

File: A4

ANTI-DISCRIMINATION/ANTI-HARASSMENT POLICY AND GRIEVANCE PROCEDURE

The Chicopee Public Schools (the “District”) is committed to maintaining and promoting an educational environment free from all forms of discrimination, including harassment. The civil rights of all school community members are guaranteed by law, and the protection of those rights is of utmost importance and priority to the District. Discrimination, including harassment, on the basis of race, color, religion, national origin, ethnicity, genetic information or testing, sex, gender identity, sexual orientation, age or disability (hereinafter “membership in a protected class”) will not be tolerated. Retaliation against any student or other individual who has complained of discrimination, including harassment, or individuals who have cooperated with an investigation of such a complaint, is also unlawful and will not be tolerated. The District will promptly investigate, remedy any harm, seek to prevent recurrence of such conduct, and will also develop procedures to accomplish this end. This policy applies to conduct directed toward persons associated with the educational community by all other persons associated with the educational community including, but not limited to, students, District employees, the School Committee, school volunteers, and independent contractors.

I. What Is Discrimination, including Harassment?

- A. Discrimination: Treating persons differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected class.
- B. Harassment: Oral, written, graphic, electronic, or physical conduct relating to a person’s actual or perceived membership in a protected class that is sufficiently severe, pervasive or persistent so as to interfere with or limit that person’s ability to participate in the District’s programs or activities by creating a hostile, humiliating, intimidating, or offensive educational environment.

Harassing conduct based on a person’s protected status may include, but is not limited to:

- Degrading, demeaning, insulting, or abusive verbal or written statements;
- Taking personal belongings, taunting, teasing, name-calling, or spreading rumors;
- Drawing or writing graffiti, slogans, visual displays, or symbols on school or another’s property;
- Telling degrading or offensive jokes;
- Unwanted physical contact of any kind;
- Physical violence, threats of bodily harm, physical intimidation, or stalking;
- Threatening letter, emails, instant messages, or websites that come within the scope of the District’s disciplinary authority;
- Defacing, damaging, or destroying school or another’s property.

II. Sample of Conduct Which May Constitute Specific Types of Harassment

The following is not intended as an inclusive list of conduct that may violate this policy.

Disability Harassment:

- Unwelcome verbal, written or physical conduct directed at a person based on his/her disability or perceived disability, including damaging or interfering with use of necessary, equipment, imitating manner of movement, using disability-related slurs, or invading personal space to intimidate.

National Origin Harassment:

- Unwelcome verbal, written or physical conduct directed at a person based on his/her national origin, ancestry, or ethnic background such as negative comments about surnames, customs, language, accents, immigration status or manner of speaking.

Racial Harassment:

- Unwelcome verbal, written or physical conduct directed at a person based on his/her race or color, including racial slurs or insults based on characteristics of a person's race or color, racial graffiti or symbols, hostile acts based on race, nicknames based on racial stereotypes, negative comments about appearance, imitating mannerisms, taunting, or invading personal space to intimidate.

Religious Harassment:

- Unwelcome verbal, written or physical conduct directed at a person based on his/her religion, including derogatory comments about religious beliefs, traditions, practices (includes non-belief), or religious clothing.

Sexual Orientation Harassment:

- Unwelcome verbal, written or physical conduct, directed at a person based on his/her actual or perceived sexual orientation, such as anti-gay slurs or insults, imitating mannerisms, taunting, or invading personal space to intimidate.

Gender Identity Harassment:

- Unwelcome verbal, written or physical conduct, directed at a person based on his/her actual or perceived gender identity such as derogatory comments about a person's appearance, behavior, or chosen name. The term "gender identity" is defined in *An Act Relative to Gender Identity* (Chapter 199 of the Massachusetts Acts of 2011).
- "Gender expression: the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms."
- "Gender identity: is '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...'" M.G.L. Chapter 4. Section 7.

- “Gender nonconforming: a term used to describe people whose gender expression differs from stereotypic expectations. The terms ‘gender variant’ or ‘gender atypical’ are also used.
- “Transgender: an umbrella term used to describe a person whose gender identity or gender expression is different from that traditionally associated with the assigned sex at birth.” DESE Guidance for Massachusetts Public Schools.

Sexual Harassment:

- **Quid pro quo sexual harassment** occurs when a person in a supervisory position explicitly or implicitly conditions participation in a program or activity or bases a decision concerning another on the other person’s submission to unwelcome sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature, whether or not the other person submits to the conduct. *Quid pro quo* sexual harassment, occurs, for example when a school employee causes a student to believe s(he) must submit to sexual advances to receive a better grade than deserved, or is threatened with a loss of a promised college application recommendation unless the student dates the employee.
- **Hostile environment sexual harassment** occurs when unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature by a student, a school employee, or third party on school property or at a school related activities is sufficiently severe, pervasive or persistent so as to interfere with or limit a person’s ability to participate in or benefit from the District’s programs or activities by creating a hostile, humiliating, intimidating, or offensive educational environment. A victim may also be someone affected by conduct directed toward another individual. Sexual harassment may occur adult to student, student to student, student to adult, adult to adult, male to female, female to male, female to female, and male to male.

Depending on the circumstances, sexual harassment may include, but is not limited to:

- ***Verbal forms of sexual harassment***, including repeated unwanted requests for dates, sexual rumors, sexually explicit jokes, howling, whistles, catcalls, soliciting conversation regarding sexual activity and experiences, making unwanted gender-based references to a person’s physical characteristics;
- ***Written forms of sexual harassment***, including offensive gestures following or stalking another, cornering or blocking a person, leering, pressuring for sexual activities;
- ***Nonverbal forms of sexual harassment***, including offensive gestures, following or stalking another, cornering or blocking a person, leering, pressuring for sexual activities;

- *Visual forms of sexual harassment*, including displaying sexually suggestive or sexually provocative photographs, pictures, objects, cartoons, or posters; or
- *Unwelcome physical touching*, including grabbing, groping, squeezing, sexual fondling, kissing, brushing against another's body, body hugs, and other unwelcome contact.

Hate Crime: A crime motivated by hatred or bias or where the victim is targeted or selected for the crime at least in part because the person is a different race, color, national origin, ethnicity, religion, gender, gender identity, or sexual orientation from the perpetrator or because the targeted person has a disability. A hate crime may involve a physical attack, threat or bodily harm, physical intimidation, or damage to another's property.

Indicators that a crime may constitute a hate crime include:

- Use of racial, ethnicity, religion or anti-gay slurs;
- Use of symbols of hate, such as a swastika or a burning cross;
- Similar behavior toward others who are members of the same protected class;
- The perpetrator's protected class is different from the victim's;
- The incident occurs while the victim was promoting a racial, religious, ethnic/national origin, disability, gender, gender identity, or sexual orientation group, such as attending an advocacy group meeting, or participating in a students' gay-straight alliance, or a disability rights demonstration.

III. Responsibilities of all Persons Associated with Educational Community

Each member of the educational community is personally responsible for ensuring that his/her conduct does not in any way harass or discriminate against any other person that he/she has contact with in the performance of his/her duties or studies or while acting as a member of the school community. In addition, each member of the educational community is required to fully cooperate in any investigation of alleged discrimination, including harassment. Further, District employees are obligated to intervene and stop any discrimination, including harassment they witness and to immediately report to the appropriate party instances of discrimination, including harassment that are reported to them or of which they otherwise learn.

IV. Designated Officials for Addressing Discrimination and Harassment Complaints

In each school building, the Principal is responsible for receiving reports and complaints of violations of this Policy at the school level. Individuals may file a report or complaint of discrimination, including harassment, with the Principal. If the complaint involves allegations of discrimination based on disability, the person filing the complaint also has the option to file his/her complaint with the building level 504 coordinator. A report or complaint of a violation involving the Principal should be filed with the Superintendent.

V. Procedure for Reporting Discrimination and Harassment

The following complaint procedure has been established to ensure prompt and effective investigation into allegations of discrimination, including harassment.

A person who believes that he or she had been discriminated against, including being harassed may, to the extent that they feel comfortable, immediately:

1. confront the harasser(s) or person believed to be discriminating against him/her;
2. state the conduct that he/she objects to;
3. indicate that he/she finds such conduct offensive, intimidating and/or embarrassing;
4. insist that the person(s) engaging in the conduct stop the conduct immediately; and
5. report the conduct immediately to the Principal/Vice-Principal;

If the individual with the concern is not comfortable with such a confrontation, or feels that such a confrontation is unsafe and/or otherwise inappropriate, he/she should instead report the situation to the Principal/Vice-Principal. Reports/complaints are to be filed within ninety (90) days after the conduct complained of occurred or within the time the individual reasonably becomes aware of the conduct. (Note: this filing period may be extended for good cause.) The report can be written or oral and should consist of the following:

1. the specific conduct objected to,
2. the date(s) and time(s) such conduct took place,
3. the name(s) of the alleged harasser(s) or person believed to be discriminating against them,
4. the location(s) where the conduct occurred,
5. the name(s) of any witness(es),
6. action sought to remedy the situation, and
7. any other details or information requested by the designated official.

In addition, the person should provide the Principal/Vice Principal with any documentation (emails, notes, pictures, etc.) or other information in support of the allegation of discrimination, including harassment.

VI. Investigation of Complaints

Upon receipt of a report or complaint, the Principal should conduct a prompt investigation. The investigation must allow for the complainant, the subject of the complaint, the alleged harasser, and any other appropriate party to provide information, including witnesses or other evidence, relevant to the consideration and resolution of the complaint. The Principal will also endeavor to promptly interview and obtain detailed written statements from potential witnesses. If further documentation or information is necessary, the Principal will notify the appropriate party, asking that the information be provided within ten (10) school/working days.

A written determination regarding the complaint and any resolution will be provided by the Principal to the complainant within thirty (30) school/working days of the complaint.

The complainant may request reconsideration of the determination and/or resolution of a complaint by notifying the Superintendent in writing or verbally within seven (7) school/working days of receipt of the written determination of the Principal. The Superintendent or his/ her designee will respond to such request within (30) thirty school/working days of receipt of the request for reconsideration; his/her decision is final.

If a violation is found to have occurred, the District will take steps to prevent recurrence of the violation and correct its discriminatory effect on the person(s) affected. Such steps may include

appropriate disciplinary action, counseling, development of a safety plan and other remedies, as appropriate.

VII. Consequences of Violating Policy - Discipline & Discharge

Any employee who violates this policy will be subject to disciplinary action consistent with the contractual provisions governing his/her employment. In appropriate circumstances, the District may also refer the matter to law enforcement officials for possible prosecution.

Any student who violates this policy will be subject to disciplinary action which may range from detention, suspension from schools, or expulsion from school. (Note: students with disabilities will be subject to the applicable disciplinary procedures set forth in the Students' Rights and Responsibilities District handbook, which adhere to the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973.) In appropriate circumstances, the District may also refer the matter to law enforcement officials for possible prosecution.

VIII. Confidentiality

Investigations of discrimination, including harassment complaints shall be conducted in such a manner as to disclose information only to those with a need to know or those who may have information pertinent to the investigation. Please note, some level of disclosure may be necessary in the course of conducting interviews in connection with the investigation of any complaint under this policy. The Chicopee Public Schools shall endeavor to keep such information as confidential as it can without compromising the thoroughness of the investigation.

IX. State and Federal Authorities

In addition to the process described above, the complainant may, at any time, file a complaint with to the Office for Civil Rights, Massachusetts Department of Elementary and Secondary Education, or other appropriate federal or state agency charged with enforcement of state and federal laws prohibiting discrimination, including harassment based on membership in a protected class.

U.S. Department of Education, Office for Civil Rights
John W. McCormack Building
Post Office Square
Boston, MA 02109
Telephone: (617) 289-0111
<http://www.ed.gov>

Massachusetts Department of Elementary and Secondary Education
Program Quality Assurance Services
75 Pleasant Street, Malden, MA 02148-4906
Telephone: (781) 338-3700
<http://www.doe.mass.edu>
Bureau of Special Education Appeals
75 Pleasant Street, Malden, MA 02148-4906
Telephone: (781) 338-6400
<http://www.doe.mass.edu/bsea>

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