

Section J Students

6. Policy Against Discrimination, Harassment, Sexual Harassment and Retaliation

General Statement of Policy

The Public Schools of Brookline (PSB) is dedicated to creating and maintaining an educational and work environment that values the diverse backgrounds of all people. This Policy applies to all sites and activities the PSB supervises, controls or where it has jurisdiction under the law, and to conduct involving school community members outside of school but arising from or connected to a school-related activity.

I. Prohibited Conduct

PSB prohibits all forms of discrimination and harassment in all of its programs, activities, and services based on a person's protected class under the law. Harassment prohibited by the PSB includes, but is not limited to, harassment on the basis of race, ethnicity, color, religion, national origin, sex, gender, sexual orientation, gender identity or expression, disability, age, genetic information, marital, parental status, military and veteran status. Prohibited discrimination under this Policy includes discriminatory harassment and bullying. Prohibited discriminatory harassment and bullying is motivated by or expresses a negative attitude toward a person's membership in a protected class or protected characteristic and creates an intimidating, hostile, or offensive environment. Conduct prohibited may include, but is not limited to, written, verbal or electronic express or physical act or gesture such as:

- Use of epithets, slurs or nicknames that refer to a person's protected characteristic such as, but not limited to, race or sexual orientation;
- Jokes that have the purpose or effect of demeaning or making fun of a person based on a protected characteristic;
- Graffiti or other visual messages or displays that degrade a person based on a protected characteristic, and;
- Any other verbal or non-verbal conduct that has the purpose or effect creating a hostile work environment based on a person's protected characteristic.

Nothing in this policy shall limit the ability of PSB to enforce violations of its code of conduct not covered by that does not qualify as discrimination, harassment, sexual harassment, or retaliation.

II. Prohibited Sexual Harassment

While PSB prohibits all forms of discrimination and harassment, particular attention must be paid to Sexual Harassment. In Massachusetts, Sexual Harassment is defined as any unwelcome sexual conduct, including sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when:

- Submission to, acceptance of, or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment or education or a basis

for employment decisions affecting an employee or for educational, disciplinary, or other decisions affecting a student; or

- Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual's work performance, education or participation in extracurricular activities by creating an intimidating, hostile, humiliating, or offensive work or school environment.

While it is not possible to list all circumstances that may constitute Sexual Harassment, the following are examples of prohibited conduct:

- 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; comments about an individual's body, sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, touching, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences, and
- Discussion of one's sexual activities
- Taking or posting of photographs, videos or images of a sexual nature without consent

Pursuant to regulations promulgated by Title IX of the Education Amendments of 1972, PSB shall adopt and publish a grievance process for responding to formal complaints of Sexual Harassment. Title IX requires that schools use a separate, but similar definition of Sexual Harassment when responding to formal complaints of Sexual Harassment. According to Title IX, Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- A PSB employee conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the PSB's education programs or activities; or
- Sexual assault, dating violence, domestic violence, or stalking (all as defined by federal laws).

Title IX also requires that the incident occurred in the United States, at PSB or during its programming, and the complainant must have been actively participating in or attempting to participate in PSB's educational programming or activities during the incident.

The Title IX Coordinator is responsible for ensuring compliance with the District's policy on Sexual Harassment, its procedures, and compliance with federal regulations. Any District employee with knowledge of an allegation of sexual harassment must report it to the Title IX Coordinator. The District will promptly respond to all reports alleging Sexual Harassment to ensure a fair and equitable resolution to the report, provide support to the victim, eliminate harassment, and impose discipline if necessary. Discipline may range from verbal reprimand to suspension or termination, in the case of an employee.

Title IX Coordinator

[Contact]

III. Prohibited Retaliation

The PSB prohibits punitive action of any kind against a person for engaging in protected conduct such as complaining of, reporting, or opposing acts of discrimination, sexual harassment and/or retaliation, or for participating in an investigation into or proceeding relating to alleged discrimination, sexual harassment and/or retaliation. Prohibited retaliation may include, but is not limited to:

- disciplining a person, or taking any other adverse action against a person based on a person's protected conduct,
- discriminating against a person in the PSB services, programs and activities because of a person's protected conduct, and
- subjecting a person to harassment, bullying, shunning, hazing, or name-calling, or any other hostile verbal or non-verbal conduct on the basis of a person's protected conduct.

IV. Reasonable Accommodation

The PSB will reasonably accommodate persons with disabilities and with religious observance or practice requirements. A reasonable accommodation is one that would not pose an undue financial or administrative burden on the PSB by being unduly costly, extensive, substantial or disruptive, or by fundamentally altering the nature or operation of the PSB's programs, services or activities. Depending on the facts, examples of reasonable accommodations may include, but are not limited to, a modified work or break schedule, altering how or when job duties are performed, reasonable modifications to policies and procedures, supplying an auxiliary aid or service to permit effective communication, and providing assistive technology or removal of an architectural barrier.

Persons seeking reasonable accommodations should direct their request to the applicable Coordinator designated in Section VII below.

Students seeking a Section 504 accommodation or special education services in order to access the PSB's educational programs should contact the Office of the Deputy Superintendent for Student Services for more information about any special procedures (including complaint procedures) applicable to Section 504 accommodations and special education services.

V. Other Prohibited Actions

Also, prohibited by this Policy is knowingly making a false accusation of discrimination, sexual harassment or retaliation, or interfering with the investigation into such conduct by, for example, pressuring, goading, or encouraging false denials or covering up such conduct.

VI. Duties and Responsibilities

In each school, the Principal is responsible for receiving complaints/reports of violations of this Policy at the school level. The Superintendent is responsible for receiving complaints/reports of violations by a Principal or a Deputy Superintendent. The Chair of the School Committee is responsible for receiving complaints/reports of violations by the Superintendent. Any other person designated by the Principal, Superintendent, or School Committee Chair to receive complaints/reports shall forward them to the person responsible for receiving them under this paragraph. A Coordinator identified in Section VII below will be consulted regarding next steps consistent with this Policy and applicable law.

PSB staff, independent contractors and school volunteers who witness or become aware of discrimination, sexual harassment and/or retaliation shall immediately report such conduct to their direct superior. If the reporting party does not feel comfortable reporting to their direct superior, they may report it to the Superintendent. All allegations of Sexual Harassment shall be reported to the Title IX Coordinator.

Each member of the school community is responsible for cooperating with the PSB's investigation of reports or complaints of violations of this Policy and with the PSB's efforts to prevent, respond effectively to, and eliminate any such conduct.

The Superintendent is responsible for:

- developing procedures to implement this Policy, which shall be consistent with legal requirements and PSB Policy and procedures, including, but not limited to, the Bullying Prevention Policy and procedures, the Student Discipline Policy, and applicable collective bargaining agreements.
- Otherwise developing guidelines to effectively implement this Policy and comply with applicable law, which may include guidelines regarding:
- publication of this Policy and Notices of Rights to the entire school community in an age appropriate manner and in the languages most prevalent within the school community, including in School Handbooks, and
- in-service training; and
- student training.

VII. Policy Coordinators / Notice of Rights

Inquiries about this Policy or applicable law (including Title VI, Title IX, Section 504, and the Americans with Disabilities Act) may be directed to the PSB's Coordinators, who are the following:

- **Regarding complaints of violations of a student's rights:** Deputy Superintendent of Student Services.
- **Regarding complaints of violations of an adult's rights (staff, visitors, contractors, etc.):** PSB's Director of Human Resources.

The Coordinators and their contact information (telephone number, office address, email address) shall be made identified in a Notice of Rights for each school and a separate one for the District that shall be posted, as applicable, on the school and district website, in each school building and within public areas of PSB administrative facilities.

Coordinators are responsible for consulting regarding the handling of complaints for consistency with this Policy and applicable procedures and legal requirements, and for identifying and addressing any patterns or systemic problems that arise during the review of such complaints.

VIII. Investigations / Corrective Action / Reporting

The PSB shall take prompt and effective steps reasonably calculated to end any discrimination, sexual harassment or retaliation and prevent any such conduct from recurring. The decision to discipline, the nature of any disciplinary action, and the disciplinary procedures followed shall comply with the PSB's disciplinary policies (including, but not limited to, Section J(8), PSB Policy Manual), applicable collective bargaining agreements, and federal and Massachusetts state law (including, but not limited to, Title IX, M.G.L. c. 71, §§ 37H, 37H ½, and 37H ¾, and in the case of students with disabilities, the federal Individuals with Disabilities Education Act).

The Coordinators will each prepare an annual report to the Superintendent (without identifying information) regarding the number and resolution of any complaints or reports of violations of this Policy, and noting any measures taken in the prior year and anticipated for the coming year to systemically address and prevent violations of this Policy. The Superintendent will annually submit to the School Committee a report containing this information.

IX. Contact Information for State & Federal Agencies

PSB urges all individuals in the school community to bring any concerns or complaints of harassment to the attention of school personnel so that they can be addressed. If either party to the complaint is dissatisfied with the results or progress of the PSB's investigation, they may discuss this directly with the Superintendent of Schools. Below are the relevant state and federal agencies if the party is unsatisfied with PSB's response or would rather contact them directly.

The state agency responsible for enforcing laws that prohibit harassment in the workplace is the Massachusetts Commission Against Discrimination (MCAD), One Ashburton Place, Suite 601, Boston, MA 02108-1518; telephone (617) 994-6000; TTY Users (617) 994-6196. The time frame for filing a complaint with the MCAD is within 300 days from the date of the most recent incident of alleged harassment. The state agency responsible for ensuring that Massachusetts public schools do not discriminate on the basis of protected characteristics is the Massachusetts Department of Elementary and Secondary Education (DESE), 75 Pleasant Street, Malden, MA 02148-4906; telephone (781) 338-3300; TTY Users (800) 439-2370. The MA DESE's Program Quality Assurance Services (PQA) accepts complaints when the alleged violation occurred no more than one year before PQA received the written complaint.

The Equal Employment Opportunity Commission (EEOC) is the federal agency that enforces federal laws prohibiting employment discrimination. The deadline for filing a complaint with

the EEOC is within 300 days from the day of the alleged discrimination The EEOC is located at JFK Federal Bldg., 475 Government Center, Boston, MA 02203; (617) 565-3200 or (800) 669-4000; TTY Users (800) 669-6820. The US Department of Education's Office for Civil Rights (OCR) is a federal agency that enforces five federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability and age in programs or activities that receive federal financial assistance from the US Department of Education. In most cases, a complaint must be filed with OCR within 180 calendar days of the date of the alleged discrimination. OCR is located on the 8th Floor, 5 Post Office Square, Boston, MA 02109-3921; telephone (617) 289-0111, fax (617) 289-0150.

Legal References

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, and its implementing regulations, 34 C.F.R. Part 100; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its implementing regulations, 34 C.F.R. Part 106; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.*, and its implementing regulations, 28 CFR Parts 104 and 300; Title II of the Americans with Disabilities Acts (ADA), 42 U.S.C. § 12131 *et seq.*, and its implementing regulations, 28 C.F.R. Part 35; the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.*, and its implementing regulations, 29 C.F.R. 1625 and 1626 *et seq.*; the Age

Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.* and its implementing regulations, 34 C.F.R. Part 110; the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff *et seq.*, and its implementing regulations, 29 C.F.R. Part 1635 *et seq.*; the Uniformed Services and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301 *et seq.*, and 20 C.F.R. Part 1002; Massachusetts General Laws (M.G.L.) Chapter 76, § 5; M.G.L. c. 151B; and M.G.L. Chapter 151C.