

MEDFIELD PUBLIC SCHOOLS

NON-DISCRIMINATION POLICY AND GRIEVANCE PROCEDURE

Title VI, ~~Title IX~~, Section 504, ADA, Age Discrimination Act, G.L. c. 76, §5, G.L. c. 151B, G. L. c. 151C, 603 CMR §26.08

I. Introduction

The Medfield Public Schools is committed to maintaining an educational environment where bigotry and intolerance, including discrimination and/ or harassment on the basis of race, color, national origin, sex, gender identity, sexual orientation, religion, disability, or age, are not tolerated. Discrimination and harassment are contrary to the mission of the Medfield Public Schools and its commitment to equal opportunity in education.

The Medfield Public Schools does not discriminate against students, parents, employees or the general public. No person shall be excluded from or discriminated against in admission to the Medfield Public Schools, or in obtaining the advantages, privileges and courses of study of the Medfield Public Schools on account of race, color, sex, gender identity, religion, national origin, or sexual orientation. (G.L.c. 76, §5). Additionally, the Medfield Public Schools does not tolerate harassment based upon race, color, sex, gender identity, religion, national origin, or sexual orientation. (603 CMR 26.08).

For purposes of this policy and its related procedures, "school" includes school-sponsored events, trips, sports events, similar events connected with school or employment. Any retaliation against an individual who has complained about discrimination, including harassment, or any retaliation against any individual who has cooperated with an investigation of a discrimination, harassment or retaliation complaint, is also unlawful and will not be tolerated.

The Medfield Public Schools takes allegations of discrimination and harassment seriously. This policy and procedure covers allegations of discrimination and harassment based on all protected categories except for sex. For allegations of sex discrimination or sexual harassment, please see the District's Title IX policies and procedures. Any allegation of harassment or discrimination will be investigated promptly, impartially, and in a manner which will preserve the confidentiality of all concerned to the extent practicable under the circumstances and as provided by law. Where it is determined that conduct that violates the law and/ or this policy has occurred, the Medfield Public Schools will act promptly to eliminate the conduct and will impose corrective action as necessary, including disciplinary action where appropriate, which may include school-related discipline.

II. Definition of Discrimination and Harassment

"Discrimination" includes conduct that excludes a person from participation in, denies an individual the benefits of, or otherwise subjects an individual to different treatment on the basis of race, color, ~~sex, gender identity~~, religion, national origin, sexual orientation, age, or disability. Harassing conduct involving these categories can be a form of discrimination.

"Harassment" is defined as unwelcome conduct, whether verbal or physical, that creates a hostile environment for the recipient(s) or "victim(s)" of the conduct, and is based on race, color, national origin, ~~sex, gender identity~~, sexual orientation, religion, disability, or age. Conduct is unwelcome if the victim(s) did not request or invite it and considered the conduct to be undesirable or offensive. Harassment is prohibited by the Medfield Public Schools, and violates the law.

Examples of harassment include:

- Display or circulation of written materials or pictures that are degrading to a person or group based upon the criteria listed above.
- Verbal abuse or insults about, directed at, or made in the presence of an individual or group described above because of one of the criteria listed above.
- Any action or speech that contributes to, promotes or results in a hostile or discriminatory environment to an individual or group described above.
- Any action or speech that is sufficiently severe, pervasive or persistent that it either (i) interferes with or limits the ability of an individual or group (as described above) to participate in or benefit from a school program or activity of the Medfield Public Schools; or (ii) creates an intimidating, threatening, or abusive educational environment.

Many forms of harassment have been recognized as violations of the civil rights laws (including Section 504 of the Rehabilitation Act of 1973, the ADA, Title VI, ~~Title IX~~ and state statutes like G.L. c. 151B and G.L. c. 151C), by federal courts, state courts, the U.S. Department of Education, the Office for Civil Rights, and the Massachusetts Commission Against Discrimination.

~~"Sex based harassment" includes both sexual harassment and gender based harassment.~~

~~"Sexual harassment" is defined in G.L. c. 151B, § 1 as unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:~~

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

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

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

The definitions of discrimination, harassment ~~and sexual harassment~~ are broad. In addition to the above examples, other unwelcome conduct, whether intended or not, that has the effect of creating a school environment that is hostile, offensive, intimidating, or humiliating may constitute discrimination ~~and~~, harassment ~~and/or sexual harassment~~.

~~“Gender based harassment” includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, although they are not necessarily sexual in nature, including harassment based on gender identity and expression. Gender based harassment includes, but is not limited to, harassment based on the person’s nonconformity with gender stereotypes, regardless of the actual or perceived sex, gender identity, or sexual orientation of the harasser or victim of the harassment.—~~

III. Grievance Procedure: Reporting Complaints of Discrimination and Harassment

a. Introduction

If any Medfield Public Schools student, parent or employee believes, in good faith, that he or she has been subjected to ~~sexual harassment or any other form of~~ harassment or discrimination described above, the individual has a right to file a complaint with the Medfield Public Schools. This may be done informally or formally, as described below.

Teachers or other staff members who observe or receive reports of incidents of harassment or discrimination involving students shall report such incidents immediately to the student's Principal. Administrators aware of harassment or discrimination involving any employee shall report such incidents to the Civil Rights Coordinator, listed below, or to the Superintendent.

Please note that while these procedures relate to the Medfield Public Schools' policy of promoting an educational setting free from discrimination and harassment, ~~including sexual~~

harassment, as detailed further in this policy, these procedures are not designed nor intended to limit the Medfield Public Schools' authority to discipline or take remedial action for conduct which the Medfield Public Schools deems unacceptable.

b. Grievance Procedures

i. District Civil Rights Coordinator (“Civil Rights Coordinator”)

The Civil Rights Coordinator for Title VI (race, color, national origin); ~~Title IX (sex)~~; Section 504 (disability); Title II of the ADA (disability); Religion, Sexual Orientation, Gender Identity and Age is:

Ms. Mary Bruhl

Director of Student Services/ Civil Rights Coordinator

459 Main St.

Medfield, MA 02052

508-359-7135

Students, parents, or employees who wish to initiate either the informal or the formal complaint process may direct a written or verbal complaint to the Civil Rights Coordinator or to the Principal for the school in which the alleged discrimination or harassment took place. Whether formal or informal in nature, written complaints are encouraged. Students may additionally report incident that they believe involve harassment or discrimination to their guidance counselor, any teacher, administrator or any member of the support staff, and the staff member will refer to the complaint to the Principal or the Civil Rights Coordinator.

The complaint may be written by the complainant, or it will be reduced to writing by either the school employee who receives the complaint, the building Principal, the Civil Rights Coordinator, or the Civil Rights Coordinator’s designee. Whether the complaint is reduced to writing by a student, parent, or staff member, the written complaint should include the name of the individual making the complaint, the name of the alleged victim, the name of the alleged perpetrator(s) of the harassing or discriminatory action, the location of the school/department where the alleged discriminatory action occurred, the basis for the complaint, witnesses (if any), and the corrective action the student is seeking. This information will be made on or transferred to a discrimination/ harassment complaint form maintained by the District.

Efforts should be made to file such complaint within twenty (20) calendar days after the alleged discriminatory action occurred in order for an expeditious investigation to be conducted, unless extenuating circumstances exist. However, the Medfield Public Schools will investigate any complaint no matter when it is filed.

Within 48 hours of receiving a complaint, the District will determine whether the alleged victim wishes to utilize formal or informal procedures, which the alleged victim can also expressly select as described below in Section ii(1) regarding informal procedures and Section ii(2) regarding formal procedures, and, if the alleged victim chooses formal procedures, begin to investigate every complaint of harassment, discrimination, or violence.

Any teacher or other employee who receives a complaint of discrimination or harassment shall immediately forward the complaint to the building Principal. The Principal will then determine whether the alleged victim wishes to pursue formal or informal procedures, and will forward all formal complaints to the Civil Rights Coordinator listed above, who will begin the formal procedure described below. If the alleged victim wishes to pursue informal procedures, the Principal and/ or the Principal's designee will first attempt to resolve the complaint at the building level.

The Civil Rights Coordinator or her designee shall handle the investigation and resolution of a formal complaint. 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, and any complaint about the Civil Rights Coordinator will be investigated by the Superintendent or his designee. Any complaint about the Superintendent should be submitted to the chairperson of the school committee, who should consult with legal counsel concerning the handling and investigation of the complaint.

ii. Internal Grievance Procedure

1. Informal Resolution of Discrimination and Harassment Complaints

Before initiating the formal procedure, an alleged victim may wish to resolve the complaint on an informal basis through discussion between the alleged victim and the alleged perpetrator, which will be facilitated by the building Principal or designee. The alleged victim may request informal procedures or be given the option of electing between pursuing informal or formal procedures at the time that their complaint is received by the Civil Rights Coordinator or building Principal. Informal procedures are entirely voluntary. Alleged victims may elect to pursue formal procedures at any step in the process of making their complaint, even if informal procedures have already begun. Similarly, alleged perpetrators may elect to follow formal procedures.

If the alleged victim and the alleged perpetrator feel that a resolution has been achieved, then the conversation remains confidential and no further action needs to be taken. This voluntary conversation must occur within five (5) workdays after receiving the complaint of discrimination or harassment, unless both parties agree otherwise. The results of an informal resolution shall be maintained by the facilitator, in writing.

If the alleged victim is not satisfied with the resolution from the informal process, or if he/she does not choose informal resolution, then he/she can begin the formal complaint procedure described below.

2. Formal Resolution of Discrimination and Harassment Complaints

A student, parent or employee who is not satisfied with the informal resolution process or who chooses not to participate in the informal resolution process may initiate the formal complaint procedure at any time.

Step One

Within forty-eight (48) hours of receiving the complaint or of the termination of an unsuccessful informal resolution process (whichever is later), the Civil Rights Coordinator or designee will meet with the complainant and/or alleged victim (if they are different) by telephone or in person. The Civil Rights Coordinator or designee will complete a discrimination/harassment complaint form based on the written or verbal allegations of the alleged victim within forty-eight (48) hours of meeting with the complainant. The complaint form will be maintained by the Civil Rights Coordinator or designee.

Step Two

A prompt investigation shall be completed by the Civil Right Coordinator or designee within thirty (30) school days from the date that the District received a complaint or report, unless impracticable (e.g., the complaint is received during the summer time and witnesses are unavailable). The Civil Rights Coordinator will provide written notice of the investigation to the alleged perpetrator before conducting an interview of the alleged perpetrator, including whether or not the Civil Rights Coordinator or designee anticipates that there may be discipline.

The investigation may, as appropriate, consist of personal interviews with the alleged victim, the complainant (if different than the alleged victim), the individual(s) against whom the complaint is filed (“alleged perpetrator[s]”), and any other individuals who may have knowledge of the alleged incidents(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the Civil Rights Coordinator or designee.

The alleged victim and the alleged perpetrator(s) have the opportunity to present witnesses and information that they deem relevant to the Civil Rights Coordinator or designee. Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations. However, regardless of the complainant’s participation in the investigation, the District will investigate the complaint to the extent possible and will take appropriate action based on the results of its investigation.

Step Three

The Civil Rights Coordinator or designee shall document his or her findings. The Civil Rights Coordinator or designee shall send the written report of the findings to the Superintendent, alleged victim, and alleged perpetrator within thirty (30) school days after the investigation has been completed, unless the alleged victim and alleged perpetrator agree in writing to extend the timeline.

The report shall include:

- a) a statement of the allegations investigated;
- b) a summary of the steps taken to investigate the allegations;
- c) the findings of fact based on a preponderance of the evidence gathered;
- d) the District's conclusion, based upon a preponderance of the evidence, of whether discrimination, harassment, or violence did or did not occur;
- e) the disposition of the complaint;
- f) the rationale for the disposition of the complaint; and
- g) if the District concluded discrimination, harassment, different treatment, or violence occurred, a description of the District's response. However, please note that in ~~Title IX~~ and Title VI investigations all discipline of the alleged perpetrator will be kept confidential from the alleged victim unless it directly relates to the alleged victim (e.g., alleged victims will be notified of stay-away orders but not suspensions).

The Civil Rights Coordinator or designee shall determine whether the allegations have been substantiated as factual and whether they appear to be violations of this policy, using a preponderance of the evidence standard. A "preponderance of the evidence" means that it is more likely than not that the alleged conduct occurred. The Civil Rights Coordinator or designee shall further recommend what action, if any, is required. If it is determined that harassment, discrimination or different treatment occurred, the District will take steps to prevent the recurrence of the harassment, discrimination or different treatment and correct its discriminatory effect on the alleged victim and others if appropriate.

Formal disciplinary actions may be imposed in the event that the preponderance of the evidence indicates a violation of this policy, up to and including expulsion. Any disciplinary action will be in accordance with due process rights under State law and any applicable collective bargaining agreement.

Step Four

The Civil Rights Coordinator and/or Superintendent shall maintain the written report of the investigation, findings and disposition.

The District will contact the alleged victim within fourteen (14) school days following the conclusion of the investigation to assess whether there has been on-going harassment or retaliation and to determine whether additional supportive measures are needed.

3. Interim Measures

The Medfield Public Schools shall take immediate steps to protect the alleged victim, alleged perpetrator, witnesses, and the larger school community pending the completion of an investigation or the informal process and address any ongoing harassment or discrimination. The District will take interim measures to prevent retaliation against the complainant.

~~In the case of alleged sexual assault, the Civil Rights Coordinator and/or designee will take additional individualized steps as necessary, including, but not limited to, referring the alleged victim to a rape crisis center, creating a safety plan, and/or designating an individual at the site level to act as a support person during the investigation.~~

4. Appeals

Any party may appeal the decision of the Civil Rights Coordinator and/ or designee in writing to the Superintendent within fifteen (15) school days of receipt of the findings of the formal procedure. The Superintendent, as an impartial decision-maker, will review the comprehensiveness and accuracy of the investigation and the conclusions, and issue written findings to both the complainant and respondent within thirty (30) school days of the appeal.

Contact information for the Superintendent:

Dr. Jeffrey Marsden, Superintendent.508-359-2302

iii. External Grievance Procedure

Any student, parent or employee who chooses not to use the district's internal grievance procedures or who is not satisfied with the district's internal grievance procedures may file a complaint of discrimination or harassment with an appropriate state or federal agency.

1. For complaints related to discrimination/harassment of students:

The Office for Civil Rights, US Department of Education
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Telephone: 617-289-0111, FAX: 617-289-0150, TDD: 877-521-2172

OR

The Massachusetts Commission Against Discrimination
One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
Phone 617-994-6000, TTY: 617-994-6196

2. For complaints related to discrimination/harassment of parents:

The Office for Civil Rights, US Department of Education

5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Telephone: 617-289-0111, FAX: 617-289-0150, TDD: 877-521-2172

3. For complaints related to discrimination/harassment of employees:

The Office for Civil Rights, US Department of Education
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Telephone: 617-289-0111, FAX: 617-289-0150, TDD: 877-521-2172

OR

The Massachusetts Commission Against Discrimination
One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
Phone 617-994-6000, TIY: 617-994-6196

OR

The Equal Employment Opportunities Commission
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: 1-800-669-4000

IV. Referral to Law Enforcement, Other Agencies

Some alleged conduct may constitute both a violation of District policies and criminal activity. The building Principal, Civil Rights Coordinator, Superintendent, or designee will refer matters to law enforcement and other agencies as appropriate under the law or District policy, and inform the complainant/ alleged victim of the right to file a criminal complaint.

V. Retaliation

Complainants and those who participate in the complaint resolution process or who otherwise oppose in a reasonable manner an act or policy believed to constitute discrimination are protected from retaliation by law and District policy. The Civil Rights Coordinator or designee will inform all involved individuals that retaliation is prohibited, and that anyone who feels that they have experienced retaliation for filing a complaint or participating in the resolution process should inform the Civil Rights Coordinator. The Medfield Public Schools will investigate reports of retaliation and, where retaliation is found, take separate remedial and disciplinary action.

CROSS REF.: AC, Non-Discrimination

~~ACA, Non-Discrimination on the Basis
of Sex~~

~~ACAB, Sexual Harassment~~

JB, Equal Educational Opportunities

JCFIB, Bullying and Harassment Policy