

Section A
FOUNDATIONS AND BASIC COMMITMENTS

File: AA

SCHOOL DISTRICT LEGAL STATUS

The legal basis for public education in the District is vested in the will of the people as expressed in the Constitution of Massachusetts and state statutes pertaining to education.

Under the General Laws of Massachusetts,

"... Every town shall maintain... a sufficient number of schools for the instruction of all children whomay legally attend a public school therein."

The public educational system of Wilmington structurally is a department of the town operated under laws pertaining to education and under regulations of the Massachusetts Board of Education. The area served by the Wilmington Public Schools is coterminous with the Town of Wilmington.

Established by law

LEGAL REFS: Constitution of Massachusetts, Part II, Chapter V, Section II
 M.G.L. 71:1

CROSS REF: BB, School Committee Legal Status

Historical Note: Massachusetts has the oldest public school system in the nation. Dating back to 1647, the laws of the Massachusetts Bay Colony required towns to provide for a program of public education.

Reviewed, August 28, 2019

Adopted: October 9, 2019

THE PEOPLE AND THEIR SCHOOL DISTRICT

The School Committee has the dual responsibility for implementing statutory requirements pertaining to public education and local citizens' expectations for the education of the community's youth. It also has an obligation to determine and assess citizens' desires. When citizens elect delegates to represent them in the conduct of public education, their representatives have the authority to exercise their best judgment in determining policies, making decisions, and approving procedures for carrying out the responsibility.

The School Committee therefore affirms and declares its intent to:

1. Maintain two-way communication with citizens of the community. The public will be kept informed of the progress and problems of the school system, and citizens will be urged to bring their aspirations and feelings about their public schools to the attention of this body, which they have chosen to represent them in the management of public education.
2. Establish policies and make decisions on the basis of declared educational philosophy and goals. All decisions made by this Committee will be made with priority given to the purposes set forth, most crucial of which is the optimal learning of the children enrolled in our schools.
3. Act as a truly representative body for members of the community in matters involving public education. The Committee recognizes that ultimate responsibility for public education rests with the state, but individual School Committees have been assigned specific authority through state law. The Committee will not relinquish any of this authority since it believes that decision-making control over the children's learning should be in the hands of local citizens as much as possible.

Reviewed, August 28, 2019

Adopted October 9, 2019

NONDISCRIMINATION AND HARASSMENT

Public schools have the responsibility to overcome, insofar as possible, any barriers that prevent children from achieving their potential. The public school system will do its part. This commitment to the community is affirmed by the following statements that the School Committee intends 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 in human values for children, youth and adults, all of whom have differing personal and family characteristics and who come from various socioeconomic, racial and ethnic groups.
3. Work toward a more integrated 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 the human relations aspects of all segments of society.
6. Initiate a process of reviewing policies and practices of the school district in order to achieve to the greatest extent possible the objectives of this statement.

The 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 any town or in obtaining the advantages, privileges, and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin, sexual orientation, age, homelessness, disability or immigration status.

The Wilmington Public Schools does not tolerate discrimination against students, parents, employees or the general public on the basis of race, color, national origin, sex, sexual orientation, gender identity, disability, homelessness, religion, age or immigration status. The District is also committed to maintaining a school environment free of harassment based on race, color, religion, national origin, gender, sexual orientation, gender identity, pregnancy or pregnancy status, age or disability. In addition, the District provides equal access to all designated youth groups. Consistent with the requirements of the McKinney-Vento Act, the District also does not discriminate against students on the basis of homelessness.

The Superintendent shall designate at least one administrator to serve as the compliance officer for the District's non-discrimination policies in education-related activities, including but not limited to responding to inquiries related to Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act; the Age Act; M.G.L. c. 76, § 5; M.G.L. c. 151B and 151C; and 603 C.M.R. § 26.00. Inquiries about the application of Title IX to the District may be referred

to the District's Title IX Coordinator, to the Assistant Secretary of the U.S. Department of Education, or both.

In addition to designating at least one administrator to handle inquiries regarding the District's non-discrimination policies, the Superintendent shall adopt and publish one or more grievance procedures for addressing reports of discrimination, harassment and retaliation under the protected classes identified in this policy. If an individual is interested in filing a complaint that they have been discriminated against because of their race, color, sex, gender identity, religion, national origin, sexual orientation, homelessness, disability, or immigration status, their complaint should be filed in accordance with the District's grievance procedures for discrimination, harassment, and retaliation.

The student handbooks, grievance procedures, and District website shall identify the name and/or title, office address, email address, and telephone number for the compliance officer(s) for the District's non-discrimination policies.

REVISED: December 2, 2020

ADOPTED: January 20, 2021

LEGAL REFS: Title VI: 42 U.S.C. 2000d; 34 CFR 100.3(a),(b); EEOA: 20 U.S.C. 1703(f); Title IX: 20 U.S.C. 1681; 34 CFR 106.31, 106.34, 106.35; Section 504: 29 U.S.C. 794; 34 CFR 104.4; Title II: 42 U.S.C. 12132; 28 CFR 35.130; IDEA 2004: 20 U.S.C. 1400; 34 CFR 300.110; NCLB: Title III, Part A, Sec. 3121(c)(1)(C); Title X, Part C, Secs. 721, 722(g)(4); Mass. Const. amend. art. 114; M.G.L. c. 71A, s. 7; c. 76, s. 5; 603 CMR 26.03 as amended by Chapter 199 of the Acts of 2011; MLG c.71, s370; 42 USC s. 2000c et seq.; 42 USC s. 2000d et seq.; 20 USC s. 1701 etseq.; M.G.L c. 71, Sec. 84.

Discrimination and Harassment (Civil Rights Grievance Procedures / Non Title IX)

The Wilmington Public School system is committed to maintaining a school environment free of discrimination, harassment, or retaliation based on race, color, religion, national origin, gender, sexual orientation, gender identity, age or disability. Discrimination and harassment in any form or for any reason is absolutely forbidden. This includes discrimination and harassment by administrators, certified and support personnel, students, vendors and other individuals in school or at school related events. Retaliation against any individual who has brought harassment or other inappropriate behavior to the attention of school officials or who has cooperated in an investigation of a complaint under this policy is unlawful and will not be tolerated by the Wilmington Public Schools.

The Wilmington Public Schools requires all employees and students to conduct themselves in an appropriate manner with respect to their fellow employees, students and all members of the school community.

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

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

The *Civil Rights Grievance Procedure* shall not apply to reports of sexual harassment as defined under Title IX of the Education Amendment of 1972 and its implementing regulations ("Title IX") effective August of 2020.

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

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

Definitions

For the purposes of this procedure:

- A. "Complainant" is an individual who is alleged to be the victim of conduct that could constitute discrimination, harassment, or retaliation under this Procedure. Parents and/or legal guardians

of a Complainant are not considered a Complainant but may file formal complaints on behalf of a minor child and act on behalf of the minor child in any civil rights matter.

- B. "Discrimination" means discrimination or harassment on the basis of race, age, color, national origin, sex, sexual orientation, gender identity, disability or religion by which an individual is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity of the District.

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

a. Non-Title IX Sexual Harassment

M.G.L. c. 151B, § 1 - the term "sexual harassment" is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions;

(b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

M.G.L. c. 151C, § 1 - the term "sexual harassment" is defined as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

(a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.

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

When determining whether an environment is hostile, the school district examines the context, nature, frequency, and location of the sexual or gender-based incidents, as well as the identity, number and relationships of the persons involved. The school district must consider whether the alleged harassment was sufficient to have created such an environment for a reasonable person of the same age, gender, and experience as the alleged victim, and under similar circumstances.

- D. Retaliation: Retaliatory acts against any individual who exercises their rights under the civil rights statutes covered by this Procedure or the Title IX Sexual Harassment Grievance Procedure are considered to be discrimination and are unlawful. Individuals are prohibited from coercing, intimidating, threatening, or interfering with an individual because the individual exercised any right granted or protected under these procedures and/or the Title IX Sexual Harassment Grievance Procedure.
- E. Principal: The Principal or Principal's designee.
- F. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute discrimination, harassment, or retaliation under this Procedure.

How to make a complaint

- A. Any student who believes that he/she has been discriminated against or harassed should report their concern promptly to any teacher, guidance counselor, nurse, building administrator, or central office administrator. The school staff member should then report the concern to the school principal or Civil Rights Coordinator. If the school principal receives the report, either verbally or written, he or she will notify the Civil Rights Coordinator of the Complaint. Students or employees who are unsure whether discrimination or harassment has occurred are encouraged to discuss the situation with the school principal.
- B. Any employee or other person who believes that he/she has been discriminated against or harassed should report the incident to the building principal, assistant principal, his/her department chair or his/her supervisor. Additionally, the employee may, if applicable, request union/association representation to assist him/her through the complaint process. Employees may also file complaints directly to the Human Resources Administrator.
- C. District staff is expected to report possible incidents of discrimination or harassment of students and fellow employees. Parents and other adults are also encouraged to report any concerns about possible discrimination or harassment of students or employees which have allegedly occurred on school grounds, at school related events, or actions which occurred outside of school but possibly create a hostile environment for a student or employee while he/she is at school.

Complaint Handling and Investigation

- A. The school principal shall promptly inform the relevant Civil Rights Coordinator and the person(s) who is the subject of the Complaint that a Complaint has been received.
- B. When a complaint of discrimination or harassment is alleged, the person making the allegations will be encouraged to write out a description of the allegations and the impact the alleged conduct has had on him or her (See Complaint and Reporting Forms at Appendix A and B). If the Complainant or reporter is a student and the student chooses not to fill out a written report, the person accepting the complaint shall listen to the student and complete the complaint or reporter form for the student.
- C. After notifying the appropriate Civil Rights Coordinator, the school principal or designee may pursue an informal resolution of the Complaint, with the agreement of the parties involved. Informal resolution is optional, and the Complainant and/or Respondent may elect to proceed according to the formal resolution procedure at any time prior to the completion of the informal resolution.
- D. Under the formal resolution procedure, the complaint will be investigated by the school principal or other individual designated by the school principal or the Civil Rights Coordinator. The investigator will gather evidence to determine whether, by a preponderance of the evidence, discrimination or harassment has occurred. Any Complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any Complaint about the Superintendent should be submitted to the School Committee Chair, who will consult with legal counsel concerning handling the investigation of the Complaint.

- a. The Complainant shall have the opportunity to identify witnesses and provide other relevant evidence to the investigator.
 - b. The Respondent will be provided with an opportunity to be heard as part of the investigation including the opportunity to provide relevant information and identify witnesses for the investigator's consideration.
 - c. The privacy rights of all parties to the Complaint shall be maintained in accordance with applicable state and federal laws.
 - d. The investigator will keep a written record of the investigation process.
 - e. The investigator may take interim remedial measures to reduce the risk of further discrimination or harassment while the investigation is pending.
 - f. The investigation and the notification of the outcome to the Complainant and the Respondent shall be completed within fifteen (15) school days of the date of the receipt of the Complaint.
 - g. The investigator may extend the investigation period beyond fifteen (15) school days because of extenuating circumstances, including but not limited to availability and cooperation of witnesses, complexity of the investigation, school vacation periods, and the involvement of law enforcement and other outside agency investigations. If the investigator extends the investigation, he or she will notify the Complainant of the extension.
 - h. If a complaint or report of discrimination or harassment is received after June 1 of a given school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the above-referenced time frame, but may extend the investigation period to account for the availability of witnesses during the summer vacation period. If the investigator extends the investigation, he or she will notify the Complainant of the extension and make reasonable efforts to interview the witnesses during the summer vacation period.
 - i. Nothing in this procedure will preclude the investigator, in his or her discretion, from completing the investigation sooner than the fifteen (15) school days described above.
- E. If the investigator determines that discrimination or harassment has occurred, he/she shall take steps to eliminate the discriminatory or harassing environment, which may include but is not limited to determining what disciplinary action should be taken against the person(s) who engaged in discrimination or harassment, if any; and determining what corrective and/or remedial steps are necessary to prevent recurrence of any discriminatory behavior, including but not limited to harassment, and to correct its discriminatory effects if appropriate. The school district administration may also refer the Respondent for disciplinary procedures to be conducted in accordance with federal and state law. Nothing in the Civil Rights Grievance Procedure shall be interpreted as limiting or prohibiting the District's ability to take appropriate disciplinary action against the offender in accordance with the applicable code(s) of conduct or employment contracts or policies, where appropriate, prior to completion of the investigation, in accordance with the due process rights of employees and students, as applicable.

- F. The investigator will inform the Complainant and the Respondent the results of the investigation (in accordance with applicable state and federal privacy laws) within fifteen (15) school days of receipt of the Complaint, unless the investigation is extended under the provisions described above. This notice of the outcome of the investigation must inform the Complainant as to whether or not the investigation determined that the conduct occurred, any individual remedies offered or provided to the Complainant or any sanctions imposed on the Respondent that directly relate to the Complainant (e.g., stay away order or no contact order), and other steps the school has taken to eliminate the hostile environment, if one has been found to exist, and to prevent recurrence. The Respondent should not be notified of the individual remedies offered or provided to the Complainant (e.g., counseling; alternative classes, etc.).
- G. If the Complainant or student's parents/legal guardians are dissatisfied with the results of the investigation, an appeal may be made to the Civil Rights Coordinator within ten (10) school days after receiving notice of the outcome of the investigation. In the appeal, the appellant should identify any specific alleged factual or legal errors and explain why the errors should result in a different conclusion. The Civil Rights Coordinator shall review the investigation and may conduct further investigation if deemed appropriate. Within five (5) school days of receipt of any such appeal, the Civil Rights Coordinator shall decide whether or not to reopen the investigation, uphold the principal or designee's determination, or reverse the principal or designee's determination. The Civil Rights Coordinator shall provide written notification of that determination to both the Complainant and the Respondent. The Civil Rights Coordinator's decision shall be final, subject to further written appeal to the Superintendent within five (5) days of receipt of the decision of the Civil Rights Coordinator. The Superintendent will decide the appeal within thirty (30) calendar days of the date of receipt of the written appeal.
- H. Employment Agencies: The contact information for state and federal employment discrimination enforcement agencies is as follows: (1) Federal: United States Equal Employment Opportunity Commission (EEOC); John F. Kennedy Federal Building; 15 New Sudbury Street, Room 475; Boston, MA 02203-0506; 1-800-669-4000; [EEOC Boston Area Office Website](#); and (2) State: Massachusetts Commission Against Discrimination (MCAD); Boston Headquarters; One Ashburton Place; Sixth Floor, Room 601; Boston, MA 02108; (617)-994-6000; [MCAD Website](#).

I. The District's Civil Rights Coordinator is:

Wilmington Public School Students: Alice Brown-LeGrand, Director, Student Support Services

Wilmington Public School Staff: Andrea Stern-Armstrong, Director, Human Resources

Reviewed: December 2, 2020

Approved: January 20, 2021

NONDISCRIMINATION ON THE BASIS OF SEX

The School Committee, in accordance with Title IX of the Education Amendments of the 1972, declares that the school system 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.

LEGAL REFS: Title IX of the Education Amendments of 1972
 45 CRF, 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

Reviewed, August 28, 2019

Adopted: October 9, 2019

SEXUAL HARASSMENT

All persons associated with the Wilmington Public Schools including, but not necessarily limited to, the Committee, the administration, staff, and students, are expected to conduct themselves at all times so as to provide an atmosphere free from sexual harassment. Any person who engages in sexual harassment while acting, as a member of the school community, will be in violation of this policy. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating in an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated.

Because the Wilmington School Committee takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

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

Definition of Sexual Harassment: Unwelcome sexual advances; requests for sexual favors; or other verbal or physical conduct of a sexual nature may constitute sexual harassment where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or educational development.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance, or creating an intimidating, hostile, or offensive working or educational environment.

The Grievance Officer: Director of Student Support Services (Students)

Director of Human Resources (Staff)

The committee will annually appoint a sexual harassment grievance officer who will be vested with the authority and responsibility of processing all sexual harassment complaints in accordance with the procedure set out below:

Complaint Procedure:

1. Any member of the school community who believes that he/she has been subjected to sexual harassment will report the incident (s) to the grievance officer. All complaints shall be investigated promptly and resolved as soon as possible.

2. The grievance officer will attempt to resolve the problem in an informal manner through the following process:
 - a. The grievance officer will confer with the charging party in order to obtain a clear understanding of that party's statement of the facts, and may interview any witnesses.
 - b. The grievance officer will then attempt to meet with the charged party in order to obtain his/her response to the complaint.
 - c. The grievance officer will hold as many meetings with the parties as is necessary to establish the facts.
 - d. On the basis of the grievance officer's perception of the situation he/she may:
 - Attempt to resolve the matter informally through reconciliation.
 - Report the incident and transfer the record to the Superintendent or his/her designee, and so notify the parties by certified mail.
3. After reviewing the record made by the grievance officer, the Superintendent or designee may attempt to gather any more evidence necessary to decide the case, and thereafter impose any sanctions deemed appropriate, including a recommendation to the committee for termination or expulsion. At this stage of the proceedings the parties may present witnesses and other evidence, and may also be represented. The parties, to the extent permissible by law, shall be informed of the disposition of the complaint. All matters involving sexual harassment complaints will remain confidential to the extent possible. If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct.
4. The grievance officer, upon request, will provide the charging party with government agencies that handle sexual harassment matters.

LEGAL REFS: Title VII, Section 703, Civil Rights Act of 1964 as amended 45 Federal Regulation 74676 issued by EEO Commission
Education Amendments of 1972, 20 U.S.C. 1681 et seq. (Title IX) BESE
603 CMR 26:00

Reviewed: August 28, 2019

Adopted: October 9, 2019

Sexual Harassment Title IX Grievance ProceduresOVERVIEW

The Wilmington Public Schools is committed to maintaining school environments free of sexual harassment.

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

The District does not discriminate on the basis of sex in its educational programs or activities and is required by Title IX not to discriminate on the basis of sex. Such non-discrimination also extends to admissions and the employment application process. Retaliation against any individual who has brought sexual harassment to the attention of school officials, or against an individual who has participated, or refused to participate, in the investigation thereof is unlawful and will not be tolerated by the Wilmington Public Schools.

SCOPE

The Title IX Sexual Harassment Grievance Procedure has been developed in accordance with the revised Title IX regulations, 34 CFR Part 106, effective August 14, 2020, which established a new definition of sexual harassment under Title IX and which mandate specific procedures for responding to and investigating allegations of sexual harassment under Title IX.

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

The Title IX Sexual Harassment Grievance Procedure applies to conduct that occurs within the United States in an education program or activity of the District, regardless of whether such District program or activity is conducted on or off school grounds. A District education program or activity includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurred.

Allegations of conduct that meet the definition of sexual harassment under Title IX will be addressed through the Title IX Sexual Harassment Grievance Procedure. Allegations of conduct that meet the definition of sexual harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees),

M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual Harassment Grievance Procedure.

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

District's Civil Rights Grievance Procedure. (See exception under Section II, Part 4, Step 4 below). The definitions of sexual harassment under Title VII, M.G.L. c. 151B, and M.G.L. c.151C are set out in the Civil Rights Grievance Procedure.

The District's Civil Rights Grievance Procedure is available at the district website

CONFIDENTIALITY

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

DEFINITIONS

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

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

- (1) alleges sexual harassment against a respondent; and
- (2) requests that the District investigate the allegation of sexual harassment.

At the time of filing a Formal Complaint, the complainant must be participating in or attempting to participate in the District's education program or activity with which the Formal Complaint is being filed.

Sexual Harassment: Under Title IX, the term "sexual harassment" includes three (3) types of misconduct based on sex:

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

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

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

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

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

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

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

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

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

For the purposes of this definition:

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

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

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

Party or Parties: The complainant and/or respondent.

Principal: The Principal or Principal’s designee.

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

Superintendent: The Superintendent or Superintendent’s designee.

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

Supportive Measures may be offered before or after the filing of a Formal Complaint or where no

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

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

I. REPORTING SEXUAL HARASSMENT

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

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

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

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

II. FILING A TITLE IX FORMAL COMPLAINT

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

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

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

Step 1: Title IX Formal Complaint is filed:

- (1) A Formal Complaint shall state (if known to the reporter or alleged victim) the name(s) of the persons involved, witnesses to the conduct, if any, a description of the conduct, and to the extent possible, the dates and locations of the conduct. A Formal Complaint will not be dismissed solely because it was not completely filled out or it was filled out incorrectly.
- (2) A Formal Complaint may be filed at any time, including during non-business hours. Formal Complaints submitted outside of normal business hours will be deemed received on the following school working day.

- (3) At the time of the filing of the Formal Complaint, the alleged victim must be participating in or attempting to participate in the education program or activity of the school with which the Formal Complaint is filed.
- (4) A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator listed in this Procedure, and by any additional method designated by the school.
- (5) Consolidation of Formal Complaints: Schools may consolidate Formal Complaints where the allegations arise out of the same facts.
- (6) Consideration of the use of the Informal Resolution Process with the consent of the parties. See Section II(D).
- (7) Throughout this process, there shall be a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

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

Step 3: Written Notice of Allegations: Upon receipt of a Formal Complaint, the District shall send written notice of the allegations, including the identity of the parties, to both the complainant and the respondent, if their identities are known. The written notice must include: (1) a statement prohibiting knowingly submitting false information; (2) sufficient details known at the time to allow the respondent the opportunity to respond to the allegations; (3) a statement that the respondent is presumed not responsible for the alleged conduct; (4) that a determination regarding responsibility is made at the conclusion of the grievance process; (5) that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney; and (6) that the parties/advisors may inspect and review evidence in accordance with this Procedure. If, in the course of the investigation, the District decides to investigate allegations of sexual harassment that are not included in the initial written notice of allegations, the District shall provide notice of the additional allegations to the parties whose identities are known.

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

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

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

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

- (1) Standard of Proof: The investigator shall make factual findings based on a preponderance of the evidence standard.
- (2) The burden for gathering evidence and the burden of proof remains on the District, not on the parties.
- (3) The District shall provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- (4) The District shall not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag" orders).
- (5) Each party may have one (1) advisor of their own selection and at their own expense participate in this grievance process. In the case of a student under the age of 18, this advisor may be in addition to the student's parents/guardians. Any restrictions on the participation of an advisor will be applied equally to each party. The advisor may, but is not required to, be an attorney. Any evidence received by an advisor in this process is subject to confidentiality and may be used only for the purpose of the grievance process. Advisors are prohibited from disseminating or disclosing such evidence outside of the grievance process.
- (6) The District shall send prior written notice to the parties of any investigative interviews, meetings, or hearings in which their participation is invited or expected.
- (7) Privacy of Medical Treatment and Mental Health Treatment Records: The District may not access or use either the complainant's or the respondent's medical,

psychological, or similar treatment records unless the District obtains the party's written consent to do so.

- (8) The investigator may impose reasonable timeframes on all parties as required to facilitate the timely completion of the investigation. The investigator may extend any of the timeframes beyond the time periods identified in this Procedure for good cause. If a complaint or report of sexual harassment is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the above-referenced time frame, but may extend the investigation period to account for the unavailability of witnesses while school is not in session. If the investigator extends the investigation, the investigator will notify the parties of the extension and the reasons therefore in writing.

Step 6: Opportunity for Parties to Respond to Evidence: The District must send the parties, and their advisor(s) (if they have one) evidence directly related to the allegation, in electronic format or hard copy. Parties shall be afforded ten (10) calendar days to inspect, review and respond to the evidence. The District shall not require, allow, rely upon, or otherwise use evidence that constitutes information protected from disclosure by a legally recognized privilege, unless it has been waived by the holder of the privilege.

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

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

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

Step 9: Directed Written Questions from the Parties: After the Investigative Report has been sent to the parties, but prior to reaching a determination regarding responsibility, the

decision-maker shall afford both the complainant and the respondent the opportunity to submit to the decision-maker written, relevant questions of the other party or any witness, provide the party with the other party's and/or witness's written responses to said written questions, and allow for additional, limited follow-up questions from each party in writing. Questions that seek disclosure of information protected under a legally recognized privilege, Family Educational Rights and Privacy Act, and/or 603 CMR 23.00 shall not be permitted, unless the person holding the privilege has waived the privilege.

- (1) The complainant shall be protected from answering questions about the complainant's prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove the complainant's consent to the conduct under investigation.
- (2) Upon receipt of the Investigative Report, each party shall have ten (10) calendar days to submit directed relevant questions to the decision-maker in writing.
 - a. All questions must be posed in a respectful manner (e.g., without profanity and without attacking a person's character or motivations).
 - b. Questions that are not relevant will be excluded, and the decision-maker shall explain to the party posing the question the reason(s) for excluding any question.
- (3) Upon receipt of the directed questions from the District, each party and witness shall have five (5) calendar days to respond to those questions in writing.¹
- (4) After receipt of the answers by the parties, any follow-up questions by the parties shall be submitted to the decision-maker in writing within three (3) calendar days, and those follow-up questions shall be responded to in writing within three (3) calendar days of receipt.
 - (5) Each party will be provided a copy of the other party's or witness's written answers.

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

- (1) The decision-maker shall issue a written determination regarding responsibility with a description of the procedural steps taken, findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, the range of disciplinary sanctions to which the respondent may be subject, whether remedies will be provided to the complainant, and procedures and bases for appeal. The decision-maker's written determination shall not be completed by the Title IX Coordinator or the investigator.
- (2) Standard of Proof: The decision-maker shall make factual findings based on a preponderance of the evidence standard.
 - (3) The decision-maker's findings shall be based on an objective review of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a complainant, respondent, or witness.
- (4) The decision-maker shall not draw inferences about the determination of responsibility based solely on a party's failure or refusal to answer questions.

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

- (5) The written determination must be sent simultaneously to both parties.
- (6) This determination shall be sent within twenty (20) school days of the issuance of the investigative report unless an extension is agreed upon by the parties or if the process is otherwise reasonably delayed. Except where the parties have agreed to an extension of the timeline or where the process is otherwise reasonably delayed, the written determination shall be issued within sixty (60) school days of receipt of the Formal Complaint.

C. Remedies: If the decision-maker determines that sexual harassment has occurred, the District administration shall take steps to eliminate the harassing environment, which may include but not be limited to providing remedies to a complainant that are designed to restore or preserve the complainant's equal access to the District's education programs and/or activities. These remedies may be the same individualized services as the supportive measures outlined in Section I(D) above and/or may consist of alternative interventions and/or punitive or disciplinary sanctions that burden the respondent.

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

- (1) Although the respondent may, in accordance with Title IX, be subject to emergency removal at any time, the respondent may not be subject to disciplinary sanctions for the misconduct defined under this Procedure until after this grievance process has been completed.

E. Informal Process: Only after a Formal Complaint is filed may the District opt to offer and facilitate informal resolution options, such as mediation or restorative justice. Both parties must give voluntary, informed, written consent to attempt any offered informal resolution. Any informal resolution under this Procedure will be facilitated by trained personnel.

- (1) The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.
- (2) The informal process is voluntary, and the alleged victim and/or respondent may terminate or decline any informal process at any time and resume the Formal Complaint grievance process.
- (3) The informal process shall not exceed thirty (30) calendar days.

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

F. Emergency Removal under Title IX: The District may remove a respondent on an emergency basis at any time provided that the District: (1) undertakes an individualized safety and risk analysis; (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal and that there is no alternative to

the respondent's emergency removal to mitigate the threat presented; and (3) provide the respondent with notice and the opportunity to challenge the decision immediately following the removal.

G. **Anonymous Reports:** The District may be on notice of an allegation of sexual harassment through receipt of an anonymous report. In cases of anonymous reports, the District's obligation is to respond in a manner that is not clearly unreasonable in light of the known circumstances. If the anonymous reporter is the complainant and they request confidentiality, the District can and should offer supportive measures to the extent consistent with maintaining the request for confidentiality. If an anonymous report is received without a disclosure of the complainant's identity, the District will be unable to provide the complainant supportive measures in response to that report. The District may in conformance with applicable state laws and regulations be required to report sexual harassment identified in an anonymous complaint to state and/or local authorities such as the Massachusetts Department of Children and Families in conformance with state statutes and regulations and/or take actions to protect the safety of the school community (contacting the police, for example) that may result in the identity of the reporting person being disclosed. Although the District shall respond to anonymous reports of sexual harassment in accordance with this Procedure, a Formal Complaint cannot be filed anonymously.

H. **Appeals:** The complainant or respondent may appeal from a determination regarding responsibility and/or from the District's dismissal of a Formal Complaint or any allegations therein, only on the following bases:

- (1) procedural irregularity that affected the outcome of the matter;
- (2) newly discovered evidence that could affect the outcome of the matter; and/or
- (3) Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

An appeal may be made to the Superintendent or designee within five (5) calendar days after receiving the determination of responsibility or dismissal. The Superintendent will decide the appeal no later than thirty (30) calendar days of the date of receipt of the written appeal. In cases in which it has been determined that a respondent student is subject to long-term suspension as a result of a finding of sexual harassment in accordance with this Procedure, the respondent may elect to exercise their appeal under the disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, §§ 37H, 37H ½ or 37H ¾) in place of this appellate procedure. Appeals must be made in writing (email is sufficient) to the Superintendent, Wilmington Public Schools, 161 Church Street, Wilmington, MA 01887.

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

- I. Recordkeeping: Records related to this Procedure will be maintained for a period of seven (7) years.
- J. Employment Agencies: The contact information for state and federal employment discrimination enforcement agencies is as follows: (1) Federal: United States Equal Employment Opportunity Commission (EEOC); John F. Kennedy Federal Building; 15 New Sudbury Street, Room 475; Boston, MA 02203-0506; 1-800-669-4000; [EEOC Boston Area Office Website](#); and (2) State: Massachusetts Commission Against Discrimination (MCAD); Boston Headquarters; One Ashburton Place; Sixth Floor, Room 601; Boston, MA 02108; (617)-994-6000; [MCAD Website](#).
- K. Identification of key personnel involved in Title IX process for reports and/or Formal Complaints of sexual harassment:
- Title IX Coordinator:
Wilmington Public School Students: Alice Brown-LeGrand, Director, Student Support Services
Wilmington Public School Staff: Andrea Stern-Armstrong, Director, Human Resources
 - Investigator(s): – *possible individual(s) to serve as the investigators would be the Title IX Coordinator, Assistant Principal or Title IX Coordinator's designee*
 - Decision-maker: – *possible individual(s) to serve as the decision-maker would be the Principal or Principal's designee (neither the Investigator nor the Title IX Coordinator may serve in this role).*
 - Appeal Officer: – *possible individual(s) to serve as the appeal officer would be the Superintendent or designee, or the Assistant Superintendent.*
 - Informal Resolution Facilitator: – *possible individual(s) to serve to facilitate the informal resolution process would be the Director of Guidance, Assistant Superintendent, Director of Student Services or the Title IX Coordinator may serve in this role so long as he/she is free from bias/conflict and is not serving as the investigator.*

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

Legal Refs: Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights

Act; Title IX of the Education Amendments of 1972; the Age Act; M.G.L. c. 151B and c.151C; and
M.G.L. c. 76, § 5;

Reviewed: December 2, 2020

Adopted: January 20, 2021

STAFF CONDUCT WITH STUDENTS

PHYSICAL CONTACT BETWEEN EMPLOYEES AND STUDENTS AT SCHOOL AND DURING SCHOOL SPONSORED FUNCTIONS

Introduction:

The purpose of this policy statement is to provide all employees with guidance and direction with respect to physical contact between employees and students at school and during school sponsored functions. It is an area of educational policy, judgment, and law which is fraught with uncertainties and changing standards. What constitutes appropriate physical contact in one circumstance may be totally inappropriate in another. At the outset, the decision of whether or not to touch a student must be made by the employee involved. Once it occurs, its appropriateness will depend on a variety of factors, not the least of which will be the student's reaction and responses of other adults. The School Committee believes that its employees individually and collectively possess the wisdom and expertise necessary to conduct themselves in a manner which is educationally sound and acceptable both within the professional community and the community at large.

General Principles:

1. All physical contact between employees and students should have a valid educational purpose and objective, meeting the student's (not the staff member's) needs.
2. The use of physical contact or force in order to impose the staff members will upon a student, except in an emergency situation, is strictly prohibited.
3. Employees who observe physical contact between students and employees which they deem to be inappropriate are expected to report said observations to the building principal and/or the Superintendent of Schools as soon as possible. If the contact is perceived to be immediately harmful by the observer, prompt intervention to prevent further harm is expected.
4. Questions of the appropriateness of physical contact are to be determined by the context of the contact on a case-by-case basis. Issues such as intent, context, location, circumstances, age, and sex are all considerations which may be relevant. Examples: Having a first grade child sit on one's lap during a group picture taking session may be perfectly appropriate while regularly having fifth grade students of either sex sit on one's lap during a movie is not appropriate. Holding or comforting a first grader who has fallen and is crying may be appropriate whereas placing a hand on a child's head to redirect his attention to the front of the room is not.
5. Touching students under clothing, in the genital areas, or on the buttocks, or breasts, except in an emergency situation, is prohibited.

6. Whether or not an emergency situation exists depends upon an objective rather than a subjective standard.
7. Instances of inappropriate physical contact initiated, encouraged, practiced and/or tolerated by employees, in even a single instance, may result in disciplinary action which may include dismissal.

Summary

Given the complexity of this issue, the School Committee recognizes that some employees may deal with it by implementing a practice of never touching students. That is not the School Committee's intent or objective. It is expected that any physical contact between an employee and a student will have a legitimate purpose consistent with the schools' role as educator and caretaker of minor children.

Reviewed September 11, 2019

NONDISCRIMINATION ON THE BASIS OF DISABILITY

Title II of the Americans With Disabilities Act of 1992 requires that no qualified individual with a disability shall, because the District's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, and activities of the District or be subject to discrimination. Nor shall the District exclude or otherwise deny services, programs, or activities to an individual because of the known disability of a person with whom the individual is known to have a relationship or association.

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 system 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 system will comply with the above requirements of the law and policy statements of this Committee to ensure nondiscrimination on the basis of disability.

SOURCE: MASC July 2016

LEGAL REFS.: Rehabilitation Act of 1973, Section 504, as amended Education for All Disabled Children Act of 1975 M.G.L. [71B:1](#) et seq. (Chapter 766 of the Acts of 1972)

Title II, Americans with Disabilities Act of 1992, as amended

Board of Education Chapter 766 Regulations, adopted 10/74, as amended through 3/28/78 CROSS REFS.: [IGB](#), Support Services Programs

NOTE: Due to federal and state laws, many school committees are adopting policies and extensive regulations pertaining to Nondiscrimination on the Basis of Handicap. At times, policy, regulations, and specific plans for action are combined in one long statement presented as policy. Other school systems present policy and regulatory statements separately.

Reviewed September 11, 2019

Adopted: October 9, 2019

TOBACCO PRODUCTS ON SCHOOL PREMISES PROHIBITED

Use of any tobacco products, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco and snuff and electronic cigarettes, electronic cigars, electronic pipes or othersimilar products that rely on vaporization or aerosolization, within the school buildings, school facilities, on school grounds or school buses, or at school sponsored events by any individual, including school personnel and students, is prohibited at all times.

A staff member determined to be in violation of this policy shall be subject to disciplinary action.

A student determined to be in violation of this policy shall be subject to disciplinary action pursuant tothe student discipline code.

This policy shall be promulgated to all staff and students in appropriate handbook(s) and publications.

Signs shall be posted in all school buildings informing the general public of the District policy andrequirements of state law.

SOURCE: MASC July 2016

LEGAL REF: M.G.L. [71:37H](#); [270:6](#)

Reviewed September 11, 2019

Adopted October 9, 2019

NO SMOKING AND TOBACCO USE

The Massachusetts Education Reform Act of 1993 prohibits the use of any tobacco product in school, on school grounds, on school buses, or school facilities.

The Wilmington Public Schools are committed to having a smoke free/tobacco free environment for its students, adults, and guests. Smoking or possession/use of smokeless tobacco, e-cigarette cartridges, and/or tobacco products (including rolling papers) and/or paraphernalia, (including e-cigarette devices/vaporizers or lighters) on school property and at all school sponsored activities, regardless of location, is prohibited. Violation of this smoking policy will result in the following consequences:

First offense:

- Payment of a ticket issued pursuant to MGL c. 40 s. 21D in the amount of \$50 and payable to the Town of Wilmington within twenty-one (21) days. In lieu of fine, 10 hours of community service
- One (1) day In-School-Suspension and attendance in a tobacco education class.
- Notification to the violator's parent or legal guardian of the infraction and mandatory parental conference
- Mandatory one-hour tobacco education class

Second offense:

- Payment of a ticket issued pursuant to MGL c. 40 s. 21D in the amount of \$50 and payable to the Town of Wilmington within twenty-one (21) days. Three (3) day suspension and attendance in a tobacco education class
- Mandatory participation in a smoking cessation program
- Notification to the violator's parent or legal guardian of the infraction and mandatory parental conference

Third offense:

- Payment of a ticket issued pursuant to MGL c. 40 s. 21D in the amount of \$50 and payable to the Town of Wilmington within twenty-one (21) days.
- Three (3) day suspension and attendance in a tobacco education class
- Mandatory participation in a smoking cessation program
- **Notification to the violator's parent or legal guardian of the infraction and mandatory parental conference prior to re-admission to school**

In the case of four or more offenses within four years:

- Five-day suspension and attendance in a tobacco education class
- Payment of a ticket pursuant to MGL c. 40 s. 21D in the amount of \$00 and payable to the Town of Wilmington within twenty-one (21) days
- Mandatory parental conference prior to re-admission to school

Violation of the policy against use of smokeless tobacco or possession of tobacco products will result in above-mentioned consequences absent the monetary fine.

Violation of the policy against the use and/or possession of tobacco-related paraphernalia will result in a one to three day In-School-Suspension. Tobacco-related paraphernalia include, but are not limited to: e-cigarette devices, vaporizers, cigarette lighters, matches, cigarette holders, pipes, packages, and cigarette papers.

BACKGROUND CHECKS

It shall be the policy of the school district that, as required by law, a state and national fingerprint criminal background check will be conducted to determine the suitability of full or part time current and prospective school employees, who may have direct and unmonitored contact with children. School employees shall include, but not be limited to any apprentice, intern, or student teacher or individuals in similar positions, who may have direct and unmonitored contact with children. The School Committee shall only obtain a fingerprint background check for current and prospective employees for whom the School Committee has direct hiring authority. In the case of an individual directly hired by a school committee, the chair of the School Committee shall review the results of the national criminal history check. The Superintendent shall also obtain a state and national fingerprint background check for any individual who regularly provides school related transportation to children. The School Committee, Superintendent or Principal, as appropriate, may obtain a state and national fingerprint criminal background check for any volunteer, subcontractor or laborer commissioned by the School Committee, school or employed by the city or town to perform work on school grounds, who may have direct and unmonitored contact with children. School volunteers and subcontractors/laborers who may have direct and unmonitored contact with children must continue to submit state CORI checks.

The fee charged by the provider to the employee and educator for national fingerprint background checks will be \$55.00 for school employees subject to licensure by DESE and \$35.00 for other employees, which fee may from time to time be adjusted by the appropriate agency. The employer shall continue to obtain periodically, but not less than every 3 years, from the department of criminal justice information services all available Criminal Offender Record Information (CORI) for any current and prospective employee or volunteer within the school district who may have direct and unmonitored contact with children.

Direct and unmonitored contact with children is defined in DESE regulations as contact with a student when no other employee who has received a suitability determination by the school or district is present. "Contact" refers to any contact with a student that provides the individual with opportunity for physical touch or personal communication.

This policy is applicable to any fingerprint-based state and national criminal history record check made for non-criminal justice purposes and requested under applicable federal authority and/or state statute authorizing such checks for licensing or employment purposes. Where such checks are allowable by law, the following practices and procedures will be followed.

Requesting CHRI (Criminal History Record Information) checks

Fingerprint-based CHRI checks will only be conducted as authorized by state and federal law, in accordance with all applicable state and federal rules and regulations. If an applicant or employee is required to submit to a fingerprint-based state and national criminal history record check, he/she shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for submitting fingerprints. In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment.

Access to CHRI

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts CORI laws and regulations. CHRI cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the Massachusetts Department of Criminal Justice Information Services (DCJIS) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Federal law and regulations provide that the exchange of records and information is subject to cancellation if dissemination is made outside of the receiving entity or related entities. Furthermore, an entity can be charged criminally for the unauthorized disclosure of CHRI.

Storage of CHRI

CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with the most recent CJIS Security Policy have been implemented to ensure the security and confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards.

In addition to the above, each individual involved in the handling of CHRI will strictly adhere to the policy on the storage, retention and destruction of CHRI.

Retention and Destruction of CHRI

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes **only**:

Historical reference and/or comparison with future CHRI requests
Dispute of the accuracy of the record
Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in a secure location in the office of the superintendent. When no longer needed, CHRI and any summary of CHRI data must be destroyed by shredding paper copies and/or by deleting all electronic copies from the electronic storage location, including any backup copies or files. The shredding of paper copies of CHRI by an outside vendor must be supervised by an employee of the district.

CHRI Training

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at the district will review and become familiar with the educational and relevant training materials regarding SAFIS and CHRI laws and regulations made available by the appropriate agencies, including the DCJIS.

Determining Suitability

In determining an individual's suitability, the following factors will be considered: these factors may include, but not necessarily be limited to: the nature and gravity of the crime and the underlying conduct, the time that has passed since the offense, conviction and/or completion of the sentence, nature of the position held or sought, age of the individual at the time of the offense, number of offenses, any relevant evidence of rehabilitation or lack thereof and any other factors deemed relevant by the district.

A record of the suitability determination will be retained. The following information will be included in the determination:

- ✓ The name and date of birth of the employee or applicant;
- ✓ The date on which the school employer received the national criminal history check results; and
- ✓ The suitability determination (either "suitable" or "unsuitable")

A copy of an individual's suitability determination documentation must be provided to another school employer, or to the individual, upon request of the individual for whom the school employer conducted a suitability determination.

Relying on Previous Suitability Determination.

The school employer may obtain and may rely on a favorable suitability determination from a prior employer, if the following criteria are met:

- ✓ The suitability determination was made within the last seven years; and
- ✓ The individual has not resided outside of Massachusetts for any period longer than three years since the suitability determination was made; and either
- ✓ The individual has been employed continuously for one or more school employers or has gaps totaling no more than two years in his or her employment for school employers; or
- ✓ If the individual works as a substitute employee, the individual is still deemed suitable for employment by the school employer who made a favorable suitability determination. Upon request of another school employer, the initial school employer shall provide documentation that the individual is still deemed suitable for employment by the initial school employer.

Adverse Decisions Based on CHRI

If inclined to make an adverse decision based on an individual's CHRI, the district will take the following steps prior to making a final adverse determination:

- ✓ Provide the individual with a copy of his/her CHRI used in making the adverse decision;
- ✓ Provide the individual with a copy of this CHRI Policy;
- ✓ Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI; and
- ✓ Provide the individual with information on the process for updating, changing, or correcting CHRI.

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time depending on the particular circumstances not to exceed thirty days to correct or complete the CHRI.

If a school employer receives criminal record information from the state or national fingerprint-based background checks that includes no disposition or is otherwise incomplete, the school employer may request that an individual, after providing him a copy of said background check, provide additional information regarding the results of the criminal background checks to assist the school employer in determining the applicant's suitability for direct and unmonitored contact with children, notwithstanding the terms of General Laws chapter 151B, S.4.(9.91/2). Furthermore, in exigent circumstances, a school employer may, pursuant to the terms of DESE regulations (see specific regulations in legal references), hire an employee on a conditional basis without first receiving the results of a national criminal background check. After exhausting several preliminary steps as contained in the above referenced regulation the district may require an individual to provide information regarding the individual's history of criminal conviction; however the individual cannot be asked to provide information about juvenile adjudications or sealed convictions. The Superintendent is advised to confer with legal counsel whenever they solicit information from an individual concerning their history of criminal convictions.

Secondary Dissemination of CHRI

If an individual's CHRI is released to another authorized entity, a record of that dissemination must be made in the secondary dissemination log. The secondary dissemination log is subject to audit by the DCJIS and the FBI.

The following information will be recorded in the log:

- ✓ Subject Name;
- ✓ Subject Date of Birth;
- ✓ Date and Time of the dissemination;
- ✓ Name of the individual to whom the information was provided;
- ✓ Name of the agency for which the requestor works;
- ✓ Contact information for the requestor; and
- ✓ The specific reason for the request.

Reporting to Commissioner of Elementary and Secondary Education

Pursuant to state law and regulation, if the district dismisses, declines to renew the employment of, obtains the resignation of, or declines to hire a licensed educator or an applicant for a Massachusetts educator license because of information discovered through a state or national criminal record check, the district shall report such decision or action to the Commissioner of Elementary and Secondary Education in writing within 30 days of the employer action or educator resignation. The report shall be in a form requested by the Department and shall include the reason for the action or resignation as well as a copy of the criminal record checks results. The superintendent shall notify the employee or applicant that it has made a report pursuant to the regulations to the Commissioner.

Pursuant to state law and regulation, if the district discovers information from a state or national criminal record check about a licensed educator or an applicant for a Massachusetts educator license that implicates grounds for license action pursuant to regulations, the Superintendent shall report to the Commissioner in writing within 30 days of the discovery, regardless of whether the district retains or hires the educator as an

employee. The report must include a copy of the criminal record check results. The school employer shall notify the employee or applicant that it has made a report pursuant to regulations to the Commissioner and shall also send a copy of the criminal record check results to the employee or applicant.

C.O.R.I. REQUIREMENTS

It shall be the policy of the Wilmington Public Schools to obtain all available Criminal Offender Record Information (C.O.R.I.) from the criminal history systems board of prospective employee(s) or volunteer(s) of the school department including any individual who regularly provides school related transportation to children, who may have direct and unmonitored contact with children, prior to hiring the employee(s) or to accepting any person as a volunteer. State law requires that school districts obtain C.O.R.I. data for employees of taxicab companies that have contracted with the schools to provide transportation to pupils.

The Superintendent, Principal, or their certified designees shall periodically, but not less than every three years, obtain all available Criminal Offender Record Information from the criminal history systems board on all employees, individuals who regularly provide school related transportation to children, including taxicab company employees, and volunteers who may have direct and unmonitored contact with children, during their term of employment or volunteer service.

The Superintendent, Principal or their certified designees may also have access to Criminal Offender Record Information for any subcontractor or laborer who performs work on school grounds, and who may have direct and unmonitored contact with children, and shall notify them of this requirement and comply with the appropriate provisions of this policy.

Pursuant to a Department of Education regulation, “‘Direct and unmonitored contact with children’ means contact with a child when no other employee of the school or district for whom the employer has made a suitability determination is present. “Contact” refers to any contact with a student that provides the individual with the opportunity for physical touch or personal communication. The school employer may determine when there is potential for direct and unmonitored contact with the children by assessing the circumstances and specific factors including but not limited to, whether the individual will be working in proximity with students, the amount of time the individual will spend on school grounds, and whether the individual will be working independently or with others. An individual shall not be considered to have the potential for direct and unmonitored contact with children if he or she has only the potential for incidental unsupervised contact in commonly used areas of the school grounds.”

In accordance with state law, all current and prospective employees, volunteers, and persons regularly providing school related transportation to children of the school district shall sign a request form authorizing receipt by the district of all available C.O.R.I. data from the criminal history systems board. In the event that a current employee has questions concerning the signing of the request form, he/she may meet with the Principal or Superintendent; however, failure to sign the C.O.R.I. request form may result in a referral to local counsel for appropriate action. Completed request forms must be kept in secure files. The School Committee, Superintendent, Principals or their designees certified to obtain information under this policy, shall prohibit the dissemination of school information for any purpose other than to further the protection of school children.

C.O.R.I. is not subject to the public records law and must be kept in a secure location, separate from personnel files and may be retained for not more than three years. C.O.R.I. may be shared with the individual to whom it pertains, upon his or her request, and in the event of an inaccurate report the individual should contact the department of criminal justice informational services.

Access to C.O.R.I material must be restricted to those individuals certified to receive such information. In the case of prospective employees or volunteers, C.O.R.I material should be obtained only where the Superintendent has determined that the applicant is qualified and may forthwith be recommended for employment or volunteer duties.

The hiring authority, subject to applicable law and the model policy, reserved the exclusive right concerning any employment decision.

The Superintendent shall ensure that on the application for employment and/or volunteer form there shall be a statement that as a condition of the employment or volunteer service the school district is required by law to obtain Criminal Offender Record Information for any employee, individual who regularly provides transportation, or volunteer who may have direct and unmonitored contact with children. Current employees, personal regularly providing school related transportation, and volunteers shall also be informed in writing by the Superintendent prior to the periodic obtaining of their Criminal Offender Record Information.

Records sealed pursuant to law shall not operate to disqualify a person in any examination, appointment or application for public service on behalf of the Commonwealth or any political subdivision thereof.

The Superintendent shall revise contracts with special education schools and other providers to require a signed statement that the provider has met all the legal requirements of the state where it is located relative to criminal background checks for employees and others having direct and unmonitored contact with children.

LEGAL REFS: M.G.L.6:167-178; 15D:7-8; 71:38R, 151B, 276:100A

P.L. 92-544; Title 28 U.S.C. § 534; Title 28 C.F.R. 20.33(b)

42 U.S.C. § 16962

603 CMR 51.00

803 CMR 2.00

803 CMR 3.05 (Chapter 149 of the Acts of 2004)

Reviewed: August 28, 2019

Adopted: October 9, 2019

C.O.R.I. REQUIREMENTS

Applicants challenging the accuracy of the policy shall be provided a copy of the Criminal History Systems Board's (CHSB) ***Information Concerning the Process in Correcting a Criminal Record***. If the CORI record provided does not exactly match the identification information provided by the applicant, the Superintendent will make a determination based on a comparison of the CORI record and documents provided by the applicant. The Superintendent may contact the CHSB and request a detailed search consistent with CHSB policy.

If the Superintendent reasonably believes the record belongs to the applicant and is accurate, based on the information as provided in district policy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to the following:

- a. Relevance of the crime to the position sought;
- b. The nature of the work to be performed;
- c. Time since the conviction;
- d. Age of the candidate at the time of the offense;
- e. Seriousness and specific circumstances of the offense;
- f. The number of offenses;
- g. Whether the applicant has pending charges;
- h. Any relevant evidence of rehabilitation or lack thereof;
- i. Any other relevant information, including information submitted by the candidate or requested by the hiring authority

The Superintendent will notify the applicant of the decision and the basis of the decision in a timely manner.

CROSS REF: ADDA, C.O.R.I. Requirements

Reviewed August 28, 2019

Adopted October 9, 2019

Employers may ask the following series of questions:

1. Have you been convicted of a felony? Yes or no?
2. Have you been convicted of a misdemeanor within the past five years (other than a first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace)? Yes or no?
3. Have you completed a period of incarceration within the past five years for any misdemeanor (other than a first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace)? Yes or no?
4. If the answer to question number 3 above is "yes" please state whether you were convicted more than five years ago for any offense (other than a first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace)? Yes or no?

Some employers are authorized to request, receive, view and/or hold criminal offender record information pursuant to state or federal law.

Any inquiry into the criminal record of an applicant must also contain language pursuant to M.G.L.c. 276, § 100A.

It is unlawful for an employer to make any inquiry of an applicant or employee regarding:

1. An arrest, detention or disposition regarding any violation of law in which no conviction resulted.
2. First convictions for the misdemeanors of drunkenness, simple assault, speeding, minor traffic violations, affrays or disturbance of the peace. For the purposes of 804 CMR 3.02 minor traffic violations include any moving traffic violation other than reckless driving, driving to endanger and motor vehicle homicide.
3. Any conviction of a misdemeanor where the date of the conviction or the completion of any period of incarceration resulting therefrom, whichever date is later, occurred five or more years prior to the date of such inquiry, unless such person has been convicted of any offense within five years immediately preceding the date of the inquiry.

No person shall be held under any provision of any law to be guilty of perjury or of otherwise giving false statement by reason of his failure to recite or acknowledge such information as he has a right to withhold by 804 CMR 3.02.

SCHOOL DISTRICT WELLNESS PROGRAM

The School Committee recognizes the relationship between student well-being and student achievement as well as the importance of a comprehensive district wellness program. Therefore, the school district will provide developmentally appropriate and sequential nutrition and physical education as well as opportunities for physical activity. The wellness program will be implemented in a multidisciplinary fashion and will be evidence based.

Wellness Committee

The Wilmington School District will establish a wellness committee that consists of at least one (1): parent/guardian, student, nurse, school food service representative, one School Committee member, school administrator, member of the public, and other community members as appropriate. The School Committee designates the following individual(s) as wellness program coordinator(s): Coordinator of Nursing Services, School Food Service Administrator and Physical Education and Health Liaison. Only employees of the district who are members of the wellness committee may serve as wellness program coordinators. Wellness coordinators, in consultation with the wellness committee, will be in charge of implementation and evaluation of this policy.

Nutrition Guidelines

It is the policy of the school district that all foods and beverages made available on campus during the school day are consistent with School Lunch Program nutrition guidelines. The school district will remain in compliance with all federal and state nutrition standards for all food served in schools, including Smart Snacks and A-List state compliance for vending and a la carte. This compliance starts ½ hour before the school day until ½ hour after the close of the school day. Snacks and vending also comply with the peanut and nut-free suggested list of snacks. Fundraising during the school day may not include food items.

Guidelines for the reimbursable school meals will not be less restrictive than regulations and guidance issued by the Secretary of Agriculture pursuant to law. The district will create procedures that address all foods available to students throughout the school day in the following areas:

Guidelines for maximizing nutritional value by decreasing fat and added sugars, increasing nutrition density and moderating portion size of each individual food or beverage sold within the school environment; Separate guidelines for foods and beverages in the following categories:

1. Foods and beverages included in a la carte sales in the food service program on school campuses;
2. Foods and beverages sold in vending machines, snack bars, school stores, and concession stands;
3. Foods and beverages sold as part of school-sponsored fundraising activities;
4. Refreshments served at parties, celebrations, and meetings during the school day; and
5. Specify that its guidelines will be based on nutrition goals, not profit motives.

Nutrition and Physical Education

The School district will provide nutrition education aligned with standards established by the USDA's National School Lunch Program and School Breakfast Program in all grades. The school district will provide physical education training aligned with the standards established by the Department of Education. The wellness program coordinators, in consultation with the wellness committee, will develop procedures that address nutrition and physical education.

Nutrition Education

Goals

- Students in grades preK-12 receive nutrition education that is interactive and teaches the skills they need to adopt healthy eating behaviors.
- Nutrition education is offered in the school dining room as well as in the classroom, with coordination between

foodservice staff and teachers.

- Students receive consistent nutrition messages throughout schools, classrooms, cafeterias, homes, community and media.
- District health education curriculum standards and guidelines include both nutrition and physical education.
- Nutrition is integrated into the health education or core curricula (e.g., math, science, language arts).
- Schools link nutrition education activities with the coordinated school health program.
- Staff who provide nutrition education have appropriate training.
- Schools are enrolled as Team Nutrition Schools, and they conduct nutrition education activities and promotions that involve parents, students and the community.
- Strategies will be used to promote the nutrition and value of school meals, including (but are not limited to): students will have the opportunity to participate in various nutrition centered activities in the cafeteria (e.g., theme days) and periodic food promotions such as taste testing healthy new foods, to provide input about menu items, and to have a variety of healthy options offered.
- High school nutrition education may be supported by a school garden with a variety of items grown each year. This will be a joint effort that includes the garden club, special education classrooms, and other interested parties. Food from the garden will be used and promoted in the school nutrition program. The elementary schools will participate in the farm to classroom curriculum.

Physical Education Activities

Goals

- Students are given opportunities for physical activity during the school day through physical education (PE) classes, daily recess periods for elementary school students and the integration of physical activity into the academic curriculum.
- Students are given opportunities for physical activity through a range of before and/or after school programs including, but not limited to, intramurals, interscholastic athletics, and physical activity clubs. · Schools work with the community to create ways for students to walk, or bike safely to and from school. · Schools encourage parents and guardians to support their children's participation in physical activity, to be physically active role models, and to include physical activity in family events.
- Schools provide training to enable teachers, and other school staff to promote enjoyable, lifelong physical activity among students.
- Students are not allowed exemptions or substitutions for physical education unless they provide a medical statement. As physical activity is a priority, the school nurse will work with the PE teachers to allow as much inclusion in physical activity as possible. Medical exemptions and substitutions will be reassessed at least every semester.

Other School-Based Activities

Goals

- The school district provides a clean, safe, enjoyable meal environment for students.
- The school district provides enough space and serving areas to ensure all students have access to school meals with minimum wait time
- The school district makes provisions in all schools for students to get water at meals and throughout the day.
- The school district encourages all students to participate in school meals programs and protect the identity of students who eat free and reduced price meals.
- Environmentally-friendly practices such as the use of local grown and seasonal foods, and non-disposable tableware will be considered and implemented where appropriate.
- Physical activities and/or nutrition services or programs designed to benefit staff health will be considered and, to the extent practical, implemented.
- Schools in the district will develop joint-use agreements with community partners (e.g., Walking School Bus) in order to provide expanded opportunities for all students and community members.

Time to Eat

Goals

- The school district will ensure an adequate time for students to enjoy eating healthy foods with friends in schools.
- The school district will schedule lunch time as near the middle of the school day as possible.
- The school district will look into the feasibility of scheduling recess for elementary schools before lunch so that children will come to lunch less distracted and ready to eat.

Food or Physical Activity as a Reward or Punishment

Goal

- The school district will support principals in developing alternative forms of rewards and punishments that support the Wellness Policy.

Evaluation

1. The wellness committee will assess all education curricula and materials pertaining to wellness for accuracy, completeness, balance and consistency with the state and district's educational goals and standards. Wellness Program Coordinators shall be responsible for devising a plan for implementation and evaluation of the district wellness policy and are charged with operational responsibility for ensuring that schools met the goals of the district wellness policy. An assessment will be completed every three years and public updates will be provided. The district will promote the wellness policy to faculty, staff, parents/guardians and students by posting the policy on the district website. The triennial progress assessment/report will also be posted on the website to show progress towards compliance and achieving goals.
2. Wellness Program Coordinators will report to the School Committee annually.

SOURCE: MASC

LEGAL REFS: Local School Wellness Policy Implementation, Final rule July 29, 2016 Healthy Hunger Free Kids Act of 2010 (HHFKA)

The Child Nutrition and WIC Reauthorization Act of 2004, Section 204, P.K. 108-265 The Richard B. Russell National School Lunch Act, 42 U.S.C. 1755-1769h The Child Nutrition Act of 1966, 42 U.S.C. 1771-1789

CROSS REFS: EFC, Free and Reduced-Cost Food Services IHAMB, Teaching About Alcohol, Tobacco and Drugs KI, Public Solicitations/Advertising in District Facilities

Reviewed: September 8, 2021

Adopted: September 22, 2021

COMMITMENT TO ACCOMPLISHMENT

The School Committee accepts ultimate responsibility for all facets of school operations. Because it is accountable to residents of the District, the School Committee will maintain a program of accountability consisting of the following elements:

- Clear statements of expectations and purpose as these relate to operations, programs, departments, and positions.
- Provisions for the staff, resources, and support necessary to achieve stated expectations and purposes, subject to financial support by residents of the District.
- Evaluation of operations and instructional and staff development programs to determine how well expectations and purposes are being met.
- Specific performance objectives to enable individuals to direct their own efforts to the goals and objectives of the District.
- Evaluation of the efforts of employees in line with stated objectives, with the first purpose of evaluation being to help each individual make a maximum contribution to the goals of the District.

Every effort will be made by the School Committee, Superintendent, and staff to fulfill the responsibilities inherent in the concept of accountability.

SOURCE: MASC

Reviewed: 9/25/2019

Adopted: 10/9/2019