

STOUGHTON PUBLIC SCHOOLS

GUIDELINES FOR CIVIL RIGHTS / ADA REPRESENTATIVES

The Stoughton Public Schools is committed to providing a safe and secure learning environment for all its students and employees regardless of race, color, religion, age, ethnicity, national origin, gender, gender identity or expression, sexual orientation, disability, limited English proficiency, pregnancy, or pregnancy related condition, or homelessness. Discrimination, sexual and bias-motivated harassment, and violations of civil rights disrupt the educational process and will not be tolerated. It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel to engage in sexual or bias related harassment or violate the civil rights of any pupil, teacher, administrator, or other school personnel. Conduct amounting to hate crime is a particularly serious infraction that will result in referral to law enforcement agencies.

The Stoughton Public Schools will act to investigate all complaints, either formal or informal, verbal or written, of sexual or bias-related harassment or violations of civil rights and to take appropriate action against any pupil, teacher, administrator, or other school personnel who is found to have violated this policy.

Civil Rights Representatives are responsible for:

- Being able to demonstrate a comprehensive understanding of an individual's civil rights, and identify conduct and activities prohibited by the various civil rights Laws, regulations, and policies provided in this document.
- Being available to receive reports of civil rights violations from students, faculty, and other administrators.
- Responding promptly to a report of a civil rights violation by intervening if possible, ensuring that students and faculty are safe and free from discrimination / harassment, and by starting an investigation (See Appendix One).
- Putting a stop to ongoing discrimination / harassment immediately and effectively, and refer victims to support services and resources available in the area.
- Taking remedial, corrective, and disciplinary action as the circumstances established by the investigation, school policies, handbooks, etc., warrant.
- Taking steps to avert retaliation against students or faculty members who report civil rights violations, and act immediately to ensure student or faculty are safe and free from subsequent harassment.
- Communicating and coordinating efforts with police, as necessary, develop a working partnership with police officers assigned to schools and civil rights issues.

- Undergoing training, as necessary, to maintain their knowledge of civil rights issues as they affect schools, students, and faculty members.

IDENTIFICATION OF PROHIBITED CONDUCT – AS PROVIDED BY THE OFFICE OF THE MASSACHUSETTS ATTORNEY GENERAL

Bullying

Bullying is a repeated pattern of behavior directed at a victim that results in any of the following:

- Physical or emotional harm or reasonable fear of harm;
- Damage to personal property;
- A hostile environment at school for the victim; or
- Disruption of the education process or orderly operation of a school.

Bullying can take many forms, including verbal statements, writings, e-mails, text messages, on-line postings, and physical acts or gestures. It can be carried out by one or more students. Sometimes bullying is targeted at a particular student because of his or her race, color, religion, national origin, ethnicity gender, gender identity, sexual orientation, or disability – but it does not have to be. Under the state anti-bullying law, M.G.L. c. 71, § 37O, all schools are required to implement procedures for investigating and responding to reports of bullying. In certain circumstances, schools may be required to notify the parents of the students involved, or local police. The law also requires training for teachers, staff, and students about bullying prevention.

Discrimination

Every student is entitled to equal educational opportunities. A student may not be subjected to discipline or more severe punishment for wrongdoing nor denied the same rights as other students because of his or her race, color, religion, national origin, ethnicity, gender, gender identity, sexual orientation, pregnancy, pregnancy related condition, or disability, including in:

- Course registration;
- Guidance counseling and course instruction; and
- Extracurricular activities and athletic programs.

Students may not be denied registration in public schools on the basis of their own citizenship or immigration status, or that of their parents or guardians. Under state and federal law, students with disabilities are protected from discrimination and are eligible for reasonable

accommodations or modifications in the school environment so that they may enjoy equal access to educational opportunities.

Hate Crimes

Students have the right to attend school without being the victim of physical violence, threats of harm, intimidation, or damage to their personal property. A hate crime has occurred when a student is targeted for physical assault, threat of bodily harm, or intimidation, at least in part because of his or her race, color, religion, ethnicity, national origin, gender, gender identity, sexual orientation, or because he or she has a disability. Certain types of language or conduct may indicate that a hate crime has occurred. Some indicators that a crime was hate-motivated include:

- Use of racial, ethnic, religious, sexual, or anti-gay slurs;
- Use of symbols of hate, such as a swastika or a burning cross;
- Similar behavior by the wrongdoer towards other students from the same racial, ethnic, or religious group or against students of the same sexual orientation, gender identity or gender; and
- The victim was participating in an activity supporting a particular racial, religious, ethnic/national origin, disability, gender, gender identity, or sexual orientation.

The Massachusetts Civil Rights Act, M.G.L. c. 12, § 11, permits a victim and the Attorney General to seek a civil rights injunction on behalf of any victim of bias-motivated violence, threats, or intimidation.

Harassment

Harassment in school occurs when a student's or an adult's behavior or inappropriate language creates a hostile, offensive, or intimidating school environment. A single incident, depending on its severity, may constitute illegal harassment. A hostile, offensive, or intimidating school environment may be created by the following:

- Degrading, demeaning, insulting, or abusive verbal statements, or writings of a sexual or racial nature, or related to a student's race, color, religion, national origin, ethnicity, gender, gender identity, sexual orientation, or disability;
- Graffiti, slogans, or other visual displays which contain racial, ethnic, or religious slurs or insults based on the student's gender, gender identity, sexual orientation, or disability;
- Treatment of a student in a more or less favorable way because the student submitted to or rejected sexual advances or requests for a social relationship; and

- Unwelcome sexual advances, including same-gender harassment.

The laws regarding harassment and discrimination are complex. For more information, please consult applicable state and federal anti-discrimination laws, including, the Massachusetts Student Anti-Discrimination Act (M.G.L. c. 76, § 5), Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and Title IX of the Education Amendments Act of 1972

IDENTIFICATION OF PROHIBITED CONDUCT – AS PROVIDED BY FEDERAL LAW

Title VI of the Civil Rights Act of 1964.

Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance.

- Title VI applies to students, parents, and employees.
- Title VI prohibits discrimination in student class assignments or ability tracking, and protects English language learners.

Title IX of the Education Amendments of 1972, as amended.

Title IX prohibits discrimination on the basis of sex in education programs or activities receiving financial assistance from the government, inclusive of K 12 schools. Districts are required to have a Title IX Coordinator and respond to allegations of Title IX violations, investigating allegations as required by / in accordance with Title IX regulations. The U.S. Department of Education’s Office for Civil Rights enforces Title IX.

Title IX Definition of Sexual Harassment

Title IX defines “sexual harassment” as “conduct on the basis of sex that satisfies one or more of the following:”

- 1) A school employee conditioning a school aid, benefit or service on participation in unwelcome sexual conduct [“*quid pro quo*” harassment];
- 2) Unwelcome conduct reasonably determined to be so “severe, pervasive, and objectively offensive” that it “effectively denies” a person equal access to a school education program or activity;
- 3) “Sexual assault” The term “sexual assault” means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

- 4) "Dating violence" The term "dating violence" means violence committed by a person:
 1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. The length of the relationship.
 - b. The type of relationship.
 - c. The frequency of interaction between the persons involved in the relationship
- 5) "Domestic violence" The term "domestic violence" includes felony or misdemeanor crimes 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 receiving grant monies, or 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; or
- 6) "Stalking" The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 1. fear for his or her safety or the safety of others; or
 2. suffer substantial emotional distress.

Obligation to Respond

Schools must "respond promptly" in a meaningful way, and may not be "deliberately indifferent," offering "supportive measures," upon "actual knowledge" of an allegation of sexual harassment / sexual assault occurring under a school's "substantial authority."

Key Definitions Informing Response:

- **"Actual Knowledge"** standard: defined as notice to any employee of a K-12 school, regardless of the employee's position or whether a formal complaint is made (other than when the only employee with knowledge is the respondent);
 - *Anyone may report sex discrimination, inclusive of sexual harassment / sexual assault, to a school in any manner.*
 - *All faculty and staff must inform the Title IX Coordinator immediately of any alleged misconduct, even if uncertain whether the conduct occurred or requires a response.*
- **"Consent" relative to sexual assault:** schools should consider how consent will be defined in this context;

- **“Deliberately Indifferent”**: in a manner that is not clearly unreasonable in light of the known circumstances;
 - *At a minimum, the Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, with or without filing a formal complaint, and to explain the process for filing a formal complaint.*
- **“Prompt”/ “Promptly”**: Schools should respond and provide appropriate supports as soon as possible; and
- **“Substantial Authority”**: Reference to substantial school authority over the alleged perpetrator and over the context in which the alleged conduct occurred.
- **“Supportive Measures”**: Are defines as “non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed”. Supportive measures should be “designed to restore or preserve equal access to the [school’s] education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the [school’s] educational environment, or deter sexual harassment.” Some examples include counseling, extensions of course-related deadlines, modification to class schedules, restrictions on contact between the parties, and other similar measures.

Note: A school’s Title IX Coordinator is responsible for coordinating and implementing supportive measures, which should be confidential to the extent possible.

Note: Schools are not required to respond to alleged conduct occurring off school grounds and outside of a school program or activity if the conduct is not otherwise under the school’s “substantial authority.”

Note: Schools are not required to respond to alleged conduct occurring outside of the U.S. (e.g., a trip abroad).

Initial District Response

The District’s Title IX Coordinator will respond promptly and equitably to any verbal or written report or disclosure of alleged sexual harassment received from any source, including personal observation, that provides a District employee notice of the alleged conduct. The Coordinator will address anonymous reports if there is an identifiable party.

Upon receipt of a report alleging sexual harassment, the District’s Title IX Coordinator will promptly contact the complainant, when identified, to offer supportive measures and interact with the complainant to:

1. Provide information about supportive measures;

2. Discuss the availability of supportive measures;
3. Consider the complainant's wishes concerning supportive measures;
4. Explain to the complainant the process for filing a formal complaint under Title IX; and
5. Provide each complainant with a copy of the District's Title IX formal complaint process.

Note: The Title IX Coordinator will document whether a complainant elects to accept or decline the supportive measure or measures offered.

Note: The Title IX Coordinator's initial response and interaction may be directed solely at the parent of the alleged victim, when appropriate based on the circumstances.

Response vs. Investigation

A school is required to conduct an investigation, and follow a fair grievance process in compliance with 34 C.F.R. §106.45, *only* when a formal complaint is filed (by student, parent/guardian, or Title IX Coordinator) when the complainant is participating in or attempting to participate in the school's education program or activity.

Note: Regardless of whether a formal complaint is filed, or whether a duty to conduct an investigation exists, the Title IX Coordinator is required to respond promptly in a meaningful way by:

- offering supportive measures to both the complainant and the respondent;
- notify the complainant of their right to file a complaint; and
- explain to the complainant on how to file a complaint.

Formal Complaint

A "Formal complaint" is defined as "a document or electronic submission" signed (physically or electronically) by a complainant (a parent/guardian may sign/file on a student's behalf), or by the Title IX Coordinator, alleging sexual harassment against a respondent and requesting a school investigation, filed in person, by mail, by electronic mail, or by online portal provided for this purpose, using Title IX Coordinator contact information.

Note: A complainant must be participating in or attempting to participate in an education program or activity of the school at the time that the formal complaint is filed.

Note: If the conduct alleged would not constitute sexual harassment under Title IX if proved, did not occur as part of an education program or activity, or did not occur in the United States, the institution must dismiss the formal complaint for the purposes of sexual harassment under Title IX, but the dismissal does not preclude the institution from taking action under its code of conduct or policies.

Note: The school / District may, at their discretion, dismiss a formal complaint or allegations therein if:

1. the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein,
2. if the respondent is no longer enrolled or employed by the institution,
3. or if specific circumstances prevent the institution from gathering evidence sufficient to reach a determination as to the formal complaint.

Informal Resolution Options

A school may, in its discretion, choose to offer and facilitate resolution options, such as mediation or restorative justice, in any formal investigation with the parties' voluntary, informed, written consent. Waiver of the right to a formal investigation or adjudication of a formal complaint of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, is prohibited. Informal resolution is not available to resolve allegations where an employee sexually harassed a student.

Note: Offering to facilitate an informal resolution process is prohibited unless a formal complaint has been filed.

Emergency Removal / Administrative Leave

Title IX does not prohibit immediate emergency removal of a student from a program or activity if the school has conducted an individualized safety/risk analysis and determines that emergency removal is necessary due to "an immediate threat to physical health or safety."

- A respondent must be provided with notice and an opportunity to challenge immediately following an emergency removal decision.
- Title IX does not preclude placing an accused employee on administrative leave during a pending fair grievance process.
- An emergency removal could constitute a change in placement for a special education student; consult with special education staff and counsel as needed.

Fair Grievance Process (see Appendix Eight)

Upon receipt of a formal complaint, a school is required to provide opportunity for a fair, impartial and equitable grievance process in compliance with 34 C.F.R. §106.45(b).

The District / schools must:

- Give complainants and respondents written notice of allegations and grievance process, stating that respondent is presumed innocent, and informing parties of an equal opportunity to choose an advisor (advisor may be, but is not required to be, an attorney);
- Describe available supportive measures (available to respondents as well as to complainants);

- Describe possible disciplinary sanctions and remedies;
- State the standard of evidence to be used – which is the “preponderance of the evidence” standard;
- Provide equal opportunities for parties to present witnesses and to gather, inspect and present evidence, and to file written responses;
- Objectively evaluate all relevant evidence;
- Not require, allow or rely upon privileged information, unless privilege is waived in writing by the holder;
- Provide an investigative report summarizing relevant evidence to each party, at least ten (10) days prior to a hearing (if a hearing will be held) or a determination of responsibility, for the parties’ review and written response;
- Objectively evaluate all relevant evidence, without basing credibility determinations on status as complainant, respondent or witness;
- Requires that the Title IX Coordinator, investigator, decision-maker, or facilitator of informal resolution: does not have a conflict of interest or bias, receives proper trainings, and does not rely on stereotypes; protect complainants from inappropriately being asked about prior sexual history; and
- Include a “reasonably prompt” time frame for conclusion of the grievance process or informal resolution process, and for filing and resolving appeals; provide notice of and reason for any good cause delays

Note: A complainant must not be coerced into a particular course of action or participation in the grievance process

Note: A respondent must be presumed innocent unless and until a decision-maker finds otherwise; a transparent grievance process must be followed prior to school imposition of any discipline

Note: The burdens of proof and sufficient investigation lie on the school, not on the parties

Note: Retaliation for reporting sexual harassment, participating in a grievance process or refusing to participate in a grievance process is prohibited.

Live Hearings / Cross Examination

K-12 schools are *NOT* required to hold live hearings.

- The OCR discussion regarding live hearings states:
 “local school officials . . . could determine that their educational community is best served by holding live hearings for high school students, for students above a certain age, or not at all,” provided that the decision whether to hold a hearing is equitably made.

- Forgoing live hearings is advisable, particularly so with young students, to avoid discomfort, which can rise to level of victim trauma, associated with live cross-examination.
- Regardless of whether a live hearing is held, schools must allow parties to submit written questions for other parties and witnesses to answer, and allow limited follow up questions.
- With or without a hearing, after the school has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

Evidentiary Standards

The Stoughton Public Schools has elected to utilize the “preponderance of the evidence” (meaning “more likely than not”) evidentiary standards to apply relative to Title IX determinations.

Decision-Maker / Determination

A decision-maker cannot be the same person as the Investigator or the Title IX Coordinator; a single investigator process is not permitted.

- A decision-maker must issue a written determination to the parties simultaneously, explaining procedures, conclusions, and rationale for the determination.
- A school, through its Title IX Coordinator(s), must effectively implement remedies “designed to restore or preserve equal access” to the education program or activity for a complainant if a respondent is ultimately found to be responsible.

Appeal

Schools must offer each party equitable appeal opportunities and inform all parties of bases for appeal and appeal procedures, in accordance with 34 C.F.R. §106.45(b)(8).

- Schools are required to offer both parties opportunity to appeal based on a procedural flaw, new evidence, and/or conflict/bias;
- Schools are permitted but not required to offer both parties the opportunity to appeal on unspecified “additional bases”;
- Consistency is required with all opportunities for appeal and appeal procedures;
- When an appeal is filed, the other party must be notified in writing; a written appeal decision must be provided simultaneously to both parties, describing the result and rationale; and

- The appeal decision-maker may not be the determination decision-maker, the investigator(s) or the Title IX Coordinator.

Documentation / Recordkeeping

Districts must document and keep records of all sexual harassment reports and investigations, for a minimum of seven (7) years, and must keep records of all Title IX training materials for a minimum of seven (7) years.

Section 504 of the Rehabilitation Act of 1973, as amended.

Section 504 prohibits discrimination against people with disabilities in programs that receive federal financial assistance.

- Provides that no qualified disabled person shall be discriminated against or be excluded from participation in an activity.
- A disability under Section 504 is a mental or physical impairment that limits a person's major life activities (self-care, walking, seeing, hearing, learning, breathing, speaking, thinking, concentrating, and reading).
- The ADAAA amended both the ADA and Section 504 to more broadly construe the definition of disability.
- Reasonable accommodations must be made to provide access to programs and/or facilities.
- When a student has a 504 Accommodation Plan, it is the responsibility of all educators who work with that student to provide the accommodations.
- Note: Case law suggests that educators who do not provide accommodations listed in 504 plans may be personally liable for failing to do so.

Age Discrimination Act of 1975.

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.

Title II of the Americans with Disabilities Act of 1990 (ADA) and the Americans with Disabilities Amendments Act of 2008 (ADAAA)

The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

- The ADA requires the District to provide reasonable accommodations or modifications to ensure access to programs and facilities, a free appropriate public education for elementary and secondary students, and nondiscriminatory employment practices.
- The ADA applies to special education services, evaluations, Individual Education Plans (IEPs), and student discipline.
- It is the responsibility of all educators who work with a student on a 504 plan or an IEP to provide the plan's accommodations and/or modifications - this is a legal requirement.

IDENTIFICATION OF PROHIBITED CONDUCT – AS PROVIDED BY MASSACHUSETTS GENERAL LAW

M.G.L. c. 76 § 5: Place of attendance; violations; discrimination

Section 5. Every person shall have a right to attend the public schools of the town where he actually resides, subject to the following section. No school committee is required to enroll a person who does not actually reside in the town unless said enrollment is authorized by law or by the school committee. Any person who violates or assists in the violation of this provision may be required to remit full restitution to the town of the improperly-attended public schools. 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 or sexual orientation.

- Severe or pervasive harassment unlawfully denies a student the “advantages and privileges” of school, creating a hostile, humiliating, intimidating, and offensive educational environment.
- Gender Identity is defined as a person's gender-related identity, appearance or behavior, whether or not that gender related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. (603 CMR 26.01, Acts of 2011, Session Law 199)
- Schools must respect and accommodate a student's gender identity, so long as it is a “sincerely held belief.”
- According to DESE, the student and/or parent should be given broad discretion to demonstrate the student's gender identity, including confirmation of a student's

asserted gender identity by a parent, health care provider, school staff member familiar with the student, clergy member, coach or family member. The has specifically provided guidance in the following areas:

- **Student Records**

A district must keep confidential a student's birth sex, name change for gender identity purposes, gender transition, and any medical or mental health treatment related to gender identity.
- **Addressing Students**

School personnel should refer to the student based on his or her chosen name. A student's teacher(s) should ensure that the class uses the proper pronoun (he or she) to refer to the student based on his or her gender identity.
- **Restrooms, Locker Rooms, and Changing Facilities**

A student must be provided access to the facilities that correspond with his or her gender identity. Students who are not comfortable using these facilities should be provided with access to a unisex bathroom or a reasonable accommodation to help the student feel comfortable.
- **Sex Segregated Classes/Activities**

In schools where there are sex-segregated classes or athletic activities, a student must be allowed to participate consistent with his or her gender identity.

IDENTIFICATION OF PROHIBITED CONDUCT – AS PROVIDED BY MASSACHUSETTS REGULATIONS

603 CMR 26:00: Access to Equal Educational Opportunity (See Appendix Two)

DESE promulgated 603 CMR 26.00 to ensure that Massachusetts public schools do not discriminate against students on the basis of race, color, sex, gender identity, religion, national origin, or sexual orientation, and that all students have equal rights of access and equal enjoyment of the opportunities, advantages, privileges and courses of study at such schools.

The obligation to comply with 603 CMR 26.00 is not obviated or alleviated by any local law or rule or regulation of any organization, club, athletic or other league or association that would limit the eligibility or participation of any student on the basis of race, color, sex, gender identity, religion, national origin, or sexual orientation.

IDENTIFICATION OF PROHIBITED CONDUCT – AS PROVIDED BY STOUGHTON SCHOOL COMMITTEE POLICY

SPS SC Policy AC – Nondiscrimination (See Appendix Three)

Provides that 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, pregnancy or pregnancy related conditions, homeless status, religion, national origin, sexual orientation or disability.

SPS SC Policy GBA - Equal Employment Opportunities (See Appendix Four)

Applicants or employees are hired, assigned, and promoted without regard to their race, color, religion, national origin, sex, gender identity, pregnancy or pregnancy related conditions, homeless status, sexual orientation, age, genetic information, ancestry, military status, or disability.

SPS SC Policy JB - Equal Educational Opportunities (See Appendix Five)

No child shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and course of study of such public school on account of race, color, sex, gender identity, pregnancy or pregnancy related conditions, religion, homeless status, national origin or sexual orientation.

SPS SC Policy ACAB – Harassment (See Appendix Six)

Harassment of students by other students, employees, vendors and other third parties will not be tolerated in the Stoughton Public Schools. This policy covers conduct that occurs on school property, on school buses, or otherwise during a school program or activity, including conduct occurring at a location or under circumstances where the school owned, or substantially controlled the premises, exercised oversight, supervision or discipline over the location or participants, or funded, sponsored, promoted or endorsed the event where the alleged harassment occurred. Harassment prohibited by the District includes, but is not limited to, harassment on the basis of race, sex, gender identity, creed, color, national origin, sexual orientation, religion, marital status or disability. Students whose behavior is found to be in violation of this policy will be subject to disciplinary action up to and including suspension or expulsion pursuant to disciplinary codes. Employees who have been found to violate this policy will be subject to discipline up to and including, termination of employment, subject to contractual disciplinary obligations.

Appendix One – Administrative Investigation Guidelines

In every investigation conducted by the school department, the burden is on the school – not the parties – to gather sufficient evidence to reach a fair, impartial determination as to what occurred.

An equitable investigation requires an investigator to analyze and document the available evidence to support reliable decisions, objectively evaluate the credibility of parties and witnesses, synthesize all available evidence—including both inculpatory and exculpatory evidence—and take into account the unique and complex circumstances of each case.

Investigative Guidelines

1. Define the problem and determine whether an investigation is necessary.

The decision to conduct an investigation can depend on a variety of considerations, such as the seriousness of the allegations, the number of employees involved, and whether the full extent of the wrongdoing is known. Even if an employee complains but then asks the administration not to take action, it's always better to investigate to avoid liability than have to explain why an investigation wasn't conducted.

2. Ensure confidentiality to the extent possible.

The District must protect the confidentiality of employee claims to the best of its ability. At the same time, the District has to conduct a prompt and effective investigation. Therefore, it may not be possible to keep all information gathered in the initial complaint, such as interviews and records, completely confidential. The District should explain to the complaining party and all individuals involved in the investigation that all information gathered will remain confidential to the extent possible for a thorough investigation. It should also be explained that to conduct a prompt and effective investigation, some information will be revealed to the accused and potential witnesses, but that information will be shared only on a “need to know” basis. A representative of the District should never promise absolute confidentiality to any party involved in the investigation.

3. Determine whether interim relief is necessary.

Taking action before the investigation is complete may be necessary for health or safety reasons, or in situations that are very disruptive or emotionally charged. Suspension, temporary transfers, reassignments, or paid leave are examples of interim relief Administration can use when necessary.

4. Review the School Committee policies, handbooks, as well as State and Federal laws and regulations to determine what pertains to the issue.

School Committee policies, State and Federal laws and regulation, as well as the employee hand books form the basic set of expectations that must be adhered to by an individual who is employed by a public-school district. Once the policy or legal issues are outlined, the investigation can be tailored to obtain relevant information.

5. Review potential legal issues.

Administration should know whether the investigation is required by law or subject to specific legal requirements (i.e. Weingarten). If so, there may be well defined expectations set forth in the law or corresponding regulation(s) (i.e. Bullying Law) that must be met or may dictate specific actions or considerations. Administration may want to contact their legal counsel to make sure they've considered all areas of potential liability.

6. Determine who should conduct the investigation.

Generally, it's better if the investigator is someone not too closely involved in the situation. Having two investigators is often helpful so that one person can take notes during witness interviews and the other can focus on questions and follow-up inquiries. The second investigator can also serve as a witness to confirm events or statements that occurred during the interviews.

Note: When taking notes, it is important to write down only the facts. It is acceptable to note body language or to document a nervous witness; however, avoid inserting assumptions, feelings, interpretations, frustrations or premature conclusions.

7. Develop an outline of how the investigation will proceed, to include maintaining a record of all statements, interviews, documents, and evidence.

8. Determine the time and place to conduct investigation.

The investigation should start promptly after the alleged problem is discovered or reported. Interviews should be held in a private area where witnesses feel comfortable about disclosing information. Obtaining as much relevant information as possible will help the investigator get a complete picture of the facts.

9. Collect and review physical evidence.

Request, review, and catalog emails, video surveillance footage, and any other physical evidence that may directly or indirectly relate to the investigation. Evidence that may be provided by an individual that will be interviewed as part of the investigation should be requested at the conclusion of the interview.

10. Interview individuals with knowledge of facts.

It's important to determine the kind of information that will be important to the investigation, and prepare talking points and interview questions in advance so that there's thorough coverage of the issues. The prepared materials can also serve as good documentary evidence of the investigation. Administration can request - but should not require - a written complaint or statement from the complaining student / employee. A written statement can help avoid problems if the person's story starts to change as individual events unfold. The general interview process should be based on the 5W's + H approach: Who, What, Where, When, Why, and How. A good approach is to ask open-ended questions that invite a person to provide information, listen carefully to the responses, and follow up with narrower questions. It's important to remember to ask each person to provide any related documents they have, including e-mails and other electronic documents.

Note – Disclosure of facts and allegations by the Investigator to persons interviewed will be limited to what is reasonably necessary to complete a fair and thorough investigation.

Interview should proceed in the following order:

a. Meet with the individual who reported the misconduct.

Sample Questions for the Complainant / Reporter

- What happened that brings you here today?
 - Who said what to whom?
 - Who did what to whom?
- When did this occur? Be specific, date, time, period.
- Where did this occur? Where in the hallway / cafeteria / classroom?
- Who else was there when this happened? Students? Staff? Names and positions / grades.
- If physical evidence exists, get copies.
 - Who posted? Where are the emails? Who does this email address / username belong to? It may be appropriate for the individual to use a computer or Smartphone in your office to produce evidence.
- Did you tell anyone about this close in time to when the incident happened? Who? What did you tell them?
- If complainant is the alleged victim, as about comfort level / safety of the alleged victim during the investigation. Assess whether safety planning is appropriate.

b. Meet with witnesses individually

Sample Questions for Witnesses

- Are you aware of an incident that occurred on X date between A and B?
- How are you aware of the incident?
- What did you see?
- Who did what?
- What did you hear? Who said what?
- Who else was there? Students? Staff?
- Where were you? Where were the others?
- Did you report this to anyone?
 - If yes, ask to whom and when.
 - If no, ask why not.

Note – Employees who are being questioned as witnesses do not have the right to union representation / legal counsel except if the employee may be subject to discipline.

Note – Unionized employees who may be subject to discipline have the right to have their union representative present (Weingarten)

c. Meet with employee reported to have engaged in the misconduct

i. Notice of Investigatory Meeting with Employee

Include:

- Notice of allegation against employee.
- Date, time, location for investigatory meeting.
- Statement that employee may be accompanied by his / her union representative and / or legal counsel.

ii. Investigatory Meeting with the Employee

Provide the employee with the opportunity to:

- respond to the allegations,
- provide you with additional information, and

- identify additional witnesses.

Note – It is important not to accuse the employee of the allegation or engage in any line of questioning that would indicate that the investigation has already drawn a conclusion in the matter at the investigatory meeting.

Note – If the employee was on administrative leave, at the end of the meeting, inform employee that she / he will remain on administrative leave pending a decision. Warn the employee about not retaliating against anyone who reported the misconduct or who cooperated in the investigation.

Note - M.G.L. c. 71§ 42D states: “No teacher shall be interrogated prior to any notice given to him relative to the suspension unless the teacher or other employee is notified of his right to be represented by counsel during any such investigation.”

Note – If the employee was on administrative leave, at the end of the meeting, inform employee that she / he remains on administrative leave pending a decision. Warn the employee about not retaliating against anyone who reported the misconduct or who cooperated in the investigation.

11. Draw conclusions and make a finding.

Once interviews are completed, the investigating office(s) must make a series of credibility determinations by reviewing the logic and consistency of each witness account, deciding what makes sense, and verify the agreement of the witness statements with the evidence that has been collected. Once this process has been completed, the investigator(s) must draw a conclusion and make a recommendation. The conclusion and subsequent recommendation should rely on the facts, take into consideration any applicable laws, regulations, and/or policies, and be fair and reasonable.

12. Closure of the Investigation.

Once a conclusion has been reached, the investigating officer should notify both the individual issuing the complaint and the accused of their findings. It is important to let the complainant know that the organization took the allegations seriously, and when necessary took the appropriate action(s). The investigator should seek to ensure the complainant agrees that he or she has been properly heard and understood, even if he or she is not in agreement with the results of the investigation. The investigator should set a time frame to follow up with the complainant to ensure there are no other issues and that he or she is settling back into the work environment. Finally, the investigator should remind all parties to preserve confidentiality as appropriate.

When necessary, the District must take corrective action that is appropriate to the situation, such as discipline or even termination. If the investigator has the authority to take action in

the matter, clarification of professional expectations, individual or systemic corrective actions, and/or discipline may be included when closing an investigation. If the investigator does not have the positional authority to take action in a matter, a written summary will be provided to the Principal with authority of the individual(s) involved, the Deputy Superintendent, and the Superintendent of Schools.

13. Develop a written summary of the investigation results.

As the District operates on the premise that every investigation of a serious nature could potentially be heard and reviewed by a court, the investigator(s) must prepare and submit a final investigative report. The report should provide a clear paper trail of the evidence, to include examining documentation of previous employee behavior and incidents. The investigator should have a clear record of everything done and any findings as well as other steps taken during the investigation. The investigator(s) should also document the interviews with the accused, the accuser and witnesses. Investigators should ensure their notes from interviews are as factual as possible, contain as much relevant information as possible, are dated and indicate the duration and time of the interviews.

The final report should summarize the following:

- The incident or issues investigated, including dates.
- Parties involved.
- Key factual and credibility findings, including sources referenced.
- District policies or guidelines and their applicability to the investigation.
- State and Federal laws and regulation and their applicability to the investigation
- Specific conclusions and the overall finding.
- Issues that could not be resolved and reasons for lack of resolution.
- District actions taken, if applicable.

The goal of the final investigative report is to ensure that if a court, jury or government agency were to review it, the reviewers would conclude that the District took the situation seriously, responded immediately and appropriately, and had a documented good-faith basis for any actions taken during or as a result of the investigation.

Appendix Two – 603 CMR 26.00: Access to Equal Educational Opportunity

Most recently amended by the Board of Elementary and Secondary Education: June 26, 2012

26.01: Purpose and Construction; Definition

(1) 603 CMR 26.00 is promulgated to ensure that the public schools of the Commonwealth do not discriminate against students on the basis of race, color, sex, gender identity, religion, national origin, or sexual orientation, and that all students have equal rights of access and equal enjoyment of the opportunities, advantages, privileges and courses of study at such schools. 603 CMR 26.00 shall be liberally construed for these purposes.

(2) The obligation to comply with 603 CMR 26.00 is not obviated or alleviated by any local law or rule or regulation of any organization, club, athletic or other league or association that would limit the eligibility or participation of any student on the basis of race, color, sex, gender identity, religion, national origin, or sexual orientation.

(3) For purposes of 603 CMR 26.01, gender identity shall mean a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.

26.02: School Admissions

(1) All public schools in the Commonwealth shall admit students without regard to race, color, sex, gender identity, religion, national origin, or sexual orientation. This includes, but is not limited to charter, elementary, secondary, trade, regional vocational-technical schools and selective academic high schools.

(2) No school shall discourage in any express or implied manner, applicants for admission because of race, color, sex, gender identity, religion, national origin, or sexual orientation. Written materials and other media used to publicize a school shall specifically affirm that the school does not discriminate on the basis of race, color, sex, gender identity, religion, national origin, or sexual orientation.

(3) The national citizenship of any applicant shall not be a criterion for admission to any public school nor shall national citizenship be a factor in the assignment or availability of courses of study or extra-curricular activities.

(4) Any standards used as part of the admissions process, including but not limited to testing, the use of recommendations and interviewing, to any public school (as referred to in 603 CMR 26.02 (1)) shall not discriminate on the basis of race, color, sex, gender identity, religion, national origin, or sexual orientation. A student's limited English-speaking ability (as defined by M.G.L. c. 71A) shall not be a deterrent to or limitation on a student's admission to a public school.

(5) In determining whether a student satisfies any criteria for admission to selective academic high schools, regional vocational technical schools, trade schools and charter schools, or in making any offer of admission to such a school, public school officials shall not treat a student differently from another based on the student's race, color, sex, gender identity, religion, national origin, or sexual orientation. Public schools shall not use admission criteria that have the effect of subjecting students to discrimination because of their race, color, sex, gender identity, religion, national origin, or sexual orientation.

(6) Nothing in 603 CMR 26.00 shall control the interpretation of or interfere with the implementation of M.G.L. c. 71, § 37C and related statutes, providing for the elimination of racial imbalance in public schools, or M.G.L. c. 71A, providing for the establishment of transitional bilingual education programs in public schools, all rules and regulations promulgated in respect thereto and all court and administrative decisions construing or relating thereto.

26.03: Admission to Courses of Study

(1) All courses of study offered by a public school shall be open and available to students regardless of race, color, sex, gender identity, religion, national origin, or sexual orientation.

(2) A public school shall determine what courses or units of study are required of a student without regard to the race, color, sex, gender identity, religion, national origin, or sexual orientation of that student.

(3) A public school shall not schedule students into courses or units of study on the basis of race, color, sex, gender identity, religion, national origin or sexual orientation.

(4) No student, on the basis of race, color, sex, gender identity, religion, national origin, limited English-speaking ability or sexual orientation, shall be discriminated against in accessing the courses of study and other opportunities available through the school system of the city or town in which he or she resides.

(5) Nothing in 603 CMR 26.03 shall be construed to prevent schools from providing separately to each sex those segments of a program of instruction dealing exclusively with human sexuality.

26.04: Career and Educational Guidance

(1) Guidance counselors and other personnel shall represent to students a broad spectrum of education and career opportunities. School personnel shall not present race, color, sex, gender identity, religion, national origin or sexual orientation as limiting factors in career determination.

(2) No materials, tests or procedures shall be employed for guidance purposes that discriminate and/or limit choices on the basis of race, color, sex, gender identity, religion, national origin or sexual orientation.

26.05: Curricula

(1) All public-school systems shall, through their curricula, encourage respect for the human and civil rights of all individuals regardless of race, color, sex, gender identity, religion, national origin or sexual orientation.

(2) Teachers shall review all instructional and educational materials for simplistic and demeaning generalizations, lacking intellectual merit, on the basis of race, color, sex, gender identity, religion, national origin or sexual orientation. Appropriate activities, discussions and/or supplementary materials shall be used to provide balance and context for any such stereotypes depicted in such materials.

(3) Each school shall provide equal opportunity for physical education for all students. Goals, objectives and skill development standards, where used, shall neither be designated on the basis of sex, nor designed to have an adverse impact on members of either sex.

26.06: Extra-Curricular Activities

(1) Advantages and privileges of public schools include all extra-curricular activities made available, sponsored or supervised by any public school. No school shall sponsor or participate in the organization of outside extra-curricular activities conducted at such school that restrict student participation on the basis of race, color, sex, gender identity, religion, national origin or sexual orientation. 603 CMR 26.06 (1) does not prohibit school committees from allowing use of school premises by independent groups with restrictive membership.

(2) No student shall be denied the opportunity in any implied or explicit manner to participate in an extra-curricular activity because of the race, color, sex, gender identity, religion, national origin or sexual orientation of the student except as provided in 603 CMR 26.06(5). Participation in extra-curricular activities shall be actively encouraged by each school for all students regardless of race, color, sex, gender identity, religion, national origin or sexual orientation.

(3) Each school system shall provide equal opportunity for male and female students to participate in intramural and interscholastic sports.

(4) In order to provide equal athletic opportunity, public schools that operate or sponsor intramural or interscholastic sports teams shall ensure that budgetary allocations and the provision of athletic activities and services are fairly distributed between students of both sexes based upon student interests and abilities.

(5) A school may establish or sponsor separate teams for males and females for interscholastic and intramural competition in a particular sport where selection for the team is based upon competitive skill provided that the requirements of 603 CMR 26.06(6) are satisfied. A student shall have the opportunity to participate on the team that is consistent with the student's gender identity.

(6) Teams comprised primarily or solely of students of one sex shall be granted equal instruction, training, coaching, access to available facilities, equipment and opportunities to practice and compete as teams engaged in a similar activity comprised primarily or solely of students of the opposite sex.

26.07: Active Efforts

(1) The school committee of each school district shall establish policies and procedures, and implement monitoring and evaluation practices that insure that all obstacles to equal access to school programs for all students regardless of race, color, sex, gender identity, religion, national origin, limited English-speaking ability or sexual orientation, are removed. Such policies shall include a requirement for an annual evaluation of all aspects of the K through 12 school programs to ensure that all students regardless of race, color, sex, gender identity, religion, national origin or sexual orientation are given an opportunity to participate in all programs offered by the school including athletics and other extra-curricular activities.

(2) All public schools shall strive to prevent harassment or discrimination based upon students' race, color, sex, gender identity, religion, national origin or sexual orientation, and all public schools shall respond promptly to such discrimination or harassment when they have knowledge of its occurrence.

(3) The school committee and the superintendent shall provide in-service training for all school personnel at least annually regarding the prevention of discrimination and harassment based upon race, color, sex, gender identity, religion, national origin and sexual orientation, and the appropriate methods for responding to such discrimination and harassment in a school setting.

(4) The superintendent, as an agent of the school committee, shall promote and direct effective procedures for the full implementation of 603 CMR 26.00, and shall make

recommendations to the school committee for the necessary policies, program changes, and budget resource allocations needed to achieve adherence to 603 CMR 26.00.

(5) The superintendent of each school system shall require employers who recruit new employees in and through the schools of that district to sign a statement that the employer complies with applicable federal and state laws prohibiting discrimination in hiring or employment practices.

(6) Adults serving on athletic regulatory boards shall fairly represent the interest of all students regardless of race, color, sex, gender identity, religion, national origin or sexual orientation.

(7) Any contributions to a school for activities and monetary awards within or sponsored by the school or for scholarships administered by the school by any person, group or organization shall be free from any restrictions based upon race, color, sex, gender identity, religion, national origin or sexual orientation. Schools may post or print information regarding private restricted scholarships as long as no preferential treatment is given to any particular scholarship offered and as long as the school does not endorse or recommend any such scholarship nor advise or suggest to a particular student that he or she apply for such a scholarship.

(8) The opportunity to receive guidance and counseling in a student's primary language should be made available to students from homes where English is not the primary language spoken.

26.08: Notification and Complaint Procedure

(1) The superintendent shall be responsible for ensuring that all school handbooks and codes of conduct reference M.G.L. c. 76, § 5 and affirmatively state and explain the school's obligations under M.G.L. c. 76, § 5. In order to ensure that such obligations are fulfilled, all school handbooks and codes of conduct shall also contain the following:

a) A nondiscrimination policy that is consistent with M.G.L. c. 76, § 5 and affirms the school's non-tolerance for harassment or discrimination, including that based upon race, color, sex, gender identity, religion, national origin or sexual orientation; and

b) The school's procedure for accepting, investigating and resolving complaints alleging discrimination or harassment; and

c) The disciplinary measures that the school may impose if it determines that harassment or discrimination has occurred.

(2) The principal shall ensure that the applicable school handbook and district code of conduct are annually distributed to students, parents and school personnel and, when

requested, ensure that such school handbook and district code of conduct are available in the primary language of a parent or student whose primary language is not English.

26.09: Private Right of Enforcement

(1) Nothing in 603 CMR 26.00 shall abridge or in any way limit the right of a parent, guardian, or person affected to seek enforcement of M.G.L. c. 76, § 5 in any court or administrative agency of competent jurisdiction.

Regulatory Authority:

603 CMR 26.00: M.G.L. c. 76, § 5.

Appendix Three – School Committee Policy AC – NONDISCRIMINATION

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 system 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, pregnancy or pregnancy related conditions, homeless status, religion, national origin, sexual orientation or disability. If someone has a complaint or feels that they have been discriminated against because of their race, color, sex, gender identity, pregnancy or pregnancy related conditions, homeless status, religion, national origin, sexual orientation or disability, their complaint should be registered with the Title IX compliance officer.

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

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972

Executive Order 11246, as amended by E.O. 11375

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

Title IX, Education Amendments of 1972

Rehabilitation Act of 1973

Education for All Handicapped Children Act of 1975

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

M.G.L. [76:5](#); Amended 2011

M.G.L.[76:16](#)

BESE regulations 603CMR [26.00](#) Amended 2012

BESE regulations 603CMR [28.00](#)

CROSS REFS.: [ACA](#)- [ACE](#), Subcategories for Nondiscrimination

[GBA](#), Equal Employment Opportunity

[IB](#), Equal Educational Opportunities

Appendix Four – School Committee Policy GBA – EQUAL EMPLOYMENT OPPORTUNITY

The School Committee subscribes to the fullest extent to the principle of the dignity of all people and of their labors and will take action to ensure that any individual within the District who is responsible for hiring and/or personnel supervision understands that applicants are employed, assigned, and promoted without regard to their race, color, religion, national origin, sex, gender identity, pregnancy or pregnancy related conditions, homeless status, sexual orientation, age, genetic information, ancestry, military status, or disability. Every available opportunity will be taken in order to assure that each applicant for a position is selected on the basis of qualifications, merit and ability.

LEGAL REF.: M.G.L. [151B:4](#); BESE Regulations 603 CMR [26:00](#)

CROSS REF.: [AC](#), Nondiscrimination

Appendix Five – School Committee Policy JB – EQUAL EDUCATIONAL OPPORTUNITIES

In recognition of the diversified characteristics and needs of our students and with the keen desire to be responsive to them, the School Committee will make every effort to protect the dignity of the students as individuals. It also will offer careful consideration and sympathetic understanding of their personal feelings, particularly with reference to their race, color, sex, gender identity, pregnancy or pregnancy related conditions, religion, national origin, homeless status, sexual orientation or physical and intellectual differences.

To accomplish this, the Committee and its staff will make every effort to comply with the letter and the spirit of the Massachusetts equal educational opportunities law which prohibits discrimination in public school admissions and programs. The law reads as follows:

No child shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and course of study of such public school on account of race, color, sex, gender identity, pregnancy or pregnancy related conditions, religion, homeless status, national origin or sexual orientation.

This will mean that every student will be given equal opportunity in school admission, admissions to courses, course content, guidance, and extracurricular and athletic activities.

All implementing provisions issued by the Board of Elementary and Secondary Education in compliance with this law will be followed.

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

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972

Executive Order 11246, as amended by E.O. 11375

Title IX, Education Amendments of 1972

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

BESE regulations 603 CMR [26:00](#)

BESE regulations 603 CMR [28.00](#)

CROSS REF.: [AC](#), Nondiscrimination

Appendix Six – School Committee Policy ACAB - HARASSMENT

Harassment of students by other students, employees, vendors and other third parties will not be tolerated in the Stoughton Public Schools. This policy covers conduct that occurs on school property, on school buses, or otherwise during a school program or activity, including conduct occurring at a location or under circumstances where the school owned, or substantially controlled the premises, exercised oversight, supervision or discipline over the location or participants, or funded, sponsored, promoted or endorsed the event where the alleged harassment occurred. Harassment prohibited by the District includes, but is not limited to, harassment on the basis of race, sex, gender identity, creed, color, national origin, sexual orientation, religion, marital status or disability. Students whose behavior is found to be in violation of this policy will be subject to disciplinary action up to and including suspension or expulsion pursuant to disciplinary codes. Employees who have been found to violate this policy will be subject to discipline up to and including, termination of employment, subject to contractual disciplinary obligations.

Employee-to-Student Harassment means conduct of a written, verbal or physical nature that is designed to embarrass, distress, agitate, disturb or trouble students when:

- Submission to such conduct is made either explicitly or implicitly as a term or condition of a student's education or of a student's participation in school programs or activities;
- Submission to or rejection of such conduct by a student is used as the basis for decisions affecting the student; or
- Such conduct has the purpose or effect of unreasonably interfering with a student's performance or creating an intimidating or hostile learning environment.

Student- to-Student Harassment means conduct of a written, verbal, or physical nature that is designed to embarrass, distress, agitate, disturb or trouble students, when:

- Such conduct has the purpose or effect of unreasonably interfering with a student's performance or creating an intimidating or hostile learning environment.

Harassment may include, but is not limited to:

- Written, verbal, or physical threats or abuse (including via texting, blogging, or other social media or technological methods); and
- Demeaning jokes, stories, or activities directed at the student.

Whether certain conduct constitutes harassment is determined from the perspective of a reasonable person with the characteristic on which the harassment is based. Individuals should consider how their words and actions might reasonably be viewed by others.

The District will designate a Title IX Coordinator and building based civil rights representatives, who may include principals or their designee, to ensure effective implementation of State and Federal Civil Rights Laws. The superintendent will recommend, in consultation with the principals, opportunities to the designated recipients for appropriate training.

Sexual harassment is unwelcome conduct of a sexual nature. The definition includes: (i) unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; and (ii) sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature; (iii) conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct; and (iv) sexual assault as defined by the federal Clery Act or sexual violence defined by the federal Office of Civil Rights (OCR) as physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). Following are some examples of conduct, which may constitute sexual harassment, depending on the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances – whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life;
- Comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

Because the District takes allegations of harassment, including sexual harassment, seriously, the District will respond promptly to complaints of, and following an investigation where it is determined that such inappropriate conduct has occurred, will act promptly to eliminate the conduct and impose corrective action, including disciplinary action where appropriate.

Please note that while this policy sets forth the District's goals of promoting an environment that is free of harassment including sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for conduct which the District deems unacceptable, regardless of whether that conduct satisfies the definition of harassment or sexual harassment.

Retaliation against a complainant who has filed a harassment complaint or assisted or participated in a harassment investigation or proceeding, is also prohibited. A student or employee who is found to have retaliated against another in violation of this policy will be subject to disciplinary action up to and including student suspension and expulsion or employee termination.

The complainant does not have to be the person at whom the unwelcome sexual conduct is directed.

DUE PROCESS PROTECTIONS

It is the District's policy to provide due process to all parties when a harassment complaint is made. Due process protections include the following:

1. A presumption of innocence applies to the accused throughout the grievance process, with the burden of proof on the District;
2. The decision maker will be a different individual from the Title IX Coordinator or investigator;
3. The preponderance of the evidence standard applies;
4. Written notice of allegations and an equal opportunity to review the evidence;
5. Title IX Coordinators, investigators, and decision-makers must be free from bias or conflict of interest;
6. Equal opportunity for parties to appeal, where schools offer appeals;
7. Upon filing a formal complaint, the school must give written notice to the parties containing sufficient details to permit a party to prepare for an initial interview and proceed with a factual investigation. The parties must be allowed to submit written questions to challenge each other's credibility before the decision-maker makes a determination. After the investigation, a written determination must be sent to both parties explaining each allegation, whether the respondent is responsible or not responsible, including the facts and evidence on which the conclusion was based by applying the preponderance of the evidence standard; and
8. As long as the process is voluntary for all parties, after being fully informed and written consent is provided by both parties, a school may facilitate informal resolution of a sexual complaint.

The District may establish an informal investigation process that may, upon the request of the complainant be followed by a formal process.

The Superintendent in consultation with the Title IX Coordinator shall designate the principal of each school in the district, or their designee (or some other appropriate employee(s)) as the initial entity to receive the sexual harassment complaint. In a matter of sexual harassment, the Title IX Coordinator shall be informed, as soon as possible, of the filing of the complaint. Nothing in this policy shall prevent any person from reporting the prohibited conduct to someone other than those above designated complaint recipients.

The investigating officer may receive the complaint orally or in writing, and the investigation shall be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances and in compliance with applicable law. The investigation will be prompt, thorough, and impartial, and will include, at least, a private interview with the person filing the complaint and with witnesses. Also, the alleged harasser will be interviewed. When the investigation is completed, the complaint recipient will, to the extent appropriate, inform the

person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

RECORD KEEPING REQUIREMENTS

Schools must create and maintain records documenting every Title IX sexual harassment complaint. Schools must keep records regarding the school's response to every report of sexual harassment of which it becomes aware even if no formal complaint was filed. Records requirements include documenting supportive measures offered and implemented for the complainant, as well as alternative forms of dispute resolution to include mediation or restorative justice.

This policy, or a summary thereof that contain the essential policy elements shall be distributed by the Stoughton Public School District to its students and employees and each parent or guardian shall sign that they have received and understand the policy.

The Stoughton Public School District's Title IX Coordinator is:

Jonathan Ford
Deputy Superintendent / Title IX Coordinator
31 Pierce Street
Stoughton, MA 02072
(781) 344 – 4000 x 51229
j_ford@stoughtonschools.org

At each of the District's individual schools, the Civil Rights Representative is the principal.

The Complainant may also file a complaint with any of the agencies below (subject to specific time limits):

The Mass. Commission Against Discrimination, 1 Ashburton Place, Room 601
Boston, MA 02108
Phone: 617-994-6000

Office for Civil Rights (U.S. Department of Education)
5 Post Office Square, 8th Floor
Boston, MA 02109
Phone: 617-289-0111

The United States Equal Employment Opportunity Commission
John F. Kennedy Building
475 Government Center
Boston, MA 02203

LEGAL REF.: M.G.L. 151B:3A

Title IX of the Education Amendments of 1972

BESE 603 CMR 26:00

34 CFR 106.44 (a), (a)-(b)

34 CFR 106.45 (a)-(b) (1)

34 CFR 106.45 (b)(2) -(b) (3,4,5,6,7) as revised through June 2020

Note: A summary of the attached Policy, as adopted, must be sent to parents/guardians, students, employees, unions, and prospective employees of the school district including Title IX Coordinator(s), investigator(s) and the decision-maker. The above referenced employees must attend training sessions on the implementation of the Policy.

Appendix Seven - HARASSMENT, CIVIL RIGHTS, and AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE (Excluding Title IX)

OVERVIEW: It is the policy of the Stoughton Public Schools to not discriminate in the provision of services, hiring, and employment practices on the basis of race, color, religion, national origin, sex, gender identity, pregnancy or pregnancy related conditions, homeless status, sexual orientation, age, genetic information, ancestry, military status, or disability. The Office of the Superintendent of Schools has an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Federal, State, and local Civil Rights Laws, Regulations, and policies. These laws, regulations, and policies state, in part, that no person will, solely by reasons of his or her race, color, religion, national origin, sex, gender identity, pregnancy or pregnancy related conditions, homeless status, sexual orientation, age, genetic information, ancestry, military status, or disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any services, activities, programs, or benefits provided by the Stoughton Public Schools.

SCOPE: This Grievance Procedure may be used by anyone who wishes to file a complaint alleging harassment or discrimination on the basis of race, color, religion, national origin, sex, gender identity, pregnancy or pregnancy related conditions, homeless status, sexual orientation, age, genetic information, ancestry, military status, or disability in the provision of services, activities, programs, or benefits by the Stoughton Public Schools. It is unlawful for the Stoughton Public Schools to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

MISSION STATEMENT: Everyone, without exception, has a human right to live, work, study, recreate, express themselves, and pursue their goals, with equal opportunity, respect, and dignity, in safe, welcoming, accessible, and inclusive environments, free from unlawful bias, discrimination, harassment, and obstacles.

CIVIL RIGHTS COORDINATOR/ADA COORDINATOR: The Civil Rights Coordinator/ADA Coordinator is responsible for ensuring that all services, activities, programs, or benefits provided by the Stoughton Public Schools are accessible to everyone regardless of services, activities, programs, or benefits. At the time of adoption of this procedure, the Civil Rights Coordinator/ADA Coordinator for each individual school is the Principal. Overseeing each Principal, and acting as the District Coordinator is the Deputy Superintendent of Schools.

PROCEDURE:

1. The complaint shall be submitted in writing and contain the name and contact information of the complainant. The complaint should contain the location, date, description of the problem or action alleged to be harassment or discrimination, and the remedy or relief

sought. It may also include information as to where an ADA accommodation is requested and a description of why the accommodation is needed.

2. If the complaint involves the students, staff, and/or faculty of an individual school, the complaint should be submitted to the building principal as soon as possible, but no later than sixty (60) calendar days after the complainant becomes aware of the alleged harassing or discriminatory action. If the complaint is not associated with an individual school, the complaint should be submitted to the Deputy Superintendent as soon as possible, but no later than sixty (60) calendar days after the complainant becomes aware of the alleged harassing or discriminatory action.
3. Within fifteen (15) calendar days after receipt of the complaint, the principal/Deputy Superintendent will meet with the complainant to clarify the facts of the incident and discuss possible resolutions.
4. The principal/Deputy Superintendent will conduct an investigation of the complaint to determine its validity. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint.
5. Within thirty (30) calendar days after receipt of the complaint, the principal/Deputy Superintendent will respond in writing to the complainant. The response will explain the position of the District and offer options for substantive resolution of the complaint.
6. If the response by a principal does not satisfactorily resolve the issue, the complainant may appeal the decision by filing an appeal in writing to the Deputy Superintendent within fifteen (15) days of receiving the principal's decision. If the response by the Deputy Superintendent does not satisfactorily resolve the issue, the complainant may appeal the decision by filing an appeal in writing to the Superintendent of Schools within fifteen (15) days of receiving the Deputy Superintendent's decision.
7. Within fifteen (15) calendar days after receipt of the appeal, the Deputy Superintendent/Superintendent will meet with the complainant to discuss possible resolutions.
8. Within thirty (30) calendar days after receipt of the appeal, the Deputy Superintendent/Superintendent will respond in writing to the complainant with a final resolution of the appeal.
9. All complaints received by the principal/Deputy Superintendent, appeals to the Deputy Superintendent/Superintendent, and responses from these offices will be retained by the Stoughton Public Schools for a period of seven (7) years.

10. If the grievance is based on a disability, the Stoughton Public Schools will make appropriate arrangements to assure that persons with disabilities can participate in or make use of this grievance procedure on the same basis as persons who do not have disabilities. Such arrangements may include, but not be limited to, the provisions of interpreters for the deaf, providing taped cassettes for the blind, or assuring a barrier-free location for the proceedings. The principal/Deputy Superintendent will be responsible for providing such arrangements.
11. The Americans with Disabilities Act does not require the Stoughton Public Schools to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Appendix Eight - TITLE IX GRIEVANCE PROCEDURE

OVERVIEW: The following procedures are intended to serve as the “grievance process” required by Title IX regulations (34 C.F.R. § 106.45) for responding to formal complaints of sexual harassment, as defined by Title IX.

PROCEDURE:

1. To initiate the formal Title IX grievance process, the complainant must submit a written sexual harassment complaint which includes the name and contact information of the complainant. The complaint should also include the location, date, and description of the alleged sexual harassment.
2. If the complaint involves the students, staff, and/or faculty of an individual school, the complaint should be submitted to the building principal as soon as possible, but no later than one hundred eighty (180) calendar days after the complainant becomes aware of the alleged sexual harassment. Upon receipt of the complaint, the principal will notify the Deputy Superintendent (Title IX Coordinator.) If the complaint is not associated with an individual school, the complaint should be submitted directly to the Title IX Coordinator as soon as possible, but no later than one hundred eighty (180) calendar days after the complainant becomes aware of the alleged sexual harassment.
3. Upon receipt of a formal sexual harassment complaint, the District’s Title IX Coordinator will promptly contact the complainant to clarify the facts of the incident and offer supportive measures.
4. If the Title IX Coordinator determines that an allegation of sex-based harassment in a District program or activity, if proved, would meet the definition of sexual harassment under Title IX, the Coordinator will follow the procedures provided below.

Note: In accordance with law, the Title IX Coordinator may consolidate formal complaints or separate proceedings where allegations of sexual harassment arise out of the same facts or circumstances.

Note: If the conduct alleged would not constitute sexual harassment under Title IX if proved, did not occur as part of an education program or activity, or did not occur in the United States, the District must dismiss the formal complaint for the purposes of sexual harassment under Title IX, but the dismissal does not preclude the District from taking action under its code of conduct or policies.

Note: The District may, at their discretion, dismiss a formal complaint or allegations therein if:

- a) the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein,
 - b) if the respondent is no longer enrolled or employed by the institution,
 - c) or if specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint.
5. The Title IX Coordinator will provide the complainant(s) and respondent(s) with a written notice of the Formal Complaint and the allegations of Sexual Harassment. The notice will include:
- Information regarding procedures available under this procedure, including the availability of Alternative Resolution.
 - Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (no less than five days).
 - A statement that, as required by Title IX, the Respondent is presumed not responsible for the alleged conduct unless and until determined to be responsible at the conclusion of the process;
 - Notice that the parties may have an advisor of their choice, who may be an attorney; and that the parties may inspect and review evidence;
 - Notice of provisions in an applicable code of conduct or policy that prohibits knowingly making false statements or submitting false information during the process;
 - Notice that the District, not either party, has the burden of gathering evidence and the burden of proof; and
 - the name of the investigator, with sufficient time (no less than five calendar days) prior to any interview to raise concerns of conflict of interest or bias.

Note: If additional allegations become known at a later time, and will be investigated, the Title IX Coordinator will supplement the original notice to the parties.

6. The Title IX Coordinator will assign a trained administrator to conduct an investigation of the complaint to determine its validity. During the investigation, the Investigator will:
- a) Interview the parties after they have received appropriate notice with sufficient time to prepare;
 - b) Allow the parties to have their Advisor at all meetings;
 - c) Allow parties to identify witnesses, including expert witnesses and submit inculpatory and exculpatory evidence;

- d) Interview witnesses and conduct such other fact-gathering activities (site visits, review of documents, etc.); and
 - e) Consider evidence that is relevant and directly related to the allegations in the formal complaint.
7. The Investigator will submit an Investigative Report within forty-five (45) calendar days after receipt of the complaint, to the corresponding principal, if the complaint involves the students, staff, and/or faculty of an individual school, or to the Administrator of Special Education, if the complaint was not associated with an individual school. The Investigative Report will include with it all evidence the Investigator considers to be relevant to the Formal Complaint, and which will be provided to the Decision Makers for purposes of the hearing. The Investigator will also issue the Investigative Report to the parties and their advisors, if any, and the Title IX Coordinator.

Note: Prior to completing the Investigative Report, the Investigator will send to each party and their advisor, if any, in electronic format, any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence the Investigator does not consider relevant and including inculpatory and exculpatory evidence obtained for any source. The parties will have ten (10) calendar days from the date the evidence is made available to submit a written response to the Investigator, which the Investigator will consider prior to completing the Investigative Report.

8. The principal or Administrator of Special Education will serve as the Decision Maker and will issue a Written Determination to the parties simultaneously, explaining procedures, conclusions, and rationale for the determination. Prior to issuing the Written Determination, the Decision Maker will notify the parties that they may provide a written response to the Investigative Report for inclusion in the information to be considered when making a determination.
9. After receiving the Written Determination from a principal or the Supervisor of Special Education, the complainant or respondent may appeal the decision to the Superintendent within five (5) days of receiving the Decision Maker's Written Determination.

In order for an appeal to be granted, the appeal must demonstrate at least one of the following:

- a) procedural irregularity that affected the outcome of the matter;
- b) new evidence that was not reasonably available at the time of the decision that could affect the outcome of the matter; or

- c) the Title IX Coordinator, Investigator or a Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individually Complainant or Respondent that affected the outcome of the matter.
10. Within fifteen (15) calendar days after receipt of the appeal, the Superintendent will meet with the complainant or respondent to discuss the grounds for their appeal.
 11. Within thirty (30) calendar days after receipt of the appeal, the Superintendent will respond in writing to the complainant or respondent with a final resolution of the appeal.
 12. The District will keep records of all sexual harassment reports and investigations, for a minimum of seven (7) years, and must keep records of all Title IX training materials for a minimum of seven (7) years.

Note: The timeframes set forth in this Policy may be temporarily delayed or extended by the District for good cause with written notice and explanation to the Complainant and Respondent of the delay

Note: No medical records of any party will be accessed or reviewed without the voluntary, written consent of that party. No information that is protected under a legally recognized privilege will be required, allowed or relied upon unless the privilege is waived by the person holding the privilege.

Note: At least ten (10) calendar days prior to the hearing described in Section below, the Investigator will issue the Investigative Report to the parties and their advisors, if any, and the Title IX Coordinator.

Appendix IX – Title IX Training Materials

Title IX personnel are required to be unbiased and free from conflicts of interest. Materials used to train Title IX personnel include:

- [OCR Webinar on Due Process Protection Under the New Title IX Regulations](#)
- [The First Amendment and Title IX: An OCR Short Webinar](#)
- [How to Report Sexual Harassment Under Title IX](#)
- [New Title IX Protections Against Sexual Assault](#)
- [OCR Webinar: Title IX Regulations Addressing Sexual Harassment](#)
- [Conducting and Adjudicating Title IX Hearings: An OCR Training Webinar](#)