



Policy Against Discrimination, Harassment, Sexual Harassment and Retaliation Annual Report to Public Schools of Brookline Superintendent and School Committee

To: Superintendent and School Committee
From: Maria Letasz, Director of Guidance and Clinical Services, PreK-12 and District
Title IX and Title VI Coordinator (Students) and Section 504/ADA Coordinator
Tye'sha Fluker, Director of Human Resources and Title IX Coordinator (Staff)
Date: June 15, 2023

I. Introduction

The Public Schools of Brookline (PSB) is committed to providing a workplace and educational environment, programs, and activities, that are free from discrimination and harassment based on a protected category, and free from retaliation for engaging in a protected activity. Consequently, the District must take prompt, equitable, and remedial action within its authority when it receives reports, complaints, and grievances, either informally or formally, which allege acts of discrimination, harassment, sexual harassment, and/or retaliation.

Federal and state laws, as well as the School Committee Policy Against Discrimination, Harassment, Sexual Harassment, and Retaliation voted 1/7/21 (Policy) provide the basis for the District's administrative compliance and resolution processes regarding reports of general harassment, sexual harassment, and discrimination for students, parents, and staff.

Policy requires the District's Civil Rights Compliance Coordinators prepare an annual report to the Superintendent and School Committee, and states in pertinent part, "regarding the number and resolution of any complaints or reports of violations under this Policy, along with any measures taken in the prior year, and/or anticipated for implementation in the coming year, to systemically address and prevent violations under this Policy. Both substantiated and unsubstantiated complaints or reports of violations of this Policy shall be included in the annual report to the Superintendent and School Committee. In assembling the annual report, the Coordinators shall include all written complaints or reports of violations under this Policy to which the Coordinators become aware, irrespective of whether the complaints or reports of violations comply with the formal procedural mechanisms for reporting. The Coordinators shall make their best effort to include subtotals and subcategories of reported violations in the annual report to the Superintendent and School Committee, so as to best inform the Superintendent and School Committee of the state of reported discrimination and harassment in the schools."

Additionally, regarding incidents of sexual harassment specifically, the report shall include at minimum:

1. the total number of allegations of sexual harassment reported to the district's Title IX coordinator by a student or employee of the district against another student or employee of the district;
2. the number of allegations made by a student or employee of the district against another student or employee of the district investigated by a local or state law enforcement agency, if known;
3. the number of students and employees found responsible for violating the district's policies prohibiting sexual harassment;
4. the number of students and employees found not responsible for violating the district's policies prohibiting sexual harassment; and
5. the number of disciplinary actions imposed by the district as a result of a finding of responsibility for violating the district's policies prohibiting sexual harassment. Such incident data shall be reported in the form and manner that complies with state and federal privacy laws.

Therefore, in accordance with Policy, the District Civil Rights Compliance Coordinators are submitting this report for review of the Superintendent and School Committee. This report shall be publicly posted on the District's [Civil Rights/Nondiscrimination](#) website page to be accessible to the general public by July 1st.

II. Title IX: Then and Now Updates

The Title IX clause of the 1972 Federal Education Amendments was originally signed into law on June 23, 1972. Although Title IX applies to a variety of programs, it historically received the most attention for its impact on athletics when the 1975 provisions that specifically prohibited sex discrimination in athletics was signed into law.

Fast forward to 2020. In May 2020, The U.S. Department of Education released its final regulations governing Title IX. That was the culmination of a three-year process. The Education Department's rulemaking process was extraordinarily extensive and its response to over 124,000 comments meticulous. This was the first full rulemaking on a major Title IX issue since 1975, and the only one ever dedicated to sexual harassment. Its final rules' central feature was a return to the framework established by the Supreme Court in 1998-99. The focus was on schools' responsibility to address particular cases of serious sexual misconduct. The 2020 rules established what constitutes sexual harassment, what schools must do to identify and adjudicate cases of misconduct, and the remedies they must provide

to victims of such misconduct. The new Title IX regulations went into effect on August 14, 2020.

Fast forward again to 2022. June 23, 2022 was the 50th anniversary of the Title IX Education Amendments of 1972. On July 12, 2022 the Department of Education issued their Notice of Proposed Rulemaking (NPRM) which included their proposed amendments to the current Title IX regulations. These proposed amendments could expand protections afforded by Title IX and significantly change some of the procedures required under the current regulations.

Following rulemaking procedures, the proposed revisions to the Title IX regulations were released for public comment. The public comment period ended September 12, 2022. This time over 240,000 comments were received by the Education Department. The original anticipated release date for the final rules was May of 2023 however due to the large number of public comments it received regarding its proposed rules, the Department of Education moved the anticipated release date of the final rules to October 2023. The delayed release, which will land in the middle of the upcoming school year, potentially increases compliance challenges.

Until the new federal regulations are finalized, all schools must continue to comply with Title IX's current regulations, which became effective in August 2020.

III. Training Requirements

In preparation for the changes to the 2020 Title IX regulations, significant training was completed. The 2020 Title IX regulations require school districts to train staff to perform specific roles in a formal complaint process. Although Title IX was the focus of the majority of the training, civil rights compliance was also an embedded component which could be taken and extrapolated to support all areas of discrimination and harassment prevention and remediation.

Recognizing the significant training required by the 2020 Title IX regulations for each member of the Title IX team and the potential cost associated with that, the District opted to implement a train-the-trainer model where the trainer trains other employees. This model allows the District to build capacity to effectively train employees at a scale. In order to be effective, the trainer must have subject matter expertise. To ensure this, the District's Civil Rights Coordinator for Students (CRCS) completed the following training and maintains certifications in the following areas:

Administrator Training and Certification*
Title IX K-12 Coordinator Certification*
Title IX K-12 Investigator I Certification*
Title IX Compliance & Athletics Certification*
Title IX Report Writing for Investigators and Decision-makers**
Title IX K-12 Decision-maker Training and Certification*
Title IX Decision-maker Training**
Title IX Informal Resolution Training**
Civil Rights Investigator Level 2 and 3 Training and Certification*
Section 504/ADA Coordinator Certification*
Investigation Report Writing Certification*
Informal Resolution I: Foundations*
Rationale Writing Workshop for Decision-makers and Investigators*
Investigation Report Writing Certification*

*Association of Title IX Administrators (ATIXA)

**Bricker & Eckler Attorneys at Law

In anticipation of the 2023 final rules release and the impact on training requirements and future reporting numbers, it is important to communicate several proposed amendments of note.

One of the most consequential proposed provisions would expand the definition of sex-based harassment to include, but *not* be limited to, sexual harassment. Sex-based harassment is redefined to *include* harassment based on sex stereotypes, sex characteristics, pregnancy, sexual orientation and gender identity. Accordingly, the proposed amendments would extend Title IX protections to forms of sex-based harassment beyond sexual harassment — the *only* form of sex-based discrimination regulated by current provisions.

The proposed regulations contain a revised sexual harassment definition that lowers the current bar for conduct that would constitute a hostile environment and more closely aligns with the Title VII definition that human resource departments have followed for employee misconduct.

Changing the definition will require in-depth training on the First Amendment, in addition to the baseline sexual harassment training requirement. Although the Title VII hostile environment definition allows employers to regulate an employee's speech to some extent, this will not translate equally to the regulation of student speech under the proposed definition of sexual harassment. Title IX team members must be well-trained to apply the new definition while avoiding the violation of the First Amendment for public schools since it is

anticipated that the new definition will increase the number of complaints submitted to the Title IX office about misgendering, deadnaming, and mispronouncing.

Adhering to a looser standard and a broadened scope for what conduct may contribute to a sex-based hostile environment, under proposed regulations the conduct need only be “sufficiently severe, *or* pervasive, that based on the totality of the circumstances and evaluated subjectively and objectively, it denies or limits a person’s ability to participate in or benefit from the recipient’s education program or activity.” Under the current provisions, to establish a sex-based hostile environment it is required that the unwelcomed sex-based conduct be so “severe, pervasive *and* objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.”

Additionally, proposed regulations would widen the scope of conduct that may contribute to a sex-based hostile environment by recognizing conduct that occurs off-campus but is subject to the school’s “disciplinary authority.” In certain circumstances, schools would be required to address sex-based harassment that occurred outside the education program or outside the United States. Currently, the regulations require schools to only respond to reports of sexual harassment that took place in its education program and reports that took place within the United States.

IV. Employee Training

Annual training is required for all District employees and interns. Under the 2020 regulations, “Responsible employees” are those individuals who have actual or perceived authority to redress sexual misconduct. Under the 2020 Title IX regulations, all K-12 employees are responsible employees. K-12 Districts must provide sufficient annual training to all employees regarding their obligation to report and the process for doing so.

To fulfill this annual obligation, the District’s CRCS created the [2022-2023 Title IX and Civil Rights Annual Training video](#) which was made available to all employees as part of the professional development activities planned in the two staff days that occur before students report for the new year.

V. Incident Reporting and Investigation Information

As stated in the introduction, the Policy Annual Report to the Superintendent and School Committee must include information regarding incidents of harassment and discrimination, which occurred over the course of the school year and must include specific information about formal complaints filed.

The information detailed below is a breakdown of reported incidents across the district where students were the alleged respondent. All parties involved in the incidents were offered or provided supportive measures regardless if a formal complaint was filed or not. These numbers include both substantiated and unsubstantiated reports:

Civil Rights Category	Number of Reported Incidents	Number of Formal Complaints	Number of Reported Incidents and Formal Complaints Substantiated^^
Section 504	0	0	0
Title VI	3	2	1
Title IX	2	2	1^
Other Sexual Harassment (not Title IX)	11	10	5
Retaliation	0	0	0

^It is important to note that the 1 substantiated Title IX complaint was originally filed in the 21-22 school year however the finding was not made until the 22-23 school year due to procedural requirements.

The information detailed below is a breakdown of reported incidents across the district where staff or the District were the alleged respondent. These numbers include both substantiated and unsubstantiated reports:

Civil Rights Category	Number of Reported Incidents	Number of Formal Complaints	Number of Reported Incidents and Formal Complaints Substantiated^^^
Section 504	22	22^^	3
Title VI	3	0	1^^^^
Title IX	1	1^^^^^^	0
Other Sexual Harassment (not Title IX)	1	0	0
Retaliation	0	0	0

^^It's important to note that 3 formal complaints of Section 504 discrimination were in the investigatory phase at the time of the report writing.

^^^It's important to note that formal complaints submitted to OCR or BSEA may be informally resolved prior to a finding or the District may become compliant without a finding by implementing corrective action.

^^^^It is important to note that 1 substantiated Title VI complaint was originally filed in the 21-22 school year; however the finding was not made until the 22-23 school year.

^^^^^This reported incident is in the process phase and will be pending an outcome.

Sexual Harassment Additional Information

In accordance with Policy, this additional information is specific to allegations of sexual harassment (includes Title IX and other sexual harassment) reported:

- Of the student reports of sexual harassment (including formal complaints), all reports were by students against another student.
- Of the staff reports of sexual harassment (including formal complaints), all reports were by staff against another staff member.
- There were no reports of sexual harassment by students against an employee of the District.
- No reports of student sexual harassment were investigated by a local or state law enforcement agency.

With respect to addressing reports of sexual harassment, the most common types of remedies applied for both formal and informal complaints consisted of the following:

- Individualized supportive measures for all students involved
- Safety Plans for all students involved
- Mutual "No Contact" contracts
- Mutual Walking Plans to ensure students do not meet during the school day
- Review of behavior expectations
- Individualized corrective action for alleged respondent

Further breakdown of the incidents by school and to include student demographic information has not been included in this report in order to maintain confidentiality and privacy of either an alleged complainant, alleged respondent, or both. That is, since some schools only reported one incident, by reporting the school or by providing demographic information of the students involved in the reported incident, it may be possible to determine the specific identity of the parties involved, thereby violating student privacy. That said, it will be the work of the District Civil Rights Coordinators to conduct a more comprehensive analysis of the student demographic information of reported sexual harassment incidents for the purposes of determining appropriate strategies for the prevention or intervention of sexual harassment and sexual violence.

VI. Measures Anticipated for Implementation in the Coming Year to Systemically Address and Prevent Violations Under the Policy

- Ongoing training to maintain certifications for the District's two Civil Rights Compliance Coordinators.
- Planning for new training and procedures requirements for the October 2023 anticipated release of the new regulations to ensure Title IX teams are able to respond to and address reports of discrimination.
- During the summer of 2023, update individual school student handbooks with Civil Rights reporting and grievance procedures and prepare annual notice for families.
- During the summer of 2023, update the annual mandated reporter training for employees and the annual Title IX and Civil Rights training for employees.
- During the summer of 2023, update the District's Section 504 Manual for building coordinators.
- Planning with the Office of Educational Equity for Climate Survey to be administered at BHS.

Additional ongoing work:

- Ongoing review that procedures and protocols to effectively respond to reported incidents of alleged sexual harassment continue to comply with state and federal regulations, they are clear and not confusing, and also considers developmentally appropriate supports and due process rights for all parties involved.
- Review and provide input on the District's educational activities for students regarding the awareness and prevention of sexual misconduct and sexual harassment.
- Review and provide input on the District's training activities for staff regarding the awareness and prevention of sexual misconduct and sexual harassment.
- The review of educational activities for students and training activities for staff should ensure that these programs do not merely demonstrate compliance with applicable federal and state laws, but also demonstrate the District's commitment to safe and civil education and work environments.
- Review and identify prevention curricula for students.
- Provide and track annual completion of employee civil rights training.
- Review of the District's current data collection methods and capabilities to determine levels of centralized collection reporting across schools.
- Based on the reporting and data review, develop recommendations to the Superintendent and School Committee for changes needed to increase consistency across the district, accuracy of methods, and ability to analyze data.
- Based on all reviews detailed above, develop recommendations to the Superintendent and School Committee for any policy and procedure revisions.

Maria Letasz, Ed.D., LMHC
Director of Guidance and Clinical Services, PreK-12
District Title IX and Title VI Coordinator (students) and Section 504/ADA Coordinator
2 Clark Road
Brookline, MA 02445
(617) 308-6400 (text enabled)

Tye'sha Fluker, PHR
Director of Human Resources
District Title IX Coordinator (Staff)
Town Hall, 333 Washington Street, 5th Floor
Brookline, MA 02445
(617) 730-2410