with disabilities, would fundamentally alter the service, program, or activity or unduly burden the District shall be made by the School Committee after considering all resources available for use in funding and operating the program, service, or activity. A written statement of the reasons for reaching that conclusion shall accompany the decision.

**Notice:** The District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the American with Disabilities Act (ADA) and its applicability to the services, programs, or activities of the District. The information shall be made available in such a manner as the School Committee and Superintendent find necessary to apprise such persons of the protections against discrimination assured them by the ADA.

**Compliance Coordinator:** The District shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II of ADA, including any investigation of

any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited under ADA. The District shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated and shall adopt and publish procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA. The school district receives federal financial assistance and must comply with the above requirements. Additionally, the School Committee is of the general view that:

1. Discrimination against a qualified disabled person solely on the basis of disability is unfair; and
2. To the extent possible, qualified disabled persons should be in the mainstream of life in the school community. Accordingly, employees of the school district will comply with the above requirements of the law and policy statements of this Committee to ensure nondiscrimination on the basis of disability.

**Local problem resolution process:** Upon notice of an alleged failure to implement a student's IEP or Section 504 plan that has either a) not been resolved through the district's informal process or b) that may have resulted in a denial of a free appropriate public education (FAPE), the District shall promptly convene the student's IEP or Section 504 team. In such circumstances, the District will make reasonable efforts to include the student's parent(s)/ guardian(s) and any other individuals who allegedly failed to implement the student's IEP or Section 504 plan in the meeting and determine what actions, if any, are necessary to resolve the issue and prevent its recurrence.

Adoption date: March 13, 2003  
Amended: August 12, 2004  
Amended: March 26, 2020

LEGAL REFS: Title II of The Americans with Disabilities Act of 1972 Section 504 of the Rehabilitation Act of 1973

M.G.L. 71B: et. seq., 603 C MR 28.00  
Individuals Disability Education Act

CROSS REFS.: IHB, Special Instructional Programs and Accommodations  
(Programs for Students with Disabilities)