

SECTION A: FOUNDATIONS AND BASIC COMMITMENTS

Section A of the NEPN classification system contains policies, regulations, and exhibits on the district's legal role in providing public education and the basic principles underlying school board governance. These policies provide a setting for all of the school board's other policies and regulations.

GENERAL NOTE: The drafts that follow are a merger of current Lowell policies with the draft policies recommended by the Massachusetts association of School Committees (MASC).

Changes will generally fall within five categories:

No changes made/Only references or titles updated.

Significant edits but original policy largely remains.

Changes are so numerous, a complete replacement is recommended.

Policy does not currently exist in manual, and adding it is recommended.

Policy is actually procedure, and does not belong in the policy manual.

Where necessary, language has been updated to reflect the most currently available legal language and grammatical conventions. Some policies have been combined for simplicity. Draft Notes in blue are included at the top of each policy to clarify what changes were made and why, and will not be included in the final language.

(S) indicates that the policy is the current Somerville policy. (MASC) indicates the current draft MASC policy.

“- R” denotes a regulation that accompanies a policy.

“-E” denotes an exhibit that provides additional information.

When the final versions are approved, the strikethroughs, notes, and sources will be removed.

SECTION A
FOUNDATIONS AND BASIC COMMITMENTS

- [AA](#) SCHOOL DISTRICT LEGAL STATUS (S with MASC update)
The MASC Reference Manual does not include the struck last sentence.
- [AB](#) THE PEOPLE AND THEIR SCHOOL DISTRICT (S)
[AB](#) THE PEOPLE AND THEIR SCHOOL DISTRICT (MASC)
Policies are very similar. Version is at the discretion of the committee.
- ~~[AC](#) NONDISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION (S)~~
- [AC](#) NONDISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION (MASC)
MASC model policy was updated in 2024. Recommend MASC version.
- ~~[AC-R](#) PROCEDURES FOR RESPONDING TO COMPLAINTS OF DISCRIMINATION, HARASSMENT AND RETALIATION (S)~~
- [AC-R](#) NONDISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION (MASC)
MASC model policy was updated in 2024. Recommend MASC version.
- ~~[ACA](#) NONDISCRIMINATION ON THE BASIS OF SEX (S)~~
- [ACA](#) NONDISCRIMINATION ON THE BASIS OF SEX (MASC)
MASC model policy was updated in 2024. Recommend MASC version.
- [ACA-R](#) NONDISCRIMINATION ON THE BASIS OF SEX UNDER TITLE IX INCLUDING SEX-BASED HARASSMENT (MASC)
MASC only. Recommend adoption.
- ~~[ACAB](#) SEXUAL HARASSMENT (S)~~
- [ACAB](#) SEXUAL & SEX-BASED HARASSMENT (MASC)
MASC model policy was updated in 2024. Recommend MASC version.
- [ACE](#) NONDISCRIMINATION ON THE BASIS OF DISABILITY (S with MASC updates)
Somerville with MASC updates.
- [ACGA](#) CIVIL RIGHTS GRIEVANCE PROCEDURE (MASC)
MASC only. Recommend adoption.
- ~~[ACGB](#) GRIEVANCE PROCEDURE FOR COMPLAINTS OF SEXUAL HARASSMENT UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 (S)~~
- [ACGB](#) TITLE IX SEXUAL DISCRIMINATION GRIEVANCE PROCEDURE (MASC)
MASC model policy was updated in 2024. Recommend MASC version.
- [AD](#) MISSION STATEMENT (MASC)

MASC model policy. If adopted, the committee should adapt it for Somerville.

~~ADC~~ ~~TOBACCO PRODUCTS ON SCHOOL PREMISES (S)~~
ADC TOBACCO PRODUCTS ON SCHOOL PREMISES PROHIBITED (MASC)
MASC model policy was update on 2022. Recommend MASC version.

ADDA BACKGROUND CHECKS (S/MASC)
Policies match, no action required.

~~ADDA-R~~ DCJIS MODEL CORI POLICY (S/MASC)
Policies match, no action required.

ADF SCHOOL DISTRICT WELLNESS PROGRAM (S with MASC updates)
Somerville with MASC updates.

AE COMMITMENT TO ACCOMPLISHMENT (S with MASC updates)
Somerville with MASC updates.

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Field Code Changed

File: AA

SCHOOL DISTRICT LEGAL STATUS

DRAFT NOTE: The MASC Reference Manual does not include the struck last sentence.

The legal basis for public education in the District is vested in the will of the people as expressed in the Constitution of Massachusetts and state statutes pertaining to education.

Under the General Laws of Massachusetts,

"... Every town shall maintain... a sufficient number of schools for the instruction of all ~~children~~ students who may legally attend a public school therein."

The public educational ~~system~~ district of Somerville structurally is a department of the town operated under laws pertaining to education and under regulations of the Massachusetts Board of Education. The area served by the Somerville Public Schools is coterminous with the City of Somerville.

~~Established by law~~

LEGAL REFS.: Constitution of Massachusetts, Part II, Chapter V, Section II
M.G.L. [71:1](#)

CROSS REF.: [BB](#), School Committee Legal Status

Historical Note: Massachusetts has the oldest public school system in the nation. Dating back to 1647, the laws of the Massachusetts Bay Colony required towns to provide for a program of public education.

Adoption date: January 1996
Reviewed October 2008

SOURCE: Somerville

File: AB

THE PEOPLE AND THEIR SCHOOL DISTRICT

DRAFT NOTE: Policies are very similar. Version is at the discretion of the committee.

The Somerville School Committee has the dual responsibility for implementing statutory requirements pertaining to public education and local residents' expectations for the education of the community's youth. It also has an obligation to determine and assess residents' desires. When citizens elect Somerville School Committee members to represent them in the conduct of public education, their representatives have the authority to exercise their best judgment in determining policies, making decisions, and approving procedures for carrying out the responsibility.

The Somerville School Committee therefore affirms and declares its intent to:

1. Maintain two-way communication with residents of the community. The public will be kept informed of the progress and problems of the school ~~system~~ district, and residents will be urged to bring their aspirations and feelings about their public schools to the attention of this body, which they have chosen to represent them in the management of public education.
2. Establish policies and make decisions on the basis of declared educational philosophy and goals. All decisions made by this Committee will be made with priority given to the purposes set forth, most crucial of which is the optimal learning of the ~~children~~ students enrolled in our schools.
3. Act as a truly representative body for members of the community in matters involving public education. The Committee recognizes that ultimate responsibility for public education rests with the state, but individual School Committees have been assigned specific authority through state law. The Committee will not relinquish any of this authority since it believes that decision-making control over the ~~children's~~ students' learning should be in the hands of local citizens as much as possible.

Revised: January 18, 1996
Reviewed October 2008

SOURCE: Somerville

File: AB

THE PEOPLE AND THEIR SCHOOL DISTRICT

The School Committee has the dual responsibility for implementing statutory requirements pertaining to public education and local citizens' expectations for the education of the community's youth. It also has an obligation to determine and assess citizens' desires. When citizens elect delegates to represent them in the conduct of public education, their representatives have the authority to exercise their best judgment in determining policies, making decisions, and approving procedures for carrying out the responsibility.

The School Committee therefore affirms and declares its intent to:

1. Maintain two-way communication with citizens of the community. The public will be kept informed of the progress and problems of the school district, and citizens will be urged to bring their aspirations and feelings about their public schools to the attention of this body, which they have chosen to represent them in the management of public education.
2. Establish policies and make decisions on the basis of declared educational philosophy and goals. All decisions made by this Committee will be made with priority given to the purposes set forth, most crucial of which is the optimal learning of the ~~children~~ students enrolled in our schools.
3. Act as a truly representative body for members of the community in matters involving public education. The Committee recognizes that ultimate responsibility for public education rests with the state, but individual School Committees have been assigned specific authority through state law. The Committee will not relinquish any of this authority since it believes that decision-making control over the ~~children's~~ students' learning should be in the hands of local citizens as much as possible.

SOURCE: MASC – Updated 2022

File: AC

~~NON-DISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION~~

DRAFT NOTE: MASC model policy was updated in 2024. Recommend MASC version.

~~The Somerville School Committee and Somerville Public Schools are committed to maintaining an education and work environment for all school community members that is free from all forms of discrimination, including harassment and retaliation. The members of the school community include the School Committee, employees, administration, faculty, staff, students, volunteers in the schools, and parties contracted to perform work for the Somerville Public Schools.~~

~~Somerville Public Schools does not exclude from participation, deny the benefits of the Somerville Public Schools from or otherwise discriminate against, individuals on the basis of race (including traits historically associated with race, including, but not limited to, hair texture, hair type, hair length, and protective hairstyles), color, sex, sexual orientation, gender identity, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy, or pregnancy-related condition, homelessness, actual or perceived shared ancestry, ethnic background, national origin, immigration status, English proficiency or any category protected by state or federal law in the administration of its educational and employment policies, or in its programs and activities.~~

~~This commitment to the community is affirmed by the following statements. The School Committee commits to:~~

- ~~1. Promoting the rights and responsibilities of all individuals as set forth in the State and Federal Constitutions, pertinent legislation, and applicable judicial interpretations.~~
- ~~2. Encouraging 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. Working toward a more integrated society and enlisting the support of individuals as well as groups and agencies, both private and governmental, in such an effort.~~
- ~~4. Using all appropriate communication and action techniques to air and address the grievances of individuals and groups.~~
- ~~5. Carefully consider, in all the decisions made within the school district, the potential benefits or adverse consequences that those decisions might have on human relations.~~
- ~~6. Initiating a process of reviewing policies and practices of the school district in order to achieve to the greatest extent possible the objectives of this statement.~~

~~The Somerville Public Schools requires all members of the school community to conduct themselves in accordance with this policy.~~

~~It shall be a violation of this policy for any member of the school community to engage in any form of discrimination, including harassment and retaliation, or to violate any other civil right of any member of the school community. We recognize that discrimination can take a range of forms and can be targeted or unintentional; however, discrimination in any form, including harassment and retaliation, will not be tolerated.~~

~~Retaliation includes, but is not limited to, coercion, intimidation, interference, punishment, discrimination, or harassment, for reporting or filing a complaint of discrimination, cooperating in an investigation, aiding~~

or encouraging another member of the school community to report such conduct or file a complaint, or opposing any act or practice reasonably believed to be prohibited by this policy.

~~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
No Child Left Behind Act of 2001, 20 U.S.C. § 7905 (The Boy Scouts of America Equal Access Act)
M.G.L. c. 71B:1 et seq. (Chapter 766 of the Acts of 1972)
M.G.L. c. 151B
Acts of 2022, Chapter 117~~

~~CROSS REFS: ACE, Non-Discrimination on the Basis of Disability
ACAB, Sexual Harassment
ACR, Non-Discrimination Policy Including Harassment and Retaliation
GBA, Equal Employment Opportunity
H, Instructional Materials
JB, Equal Educational Opportunities
JCK, Harassment of Students~~

~~Amended: October 15, 2012
Revised and Approved: November 7, 2022
Revised: May 22, 2023
Revised and Approved: February 5, 2024~~

SOURCE: Somerville

File: AC

NON-DISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION

The Somerville School Committee and Somerville Public Schools are committed to maintaining an education and work environment for all school community members, that is free from all forms of discrimination, including harassment and retaliation. The members of the school community include the School Committee, employees, administration, faculty, staff, students, volunteers in the schools, and parties contracted to perform work for the Somerville Public Schools.

Somerville Public Schools does not exclude from participation, deny the benefits of Somerville Public Schools from or otherwise discriminate against, individuals on the basis of race*, color, sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy, or pregnancy-related condition, homelessness, ancestry, ethnic background, national origin, or any other category protected by state or federal law in the administration of its educational and employment policies, or in its programs and activities.

This commitment to the community is affirmed by the following statements. The School Committee commits to:

1. Promoting the rights and responsibilities of all individuals as set forth in the State and Federal Constitutions, pertinent legislation, and applicable judicial interpretations.
2. Encouraging positive experiences in human values for ~~children~~ students, youth and adults, all of whom have differing personal and family characteristics and who come from various socioeconomic, racial and ethnic groups.
3. Working toward a more integrated society and enlisting the support of individuals as well as groups and agencies, both private and governmental, in such an effort.
4. Using all appropriate communication and action techniques to air and address the grievances of individuals and groups.
5. Carefully consider, in all the decisions made within the school district, the potential benefits or adverse consequences that those decisions might have on human relations.
6. Initiating a process of reviewing policies and practices of the school district in order to achieve to the greatest extent possible the objectives of this statement.

The Somerville Public Schools requires all members of the school community to conduct themselves in accordance with this policy.

File: AC

It shall be a violation of this policy for any member of the school community to engage in any form of discrimination, including harassment and retaliation, or to violate any other civil right of any member of the school community. We recognize that discrimination can take a range of forms and can be targeted or unintentional; however, discrimination in any form, including harassment and retaliation, will not be tolerated.

It shall also be a violation of this policy for any school community member to subject any other member of the school community to any form of retaliation, including, but not limited to, coercion, intimidation, interference, punishment, discrimination, or harassment, for reporting or filing a complaint of discrimination, cooperating in an investigation, aiding or encouraging another member of the school community to report such conduct or file a complaint, or opposing any act or practice reasonably believed to be prohibited by this policy.

*race to include traits historically associated with race, including, but not limited to, hair texture, hair type, hair length and protective hairstyles.

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
No Child Left Behind Act of 2001, 20 U.S.C. § 7905 (The Boy Scouts of America Equal Access Act)
M.G.L. [71B:1](#) et seq. (Chapter 766 of the Acts of 1972)
Acts of 2022, Chapter 117
- <https://malegislature.gov/Laws/SessionLaws/Acts/2022/Chapter117>

CROSS REF: [ACE](#), Nondiscrimination on the Basis of Disability
[ACAB](#), Sexual Harassment
[GBA](#), Equal Employment Opportunity
[II](#), Instructional Materials
[JB](#), Equal Educational Opportunities

SOURCE: MASC July 2024

File: AC-R

**~~PROCEDURES FOR RESPONDING TO COMPLAINTS OF DISCRIMINATION,
HARASSMENT AND RETALIATION~~**

DRAFT NOTE: MASC model policy was updated in 2024. Recommend MASC version.

~~The Somerville Public Schools will respond promptly to any reports or complaints of discrimination, including harassment and retaliation, or other violations of civil rights, pursuant to district policies and procedures described below and in related policies AC, ACAB, ACAB-R and JICK. Where it is determined that discrimination or harassment has occurred in a school program or activity, Somerville Public Schools will act promptly to stop the discrimination or harassment, remedy the impact and will impose developmentally appropriate disciplinary, restorative, and/or corrective action to prevent the recurrence.~~

~~Definitions~~

~~"Discrimination" and "Harassment" are defined as unwelcome conduct, whether verbal or physical, that is based on any individual's actual or perceived race (including traits historically associated with race, including, but not limited to, hair texture, hair type, hair length, and protective hairstyles), color, sex, sexual orientation, gender identity, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy or pregnancy related conditions, homelessness, actual or perceived ancestry, ethnic background, national origin, or any other category protected by state or federal law, in the administration of its educational and employment policies, or in its programs and activities.~~

~~Discrimination and/or harassment includes, but is not limited to:~~

- ~~● Display or circulation of written materials or pictures that are degrading to a person or group described above.~~
- ~~● Verbal abuse or insults about, directed at, or made in the presence of, an individual or group described above.~~
- ~~● Any action or speech that contributes to, promotes or results in a hostile or discriminatory environment to an individual or group described above.~~
- ~~● Implied or explicit threats concerning one's grades, achievements or other school matters.~~
- ~~● 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 described above to participate in or benefit from employment or a program or activity of the District or (ii) creates an intimidating, threatening or abusive educational or working environment.~~

~~Harassment may include, but is not limited to, any unwelcome, inappropriate, or illegal physical, written, verbal, graphic, or electronic conduct, and that has the intent or effect of creating a hostile education or work environment by limiting the ability of an individual to participate in or benefit from the district's programs and activities or by unreasonably interfering with that individual's education or work environment or, create a hostile educational or work environment.~~

~~Retaliation includes, but is not limited to, coercion, intimidation, interference, punishment, discrimination, or harassment, for reporting or filing a complaint of discrimination, cooperating in an investigation, aiding or encouraging another member of the school community to report such conduct or file a complaint, or~~

~~opposing any act or practice reasonably believed to be prohibited by this policy.~~

~~Allegations of Title IX Sexual Harassment shall be reported and investigated pursuant to the Somerville Public Schools Procedures for Investigating Sexual Harassment and Retaliation Pursuant to Title IX. Any student or employee of the District who feels that they have been discriminated against or subjected to harassment for any of the reasons cited in Policy AC, or who becomes aware of an incident of such discrimination or harassment, should utilize the following procedure set forth in this policy to report the incident.~~

~~Complaint Procedure for Non-Sexual Harassment matters~~

~~1. Reporting a Complaint of Discrimination or Harassment~~

~~If any District student or employee believes, in good faith, that he or she has been subjected to discrimination or harassment as defined in School Committee Policy AC, including violations of the ADA, Title VI, Title IX and Section 504, the individual has a right to file a complaint with the District through the Equity Coordinator/Title IX Coordinator (hereinafter the "Coordinator"). This may be done verbally or in writing to the following:~~

~~Coordinator Name or Title~~
~~Office Address~~
~~Phone Number~~
~~Email Address~~

~~Any complaint by a member of the school community must be reported to the Coordinator. If a complaint comes to any member of the staff, that staff member must notify the Coordinator. Teachers or other staff members who observe incidents of harassment involving students should report such incidents immediately to the student's Principal or designee. Administrators aware of harassment involving any employee should promptly report such incidents to the Coordinator.~~

~~If you wish to file a complaint, you may do so by contacting your immediate supervisor or administration in the case of employees, and your teacher, Principal, Assistant Principal or Assistant Superintendent in the case of students.~~

~~2. Interim Measures and Investigation~~

~~The Somerville Public Schools takes allegations of discrimination and harassment seriously and will respond promptly to complaints by taking interim measures to protect the complainant and the school community from further discrimination and/or harassment and by conducting a timely, thorough and impartial investigation.~~

~~All complaints will be thoroughly investigated by the Coordinator or designee. Both the complainant and the subject of the complaint will be interviewed and given a full opportunity to state their case through the presentation of witnesses and other evidence. Witnesses and other persons relevant to the complaint, if any, may also be interviewed. A record will be kept of each investigation.~~

~~Complaints will be investigated within a reasonable time, usually not to exceed thirty (30) school days after the complaint has been received, except for extenuating circumstances. When more than~~

thirty (30) school days is required for the investigation, the Coordinator or designee shall inform the Complainant that the investigation is still ongoing. Both the complainant and the subject of the complaint will be informed of the findings in writing, in a manner consistent with federal and state law.

~~3. Appeals~~

~~If either party disputes the results of the investigation or resolution, such person may submit an appeal in writing to the Superintendent within ten (10) school days of the Coordinator or designee's decision. After receipt of such an appeal, the Superintendent or designee will review the records of the investigation and may request a meeting with the appellant to obtain additional information.~~

~~_____The Superintendent or designee will issue a written decision within ten (10) business days of receipt of the appeal or meeting (if requested), whichever is later. The Superintendent or designee's decision shall be final.~~

~~4. Responsive Measures and Disciplinary Action~~

~~If a complaint is substantiated, the Coordinator or designee will act promptly to eliminate the conduct and will refer the matter to the proper supervisor or administrator for appropriate responsive measures, including but not limited to disciplinary action. For students, discipline will be imposed consistent with the student code of conduct and state laws and regulations. Discipline of school staff will be consistent with collective bargaining agreement procedures, if applicable. Responsive measures will also include any steps necessary to prevent the recurrence of any discrimination and/or harassment and will include corrective action aimed at eliminating any discriminatory effects on the complainant and others, as appropriate.~~

~~While this policy sets forth the District's goals of promoting a school environment that is free from discrimination and harassment, this policy is not designed or intended to limit the District's authority to discipline and/or take remedial action for conduct which we deem unacceptable, regardless of whether that conduct falls within the ambit of this policy.~~

~~In certain cases, harassment, especially sexual harassment, of a student may constitute child abuse under Massachusetts law. The Somerville Public Schools will comply with all legal requirements governing the reporting of suspected cases of child abuse. The Somerville Public Schools will also report instances of harassment that may involve a crime to the Somerville Police Department as appropriate.~~

~~For more specific information regarding complaints of sexual harassment, sexual assault or sexual violence in violation of District policy, Massachusetts law and Title IX of the Education Amendments of 1972, and the grievance procedures related thereto, please refer to School Committee Policy ACAB (Sexual Harassment) and accompanying ACAB-R (Grievance Procedure for Complaints of Sexual Harassment under Title IX of the Education Amendments of 1972).~~

~~Nothing in this policy or procedure shall be deemed to affect a complainant's right to other remedies at law. Administrative agencies with jurisdiction in these matters include:~~

~~Massachusetts Commission Against Discrimination ("MCAD")
One Ashburton Place, Room 601~~

Boston, MA 02108
P: (617) 727-3990

U.S. Department of Education, Office for Civil Rights
5 Post Office Square 8th Floor
Boston, MA 02109-3921
P: (617) 281-0111
F: (617) 289-0150
Email: OCR.Boston@ed.gov www.ed.gov/ocr

Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02148
(781) 388-3300

U.S. Equal Employment Opportunity Commission ("EEOC")
John F. Kennedy Federal Building
25 Sudbury Street
Boston, MA 02222
~~One Congress Street—10th Floor~~
Boston, MA 02114
P: (617) 565-3200

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
No Child Left Behind Act of 2001, 20 U.S.C. § 7905 (The Boy Scouts of America
Equal Access Act)
M.G.L. 71B:1 et seq. (Chapter 766 of the Acts of 1972)
~~Acts of 2022, Chapter 117~~

CROSS REF: ~~————~~ AC, Non-Discrimination Policy Including Harassment and Retaliation
ACE, Non-Discrimination on the Basis of Disability
ACAB, Sexual Harassment
ACAB-R, Grievance Procedure for Complaints of Sexual Harassment under Title
IX of the Education Amendments of 1972
GBA, Equal Employment Opportunity II, Instructional Materials
JB, Equal Educational Opportunities
Title IX Sexual Harassment Grievance Procedure
Civil Rights Grievance Procedure

Adopted: November 7, 2022
Revised: May 22, 2023

~~SOURCE: Somerville~~

File: AC-R

NON-DISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION

Somerville Public Schools will respond promptly to any reports or complaints of discrimination, including harassment and retaliation, or other violations of civil rights, pursuant to our detailed response protocol. Where it is determined that discrimination or harassment has occurred, Somerville Public Schools will act promptly to eliminate the conduct and will impose developmentally- appropriate disciplinary, restorative, and/or corrective action.

Any member of the school community who is found, after investigation, to have engaged in any form of discrimination, including harassment or retaliation, against another member of the school community, will be subject to consequences determined appropriate by the administration. Such consequences may include restorative measures and corrective action, and/or student discipline or staff disciplinary action, up to and including termination of employment.

Definitions

"Discrimination" and "Harassment" are defined as unwelcome conduct, whether verbal or physical, that is based on any individual's actual or perceived race*, color, sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy or pregnancy-related conditions, homelessness, ancestry, ethnic background, national origin, or any other category protected by state or federal law, Discrimination and/or harassment includes, but is not limited to:

- Display or circulation of written materials or pictures that are degrading to a person or group described above.
- Verbal abuse or insults about, directed at, or made in the presence of, an individual or group described 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 described above to participate in or benefit from employment or a program or activity of Somerville Public Schools; or (ii) creates an intimidating, threatening or abusive educational or working environment.

Harassment may include, but is not limited to, any unwelcome, inappropriate, or illegal physical, written, verbal, graphic, or electronic conduct, and that has the intent or effect of creating a hostile education or work environment by limiting the ability of an individual to participate in or benefit from the district's programs and activities or by unreasonably interfering with that individual's education or work environment or, if the conduct were to persist, would likely create a hostile educational or work environment.

Harassment includes Sexual Harassment and Sex-Based Harassment which are more specifically addressed in File ACAB.

File: AC-R

Retaliation means intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or other Federal or State law providing protection against sex discrimination including sexual and sex-based harassment, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing as provided under District's , including in an informal resolution process, in grievance procedures and in any other actions taken by the District under § 106.44(f)(1) of Title IX.

Resources

The following individual is designated as the District ADA, Title VI, Title IX, and Sexual Harassment Coordinator, and Grievance Officer for the School Committee, administration, faculty, staff, volunteers in the schools, and for parties who are contracted to perform work for the Somerville Public Schools, and can be reached at:

Name/Position
Address
Phone

The following individual is designated as the District ADA, Title VI, Title IX, and Sexual Harassment and Civil Rights Coordinator for students in the Somerville Public Schools. In addition, the _____ is the District504 Coordinator, and can be reached at:

Name/Position
Address
Phone

Inquiries concerning the Somerville Public Schools' policies and protocols, compliance with applicable laws, statutes, and regulations, and complaints may also be directed to the Director of Human Resources. Inquiries about laws, statutes, regulations and compliance may also be directed to the Massachusetts Department of Elementary and Secondary Education or the Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Suite 900, Boston, MA 02109; (617) 289-0111; Email: OCR.Boston@ed.gov; Website: www.ed.gov/ocr

*race to include traits historically associated with race, including, but not limited to, hair texture, hair type, hair length and protective hairstyles.

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

File: AC-R

Education Amendments of 1972
Rehabilitation Act of 1973
Education for All Handicapped Children Act of 1975
No Child Left Behind Act of 2001, 20 U.S.C. § 7905 (The Boy Scouts of America
Equal Access Act)
M.G.L. [71B:1](#) et seq. (Chapter 766 of the Acts of 1972)
Acts of 2022, Chapter 117
<https://malegislature.gov/Laws/SessionLaws/Acts/2022/Chapter117>

CROSS REF: [ACE](#), Nondiscrimination on the Basis of Disability
[ACAB](#), Sexual Harassment
[GBA](#), Equal Employment Opportunity
[IJ](#), Instructional Materials
[JB](#), Equal Educational Opportunities
ACGA, Civil Rights Grievance Procedure
ACGB, Title IX Sexual Discrimination Grievance Procedure

SOURCE: MASC July 2024

[File: ACA](#)

~~NONDISCRIMINATION ON THE BASIS OF SEX~~

DRAFT NOTE: MASC model policy was updated in 2024. Recommend MASC version.

~~The School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school system does not and will not discriminate on the basis of sex in the educational programs and activities of the public schools. This policy will extend not only to students with regard to educational opportunities, but also to employees with regard to employment opportunities.~~

~~The School Committee will continue to ensure fair and equitable educational and employment opportunities, without regard to sex, to all of its students and employees.~~

~~The Committee will designate an individual to act as the school system's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.~~

~~LEGAL REFS.: Title IX of the Education Amendments of 1972
45 CFR, Part 86, (Federal Register, 6/4/75)
M.G.L. 76:5; 76:16 (Chapter 622 of the Acts of 1971)
BESE 603 CMR 26:00~~

~~CROSS REF.: AC, Nondiscrimination~~

~~Approved: October 15, 2012~~

~~SOURCE: Somerville~~

File: ACA

NONDISCRIMINATION ON THE BASIS OF SEX

The School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school district does not and will not discriminate on the basis of sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, marital status, familial status, pregnancy or pregnancy-related conditions and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

The School Committee will continue to ensure fair and equitable educational and employment opportunities, without regard to sex, sexual orientation or gender identity, to all of its students and employees.

The Committee will designate an individual to act as the school district's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.

The Somerville Public Schools shall provide a notice of non-discrimination along with the contact information for its Title IX Coordinator as set forth below. The notice shall be given to students; parents, guardians, or other authorized legal representatives of elementary school and secondary school students; employees; applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the Somerville Public Schools.

NOTICE OF NONDISCRIMINATION & RELATED TITLE IX INFORMATION

The Somerville School Committee and Somerville Public Schools do not discriminate on the basis of sex and prohibits sex discrimination, including sex-based harassment in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Inquiries about Title IX may be referred to Somerville Public Schools' Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. Somerville Public Schools' Title IX Coordinator is [name or title, office address, email address, and telephone number].

The Somerville Public Schools' nondiscrimination policy and grievance procedures can be located at [include link to location(s) on website or otherwise describe location(s)].

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to [include link to location(s) on website or otherwise describe location(s)].

The District shall prominently include all elements of its notice of nondiscrimination set out above on its website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to persons entitled to notice under this section, or which are otherwise used in connection with the recruitment of students or employees.

File: ACA

LEGAL REFS.: Title IX of the Education Amendments of 1972
45 CFR, Part 86, (Federal Register, 6/4/75)
M.G.L. [76:5](#); [76:16](#) (Chapter 622 of the Acts of 1971)
BESE 603 CMR [26:00](#)

REFERENCE: USDOE Notice of Interpretation –
<https://www.ed.gov/news/press-releases/us-department-education-confirms-title-ix-protects-students-discrimination-based-sexual-orientation-and-gender-identity>

CROSS REF.: [AC](#), Nondiscrimination Policy Including Harassment and Retaliation
ACGA, Civil Rights Grievance Procedure
ACGB, Title IX Sexual Discrimination Grievance Procedure

SOURCE: MASC - July 2024

File: ACA-R

NONDISCRIMINATION ON THE BASIS OF SEX UNDER TITLE IX INCLUDING SEX-BASED HARASSMENT

DRAFT NOTE: MASC only. Recommend adoption.

- I. The Somerville Public School's obligation to respond under Title IX requires the District to be aware of discrimination based upon sex, including sex-based harassment. The District has actual notice when an allegation is made known to any school employee. Schools must treat seriously all reports of sexual discrimination, including sex based harassment, that meet the definition of harassment and the conditions of actual notice and jurisdiction as noted whether or not the complainant files a formal complaint.

Title IX Sexual Discrimination applies to conduct that occurs within the United States in an education program or activity of the District, regardless of whether such District program or activity is conducted on or off school grounds. Additionally, under Title IX, the District has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity or outside the United States. A District education program or activity includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurred.

II. Designation of a Title IX Coordinator, Responsibilities & Training

- (1) Title IX Coordinator. The District shall designate and authorize at least one employee, referred to herein as a Title IX Coordinator, to coordinate its efforts to comply with its responsibilities under Title IX. In the event the District designates more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over those responsibilities and ensure the District's consistent compliance with its responsibilities under Title IX.

The Title IX Coordinator is responsible for coordinating the District's compliance with its obligations under Title IX and when notified of conduct that reasonably may constitute sex discrimination under Title IX is required to take actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects, pursuant to Title IX 106.44(f), in part by:

- (i) Treating the complainant and respondent equitably;
- (ii) Offering and coordinating supportive measures, as appropriate, for the complainant and if the grievance procedures has been initiated or an informal resolution process has been offered, for the respondent as well.
- (iii) Notifying parties of the grievance procedure and the informal resolution process if available and appropriate;
- (iv) Initiating the grievance procedure or the informal resolution process if available, appropriate and agreed to by all parties;

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- (v) In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, determining whether to initiate a complaint of sex discrimination that complies with the grievance procedures. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:
- (1) The complainant's request not to proceed with initiation of a complaint;
 - (2) The complainant's reasonable safety concerns regarding initiation of a complaint;
 - (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
 - (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
 - (5) The age and relationship of the parties, including whether the respondent is an employee of the District;
 - (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
 - (7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
 - (8) Whether the District could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the recipient from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

- (vi) If initiating a complaint under paragraph (v) above of this section, notifying the complainant prior to doing so and appropriately addressing reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures;
- (vii) Regardless of whether a complaint is initiated, taking other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue or recur within the recipient's education program or activity.

Parental, family, or marital status; pregnancy or related conditions.

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The Title IX Coordinator shall coordinate actions on behalf of the District to promptly and effectively prevent sex discrimination and ensure equal access to the District's education program or activity pursuant to the provisions of Title IX, § 106.40 once a student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions. These actions shall include:

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- (i) Informing the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of the District's obligations under paragraphs Title IX, §§ 106.40(b)(1) through (5), § 106.44(j) and providing the District's notice of nondiscrimination.
- (ii) Providing reasonable modifications to the District's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the District's education program or activity. Each reasonable modification must be based on the student's individualized needs following consultation with the student to determine what modifications are required. A modification is not reasonable if the District can demonstrate that it would fundamentally alter the nature of its education program or activity.
- (iii) Providing the student voluntary access to any separate and comparable portion of the District's education program or activity.
- (iv) Providing the student a voluntary leave of absence from the District's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. If the student qualifies for leave under a leave policy maintained by the District that allows a greater period of time than the medically necessary period, the student may take voluntary leave under that policy instead if the student so chooses. When the student returns to the District's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.
- (v) Providing the student access to a lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.
- (vi) Not requiring supporting documentation under paragraphs (ii) through (v) above unless the documentation is necessary and reasonable for the District to determine the reasonable modifications to make or whether to take additional specific actions under paragraphs (ii) through (v) above
- (vii) Treating pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's education program or activity.

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- (viii) Not requiring a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the recipient's class, program, or extracurricular activity unless:
 - The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
 - The recipient requires such certification of all students participating in the class, program, or extracurricular activity; and
 - The information obtained is not used as a basis for discrimination prohibited by this part.
- (2) Delegation to designees. As appropriate, the District may delegate, or permit the Title IX Coordinator to delegate, specific duties to one or more designees.
- (3) Training.

The District must ensure that the persons described in paragraphs (A) through (D) below receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX and annually thereafter. This training must not rely on sex stereotypes.

A. All employees.

All employees must be trained on:

- (i) The District's obligation to address sex discrimination in its education program or activity;
 - (ii) The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment; and
 - (iii) All applicable notification and information requirements in response to reports of sexual discrimination and pursuant to the District's Title IX Grievance Procedure.
- B. Investigators, decisionmakers, and other persons who are responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures.

In addition to the training requirements in paragraph A. above, all investigators, decisionmakers, and other persons who are responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures must be trained on the following topics to the extent related to their responsibilities:

- (i) The District's obligations to respond to sexual discrimination under Title IX § 106.44;
- (ii) The District's grievance procedures;

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(iii)How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and

(iv)The meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under Title IX.

C. Facilitators of informal resolution process.

In addition to the training requirements in paragraph A. above, all facilitators of an informal resolution process must be trained on the rules and practices associated with the District’s informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

D. Title IX Coordinator and designees.

In addition to the training requirements in paragraphs A. through C. above, the Title IX Coordinator and any designees must be trained on their specific responsibilities as set forth in paragraph (1) above and the requirements of the District’s recordkeeping system.

III. Receipt of Complaint

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 a sex discrimination complaint, including sexual and sex-based harassment. The Title IX Coordinator shall be informed, as soon as possible, of the filing of the complaint. Nothing in the District’s 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.

Commented [JC1]: Don’t think its necessary to specify in a policy whom will be interviewed.

~~IV. Notification Requirements and Confidential Employees~~

~~All non-confidential employees are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX.~~

Commented [JC2]: Confidential employees do not apply in school setting

~~(1) The District shall notify all participants in the District’s education program or activity of how to contact its confidential employees, if any.~~

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- ~~(2) The District shall require a confidential employee to explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination under Title IX:~~
- ~~(i) The employee's status as confidential for purposes of Title IX, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;~~
 - ~~(ii) How to contact the recipient's Title IX Coordinator and how to make a complaint of sex discrimination; and~~
 - ~~(iii) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.~~

~~A confidential employee is:~~

- ~~(1) An employee of the District whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;~~
- ~~(2) An employee of the District whom the recipient has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.~~

~~V.~~IV. Students With Disabilities

In the course implementing supportive measures, informal resolution, and/or a grievance procedure, and throughout the same, if either a complainant or respondent is an elementary or secondary student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

~~VI.~~V. Emergency Removal & Administrative Leave

1. The District may remove a respondent from the District's education program or activity on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the

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decision immediately following the removal. This provision shall not be construed to modify any rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*

2. The District may place an employee respondent on administrative leave from employment responsibilities during the pendency of the District's grievance procedures. ~~This provision shall not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.~~

~~VII.~~ VI. Use of Supportive Measures

Supportive Measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the Complainant or Respondent, while designed to ensure equal educational access, protect safety, and/or deter sexual discrimination

Supportive Measures may be offered before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party, while designed to ensure equal educational access, protect safety, and/or deter sexual discrimination.

Supportive measures available to complainants and respondents include but are not limited to: counseling; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the building and/or campus; and other similar measures. Violations of the restrictions imposed by supportive measures may be considered a violation of school rules and may also be considered in determining whether sexual discrimination has occurred.

~~VII.~~ VII. Grievance Procedure

Allegations of conduct that meet the definition of sexual discrimination, including sex-based harassment under Title IX will be addressed through the Title IX Sexual Discrimination Grievance Procedure. Allegations of conduct that meet the definition of sexual discrimination, including sex-based harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual Discrimination Grievance Procedure.

Allegations of conduct that do not meet the definition of sexual discrimination, including sex-based harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the District's Civil Rights Grievance Procedure. (See exception under Section II, Part 4, Step 4 below). The definitions of sexual harassment under

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Title VII, M.G.L. c. 151B, and M.G.L. c. 151C are set out in the Civil Rights Grievance Procedure.

~~IX.~~VIII. Informal Resolution

After a Formal Complaint is filed, and prior to determining whether sex discrimination occurred, the District may, at its discretion, opt to offer and facilitate informal resolution options, such as mediation or restorative justice. Both parties must give voluntary, informed, written consent to attempt any offered informal resolution. Any informal resolution under this Procedure will be facilitated by trained personnel.

- (1) The informal resolution process is not available to resolve allegations that an employee engaged in sex-based harassment of a student or if such a process would conflict with Federal, State or local law.
- (2) The informal process is voluntary, and the respondent may terminate or decline any informal process at any time and resume the Formal Complaint grievance process. The District, as a condition of participation, must not require the parties to waive the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or the exercise of any other right.
- (3) The informal process shall not exceed thirty (30) calendar days, ~~during which time the timelines of the Formal Complaint process will be stayed.~~ To the extent practicable.

~~X.~~IX. Due Process and Fairness

The District shall provide due process protections which include the following:

- 1) Equitable treatment of complainants and respondents.
- 2) Presumption that the respondent is not responsible until a determination is made.
- 3) Prompt timeframes for all major stages.
- 4) Reasonable steps to protect privacy of parties and witnesses during the grievance procedures.
- 5) Objective evaluation of relevant evidence and the exclusion of impermissible evidence.
- 6) If the District adopts procedures that apply to the resolution of only some complaints, articulate principles for how the District will determine which procedures apply.
- 7) Notice of allegations to the parties containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation.
- 8) Permitted dismissals in certain circumstances so long as the District offers an appeal and, as appropriate, supportive measures, and takes other steps to ensure sex discrimination does not continue or recur.
- 9) Permitted consolidation of complaints in certain circumstances.
- 10) Burden on the District to gather evidence and decide what is relevant or impermissible.
- 11) Equal opportunity for the parties to present fact witnesses and other evidence.
- 12) Equal opportunity for the parties to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence (and if the District provides access to a description, it must provide access to the underlying evidence upon the request of any party); a reasonable opportunity to respond; and a requirement that the District take reasonable steps to prevent and address unauthorized disclosures.

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- 13) A process for assessing credibility when credibility is in dispute and relevant.
- 14) Use of a preponderance of the evidence standard of proof to determine whether sex discrimination occurred, ~~unless the clear and convincing evidence standard is used in all other comparable proceedings, in which case that standard may be used.~~
- ~~15) The decision maker shall not be the same person as the Title IX Coordinator or investigator unless the District otherwise provides for the same in the Grievance Procedure and specifically sets forth under what circumstances a single investigator model may be used.~~
- ~~16) 15) The facilitator for any informal resolution process shall not be the same person as the investigator or the decisionmaker in the District's grievance procedures.~~
- ~~17) 16) The decisionmaker for any appeal, if applicable, shall not have taken part in an investigation of the allegations or dismissal of the complaint;~~
- ~~18) 17) If it is determined that sex discrimination occurred, remedies for the complainant or others; disciplinary sanctions for those found responsible; and other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur.~~
- ~~19) 18) Title IX Coordinators, investigators, and decision-makers must be free from bias or conflict of interest;~~
- ~~20) 19) Equal opportunity for parties to appeal, where an appeal is offered;~~
- ~~21) 20) Upon filing a formal complaint the school must give written notice to the parties containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation. For K-12 schools a hearing is optional but 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 either the preponderance of the evidence or the clear and convincing standard; however, a school can use the lower preponderance standards only if it uses that standard for conduct code violations that do not involve sexual harassment but carry the same maximum disciplinary sanction. 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.~~
- ~~22) 21) An informal investigation process that may, upon the request of the complainant be followed by a formal process.~~

Commented [JC3]: Only include this provision if allowing for appeal rights

~~XI.X.~~ Record Keeping

The District shall create records in accordance with its obligations under Title IX as noted below and maintain the same for a period of seven (7) years:

- (1) For each complaint of sex discrimination, records documenting the informal resolution process and/or the grievance procedures and the resulting outcome.
- (2) For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or records documenting the actions the District took to meet its obligations under Title IX.

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- (3) For all training all materials used to provide training to meet its obligations under Title IX. A District must make these training materials available upon request for inspection by members of the public.

CROSS REFS: ACGA, Civil Rights Grievance Procedure
 ACGB, Title IX Sexual Discrimination Grievance Procedure

SOURCE: MASC July 2024

[File: ACAB](#)

SEXUAL HARASSMENT

DRAFT NOTE: MASC model policy was updated in 2024. Recommend MASC version.

~~The Somerville School Committee and Somerville Public Schools are committed to maintaining an education and work environment for all school community members, that is free from all forms of harassment, including sexual harassment. The members of the school community include the School Committee, employees, administration, faculty, staff, students, volunteers in the schools, and parties contracted to perform work for the Somerville Public Schools.~~

~~**Sexual harassment** is unwelcome conduct of a sexual nature. The definition includes 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. Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment includes conduct by an employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct, often called quid pro quo harassment and, sexual assault as the Federal Clery Act defines that crime. Sexual violence is a form of sexual harassment. Sexual violence, as the Office of Civil Rights (OCR) uses the term, refers to 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). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion. Massachusetts General Laws Ch. 119, Section 51A, requires that public schools report cases of suspected child abuse, immediately orally and file a report within 48 hours detailing the suspected abuse to the Department of Children and Families. For the category of sexual violence, in addition to Section 51A referrals these offenses and any other serious matters shall be referred to local law enforcement. Schools must treat seriously all reports of sexual harassment that meet the definition of sexual harassment and the conditions of actual notice and jurisdiction as noted above. Schools must promptly respond to allegations of sexual harassment that are alleged to have occurred in the school's program or activities in a manner that is not deliberately indifferent (clearly unreasonable in light of the known circumstances).~~

~~While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, 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;~~
- ~~● Implied or explicit threats concerning one's grades, achievements, or other school matter;~~
- ~~● 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;~~
- ~~● Unwelcome 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.~~

~~The legal definition of sexual harassment is broad and in addition to the above examples, other sexually~~

~~oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating an environment that is hostile, offensive, intimidating, to male, female, or gender non-conforming students or employees may also constitute sexual harassment.~~

~~Because the District takes allegations of harassment, including sexual harassment, seriously, we will respond promptly to complaints of harassment and following an investigation where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose corrective action as is necessary, including disciplinary action where appropriate. In accordance with Title IX, a complainant's wishes with respect to whether the school investigates an allegation of sexual harassment will be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances. However, in certain cases sexual harassment of a student may constitute child abuse under Massachusetts law. The Somerville Public Schools will comply with all legal requirements governing the reporting of suspected cases of child abuse. The Somerville Public Schools will also report instances of harassment that may involve a crime to the Somerville Police Department as appropriate.~~

~~Please note that while this policy sets forth our 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 we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment or sexual harassment.~~

~~Retaliation against a complainant, because they have filed a harassment or sexual harassment complaint or assisted or participated in a harassment or sexual harassment investigation or proceeding, is 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. The complainant, regardless of gender, may be a witness to and personally offended by such conduct.~~

NOTICE OF SEXUAL HARASSMENT

~~The Title IX regulations require a school district to respond promptly when the district has actual notice of sexual harassment in a manner that is not deliberately indifferent. School districts have actual notice when an allegation is made known to any school employee. Schools are required to investigate every formal Title IX complaint and respond meaningfully to every known report of sexual harassment in order to stop any harassment; to remedy the effects of any harassment and to prevent future harassment.~~

~~Title IX requires that the District provide supportive measures to a complainant which are designed to preserve or restore access to the school's education program or activity, with or without a formal complaint. Where there has been a finding of responsibility, the District will implement remedies designed to restore or preserve access to the school's education program or activity.~~

DUE PROCESS PROTECTIONS

~~Due process protections include the following:~~

- ~~1) A presumption that respondent is not responsible throughout the grievance process, with the burden of proof on the school;~~

- ~~2) A prohibition of the single investigator model, instead requiring a decision-maker separate from the Title IX Coordinator or investigator;~~
- ~~3) The preponderance of the evidence, subject to limitations;~~
- ~~4) The opportunity to test the credibility of parties and witnesses through questions submitted to decision-maker subject to "rape shield" protections;~~
- ~~5) Written notice of allegations and an equal opportunity to review the evidence along with the opportunity to select an advisor of the party's choice who may be, but need not be, an attorney;~~
- ~~6) Title IX Coordinators, investigators, and decision makers must be free from bias or conflict of interest;~~
- ~~7) Parties must be provided notice of appeal rights;~~
- ~~8) Upon filing a formal complaint, the District must give written notice to the parties containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation. For K-12 schools a hearing is optional but 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.~~

~~For additional information regarding due process protections under Title IX and the District's Grievance Procedure for Complaints of Sexual Harassment under Title IX of the Education Amendments of 1972 (ACAB-R):~~

RECORD-KEEPING REQUIREMENTS

~~Schools must create and maintain records documenting every formal Title IX sexual harassment complaint including the formal complaint, investigation, relevant evidence, decision makers determination and any appeal. This could also include mediation, restorative justice, or other models of alternative dispute resolution.~~

~~Additionally, schools must maintain records regarding the school's response to every report of sexual harassment of which it becomes aware even if no formal complaint was filed, including documentation of supportive matters offered and implemented for the complainant.~~

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

~~List the name and phone number of the District's Title IX Coordinator~~

~~List the appropriate party by name and phone number to receive a complaint in each District School~~

~~Please note that the following entities have specified time limits for filing a claim:~~

~~The Complainant may also file a complaint with:~~

- ~~● 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 Bldg.
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.~~

~~Revised by School Committee October 18, 2021
Revised and Approved: November 7, 2022~~

SOURCE: Somerville

File: ACAB

SEXUAL & SEX-BASED HARASSMENT AND RETALIATION

The Somerville School Committee and Somerville Public Schools are committed to maintaining an education and work environment for all school community members, that is free from all forms of harassment, including sexual and sex-based harassment as provided under MA and Federal law. The members of the school community include the School Committee, employees, administration, faculty, staff, students, volunteers in the schools, and parties contracted to perform work for the Somerville Public Schools.

Because the District takes allegations of harassment, including sexual harassment, seriously the District shall respond promptly and meaningfully to every known report of sexual harassment and shall investigate every formal complaint of harassment including sexual and sex-based harassment as well as retaliation and following an investigation where it is determined that such inappropriate conduct has occurred, the District shall act promptly to eliminate the conduct and impose corrective action as is necessary, 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 and sex-based harassment, the policy is not designed or intended to limit the District's authority to discipline or take remedial action for conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment or sexual or sex-based harassment.

Definitions of Sexual Harassment**TITLE IX**

Sex-based harassment prohibited by Title IX is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including as described in § 106.10 of Title IX, that is:

- (1) Quid pro quo harassment. An employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity explicitly or Impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- (2) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity (i.e., creates a hostile environment).
- (3) Specific offenses. (i) Sexual assault (ii) Dating violence; (iii) Domestic violence; (iv) Stalking

[In addition, to Title IX, there are other state and federal laws governing sexual harassment, including but not limited to ~~TITLE VII~~](#)

Title VII of the Civil Rights Act of 1964 [and M.G.L. c.151B, the state anti-discrimination statute](#), prohibits sexual harassment which is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an [*****](#)

Commented [JC4]: We do not recommend including all of these definitions in your policy, it becomes confusing as each have their own nuances/differences.

File: ACAB

individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile environment on the basis of sex is created when the conduct is sufficiently severe or pervasive to alter the conditions of employment.

M.G.L. c. 151B

M.G.L. c. 151B, § 1 - the term "sexual harassment" is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

M.G.L. c. 151C

M.G.L. c. 151C, § 2 (g) prohibits the sexual harassment of students in any program or course of study in any educational institution and M.G.L. c. 151C, § 1 (e) defines "sexual harassment" as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a)) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating an environment that is hostile, offensive, intimidating, to male, female, or gender non-conforming students or employees may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, 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;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences;
- Discussion of one's sexual activities; and

File: ACAB

- Sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion as well 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)

Massachusetts General Laws Ch. 119, Section 51 A , requires that public schools report cases of suspected child abuse, immediately orally and file a report within 48 hours detailing the suspected abuse to the Department of Children and Families. For the category of sexual violence, in addition to Section 51A referrals these offences and any other serious matters shall be referred to local law enforcement. Schools must treat seriously all reports of sexual harassment that meet the definition of sexual harassment and the conditions of actual notice and jurisdiction as noted above. Holding a school liable under Title IX can occur only when the school knows of sexual harassment allegations and responds in a way that is deliberately indifferent (clearly unreasonable in light of known circumstance).

Retaliation against a complainant, because they have filed a harassment or sexual harassment complaint assisted or participated in a harassment or sexual 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. The complainant, regardless of gender, may be a witness to and personally offended by such conduct.

Allegations of conduct that meet the definition of sexual discrimination, including sex-based harassment under Title IX will be addressed through the Title IX Sexual Discrimination Grievance Procedure. Allegations of conduct that meet the definition of sexual discrimination, including sex-based harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual Discrimination Grievance Procedure.

The District's Title IX Grievance Procedure is available at: [Title IX [Grievance Procedure](#)].

Allegations of conduct that do not meet the definition of sexual discrimination, including sex-based harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the District's Civil Rights Grievance Procedure. (See exception under Section II, Part 4, Step 4 below). The definitions of sexual harassment under Title VII, M.G.L. c. 151B, and M.G.L. c. 151C are set out in the Civil Rights Grievance Procedure.

The District's Civil Rights Grievance Procedure is available at: [[Civil Rights Grievance Procedure](#)].

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

List the name and phone number of the District's Title IX Coordinator

File: ACAB

List the appropriate party by name and phone number to receive a complaint in each District School

Please note that the following entities have specified time limits for filing a claim.

The Complainant may also file a complaint with:

- 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 Bldg.
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
Title IX Sexual Discrimination Grievance Procedure

CROSS REF.: ACG, Civil Rights Grievance Procedure

SOURCE: MASC July 2024

File: ACE

NONDISCRIMINATION ON THE BASIS OF DISABILITY**DRAFT NOTE: Somerville with MASC updates.**

Title II of the Americans With Disabilities Act of 1992 requires that no qualified individual with a disability shall, because the District's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, and activities of the District or be subject to discrimination. Nor shall the District exclude or otherwise deny services, programs, or activities to an individual because of the known disability of a person with whom the individual is known to have a relationship or association.

Definition

A "qualified individual with a disability" is an individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the District.

Reasonable Modification

The District shall make reasonable modification in policies, practices, or procedures when the modifications are necessary to ~~avoid discrimination on the basis of~~ [accommodate the individual's](#) disability, unless the District can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Communications

The District shall take the appropriate steps to ensure that communications with applicants, [participants](#), and members of the public with disabilities are as effective as communications with others. To this end, the District shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy benefits of, a service, program, or activity conducted by the District. ~~In determining what type of auxiliary aid or service is necessary, the District shall give primary consideration to the requests of the individuals with disabilities.~~

Commented [JC5]: By participants do you mean staff?

Auxiliary Aids and Services

"Auxiliary aids and services" includes [but not limited to](#) (1) qualified interpreters, note takers, transcription services, written materials, assistive listening systems, and other effective methods for making aurally delivered materials available to individuals with hearing impairments; (2) qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments; [and](#) (3) acquisition or modification of equipment or devices ~~and (4) other similar services and actions.~~

Limits of Required Modification

The District is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

Any decision that, in compliance with its responsibility to provide effective communication for individuals with disabilities, would fundamentally alter the service, program, or activity or unduly burden the District shall be made by the School Committee after considering all resources available for use in funding and operating the program, service, or activity. The decision shall be accompanied by a written statement of the reasons for reaching that conclusion.

Commented [JC6]: This is repeated above to some extent or move it around after heading: "Reasonable Modification"

Notice

The District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the American with Disabilities Act (ADA) and its applicability to the services, programs, or activities of the District. The information shall be made available in such a manner as the ~~School Committee and Superintendent~~District finds necessary to apprise such persons of the protections against discrimination assured them by the ADA.

Compliance Coordinator

The District has designated the District Administrator for Student Services, to coordinate its efforts to comply with and carry out its responsibilities under Title II of ADA, including any investigation of any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited under ADA. The District shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated and shall adopt and publish procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA. The school ~~system~~ ~~district~~ receives federal financial assistance and must comply with the above requirements. Additionally, the School Committee is of the general view that:

1. Discrimination against a qualified ~~handicapped~~-disabled person solely on the basis of handicap is unfair; and
2. To the extent possible, qualified ~~handicapped~~-disabled persons should be in the mainstream of life in the school community. Accordingly, employees of the school ~~system~~ ~~district~~ will comply with the above requirements of the law and policy statements of this Committee to ensure nondiscrimination on the basis of ~~handicap~~ disability.

LEGAL REFS.: Rehabilitation Act of 1973, Section 504
 Education for All Handicapped Children Act of 1975
 M.G.L. [71B:1](#) et seq. (Chapter 766 of the Acts of 1972)
 Title II, Americans with Disabilities Act of 1992
 Board of Education Chapter 766 Regulations, adopted 10/74, as amended through 3/28/78

Revised: January 18, 1996
Revised: December 1, 2009

SOURCE: Somerville

File: ACGA

CIVIL RIGHTS GRIEVANCE PROCEDURE

DRAFT NOTE: MASC only. Recommend adoption.

The Somerville Public Schools is committed to maintaining school environments free of discrimination, harassment or retaliation based on race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, age, or disability.

Harassment, discrimination, and retaliation in any form or for any reason is prohibited. This includes harassment or discrimination by administrators, personnel, students, vendors and other individuals in school or at school related events. Retaliation against any individual who has brought harassment or discrimination to the attention of school officials or who has cooperated in an investigation of a complaint under this Procedure is unlawful and will not be tolerated by the Somerville Public Schools.

Persons who engage in harassment, discrimination or retaliation may be subject to disciplinary action, including, but not limited to reprimand, suspension, termination/expulsion or other sanctions as determined by the school district administration, subject to applicable procedural requirements.

Non-Applicability of This Procedure to Title IX Sexual Discrimination Allegations

This policy (ACGA, Civil Rights Grievance Procedure) shall not apply to reports of sexual discrimination as defined under Title IX of the Education Amendment of 1972 and its implementing regulations (“Title IX”) effective August of 2024.

Allegations of conduct that could, if proven, meet the definition of sexual harassment under Title IX shall be addressed through the District’s Title IX Sexual Discrimination Grievance Procedure (ACGB). Similarly, allegations of conduct that meet the definition of sex-based harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual Discrimination Grievance Procedure (ACGB).

Allegations of conduct that do not meet the definition of **sex-based** harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the *Civil Rights Grievance Procedure*.

Definitions

For the purposes of this Procedure:

- A. “Discrimination” means discrimination or harassment on the basis of race, age, color, national origin, sex, sexual orientation, gender identity, disability or religion by which an individual is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity of the school district.

File: ACGA

- B. “Harassment” means unwelcome conduct on the basis of race, age, color, national origin, sex, sexual orientation, gender identity disability, or religion that is sufficiently severe, persistent or pervasive to create or contribute to a hostile environment for the individual at school. Harassment may include insults, name-calling, off color jokes, threats, comments, innuendoes, notes, display of pictures or symbols, gestures or other conduct which rises to the level of a hostile environment. A hostile environment is one which unreasonably interfered with an individual’s participation in, denied the individual the benefits of, or otherwise subjected the individual to discrimination under any program or activity of the District.

a. **Non-Title IX Sexual Harassment**

M.G.L. c. 151B, § 1 - the term “sexual harassment” is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

M.G.L. c. 151C, § 1 - the term “sexual harassment” is defined as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.

Title VII of the Civil Rights Act of 1964 - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile environment on the basis of sex is created when the conduct is sufficiently severe or pervasive to alter the conditions of employment.

When determining whether an environment is hostile, the District shall consider the context, nature, frequency, and location of the incidents as well as the credibility of witnesses and the identity, number and relationships of the persons involved. The District must consider whether the alleged harassment was sufficient to have created such an environment for a reasonable person of the same age, gender, and experience as the Complainant, and under similar circumstances. Off-

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File: ACGA

campus conduct may constitute harassment if it creates a hostile environment at school for the victim; however, conduct does not constitute harassment where the incident occurs off-campus at a non-school sponsored activity and does not create a hostile environment at school for the victim.

- C. Retaliation: Retaliatory acts against any individual who exercises their rights under the civil rights statutes covered by this [p](#)rocedure or the Title IX Sexual Harassment Grievance Procedure are considered to be discrimination and are unlawful. Individuals are prohibited from coercing, intimidating, threatening, or interfering with an individual because the individual exercised any right granted or protected under these procedures and/or the Title IX Sexual Harassment Grievance Procedure.
- D. Complainant: An individual who is alleged to be the victim of conduct that could constitute discrimination, harassment, or retaliation under this Procedure. Parents and/or legal guardians of a complainant are not considered a complainant but may file formal complaints on behalf of a minor child and act on behalf of the minor child in any civil rights matter.
- E. Party or Parties: The complainant and/or respondent.
- F. Principal: The Principal or Principal's designee.
- G. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute discrimination, harassment, or retaliation under this Procedure.

How to make a complaint

Any student or employee who believes that they have been discriminated against or harassed should report their concern promptly to the Principal or Civil Rights Coordinator. Students may also report incidents of harassing conduct to a teacher, administrator, or guidance counselor. Any complaint received by a school personnel shall be promptly reported to the Principal or Civil Rights Coordinator. A complaint will not be dismissed because it was reported to the incorrect school personnel. Students or employees who are unsure whether discrimination, harassment, or retaliation has occurred are encouraged to discuss the situation with the Principal. There may be instances where another third-party, who has not experienced but is aware of the occurrence of prohibited conduct, may bring a complaint under this Procedure. In such circumstances, that person is referred to as the "reporter."

- A. Any District employee who observes or receives a report of discrimination, harassment or retaliation shall promptly notify the Principal or Civil Rights Coordinator, identified below. Any District employee who observes discrimination, harassment or retaliation against a student should intervene to stop the conduct and report it to Principal. Upon receipt of a report of discrimination, harassment or retaliation, the Principal shall promptly inform the relevant Civil Rights Coordinator of the report, and the District will respond in a manner consistent with this Procedure. If the report involves an accusation against the Principal or Civil Rights Coordinator, the employee shall report the incident to the Superintendent or designee.

File: ACGA

- B. Informal Reports: Individuals may wish to file a formal complaint of discrimination, harassment or retaliation, or to report informally (i.e., without initiating a formal complaint). Such informal reports may be made to the Principal or Civil Rights Coordinator. The District shall inform anyone making an informal report that they may initiate a formal complaint at any time, regardless of what steps are being or have been taken in response to an informal report.
- C. Anonymous Reports: Complainants and reporters should be aware that although the District will often be able to maintain confidentiality of reporting persons, the District may sometimes be required to take actions to protect the safety of the school community that may result in the identity of the reporting person being disclosed (to the police, for example). When reporters or Complainants seek to remain anonymous or have their identities kept confidential, they will be informed that honoring such a request may limit the ability of the District to respond fully to any reported event, including limitations on the ability to take disciplinary action against an Respondent.
- D. Informal Process: If the District concludes that it is possible to resolve a matter, whether after formal complaint or an informal report, in a prompt, fair and adequate manner through an informal process involving, and with the consent of, the Complainant and Respondent, the District may seek to do so. The informal process is voluntary, and the Complainant and/or Respondent may terminate or decline any informal process at any time, without penalty.
- E. Formal Process: A formal complaint shall state (if known to the reporter or Complainant) the name(s) of the persons involved and witnesses to the conduct, describe the conduct, and identify, to the extent possible, the dates and locations of the conduct. The complaint shall be signed and dated by the reporter and/or Complainant. Complaints will be investigated promptly and equitably by the Civil Rights Coordinator or Principal. Investigations may be initiated whenever warranted, in the absence of a formal complaint, or after a formal complaint has been withdrawn.
- F. Initial Assessments: The Civil Rights Coordinator or Principal will make an initial assessment following a complaint. Based on that assessment, the Civil Rights Coordinator or Principal may:
 - (a) if the conduct, even if substantiated, would not constitute harassment, discrimination or retaliation, dismiss the complaint;
 - (b) if the alleged conduct (or complaint) could not, even if true, constitute discrimination, harassment or retaliation, but is within the scope of another procedure, the Civil Rights Coordinator shall refer the matter to the appropriate personnel;
 - (c) if the Civil Rights Coordinator or Principal concludes that it is possible to resolve the complaint in a prompt, fair and adequate manner through an informal process involving and with the consent of both parties, the Civil Rights Coordinator or Principal may seek to do so in accordance with Section D, above; or
 - (d) if the alleged conduct, if substantiated, would constitute discrimination, harassment or retaliation, the Civil Rights Coordinator or Principal will initiate an investigation. The Civil Rights Coordinator or Principal may also identify and initiate any interim measures. See Section G.
- G. Interim Measures: The District will provide prompt and reasonable interim measures during the pendency of the investigation, if appropriate, to support and protect the safety of the parties, the educational environment, and the District and/or school community; to deter retaliation; and to

File: ACGA

preserve the integrity of the investigation and resolution process. Any interim measures will be monitored to ensure they are effective based on the evolving needs of the parties. Violations of the restrictions imposed by interim measures could be considered a violation of school rules and may be considered in determining whether discrimination, harassment or retaliation has occurred.

- H. Timeframes: The District will seek to complete any investigation within twenty (20) school days after receipt of a complaint and provide the written notice of the outcome of the investigation ~~within twenty-five (25) school days~~. The investigator may impose reasonable timeframes on all parties to facilitate the timely completion of the investigation. The investigator may extend the investigation period beyond the time period identified due to extenuating circumstances, including but not limited to availability and cooperation of witnesses, complexity of the investigation, school vacation periods, and the involvement of law enforcement and other outside agency investigations. If a complaint or report of discrimination, harassment or retaliation is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the above-referenced time frame, but may extend the investigation period to account for the availability of witnesses during the summer vacation period. If the investigator extends the investigation, they will notify the Complainant and Respondent of the extension. A report to the law enforcement ~~will not automatically delay an investigation; however, a request from law enforcement to delay the investigation may impact the timing of the conclusion of the investigation~~ require a temporary suspension of an investigation, and the District will promptly resume its investigation upon being advised that law enforcement's evidence gathering is completed. Any interim measures provided to the parties may continue during the period of postponement. See Section G.
- I. Under the formal resolution procedure, the complaint will be investigated by the Principal, Civil Rights Coordinator or other individual designated by the Principal or Civil Rights Coordinator who has responsibility for seeking and gathering evidence relative to the investigation. A formal complaint against an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. During the formal resolution procedure:
1. The Complainant shall be provided with an opportunity to be heard and have the opportunity to identify witnesses and other relevant evidence to the investigator.
 2. The Respondent will be provided with an opportunity to be heard as part of the investigation including the opportunity to provide relevant information and identify witnesses for the investigator's consideration.
 3. The privacy rights of the parties shall be maintained in accordance with applicable state and federal laws.
 4. The investigator will keep a written record of the investigation process.
 5. The investigation will be completed within twenty (20) school days of the date of receipt of the complaint.
 6. The notification of the outcome of the investigation, ~~including, if appropriate, a description of the remedies taken, will be provided to the parties~~ within twenty-five (25) school days of the receipt of the complaint, unless extended for good cause.

File: ACGA

7. Nothing in this Procedure will preclude the investigator, in their discretion, from completing the investigation sooner than the time period described above.
- J. Standard of Proof: The investigation shall made factual findings based on a preponderance of the evidence standard.
- K. If the investigator determines that discrimination, harassment or retaliation has occurred, the District shall take steps to eliminate the discriminatory or harassing environment, which shall include but not be limited to:
1. Identifying what steps are necessary to prevent recurrence of any discriminatory behavior, including but not limited to harassment or retaliation, and to correct its discriminatory effects if appropriate; and
 2. Informing the Complainant and Respondent or, in the case of minor children, the parties' parent(s)/legal guardian(s) of the results of the investigation (in accordance with applicable state and federal privacy laws) in accordance with the above timelines. The notification will include the notice of the opportunity for appeal; however, failure to provide notice of appeal shall not constitute a violation of this policy.

The school district administration may also refer the offender for disciplinary procedures to be conducted in accordance with federal and state law. Nothing in the Civil Rights Grievance Procedure shall be interpreted as limiting or prohibiting the District's ability to take appropriate disciplinary action against the offender in accordance with the applicable code(s) of conduct or employment contracts or policies, where appropriate, prior to completion of the investigation, in accordance with the due process rights of employees and students, as applicable. When informing the parties' parent(s)/legal guardian(s) about the results of the investigation, the school district may consider appropriate notification processes when special circumstances may apply (e.g., disclosure of sexual orientation or gender identity/expression).

- L. Appeal: If the Complainant or the Respondent is dissatisfied with the results of the investigation, an appeal may be made to the Superintendent or designee within seven (7) calendar days after receiving notice of the outcome of the investigation, except for circumstances in which the Respondent is subject to long-term suspension as a result of a finding of discrimination, harassment or retaliation. In such an instance, the appeal rights of the Respondent will be provided in a manner consistent with the disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, 37H, 37H ½ or 37H ¾). Appeals must be made in writing (email is sufficient) to the Superintendent, Somerville Public Schools _____ Street, _____, Massachusetts _____. The Superintendent will decide the appeal within thirty (30) calendar days of the date of receipt of the written appeal.

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- M. Identification of Civil Rights Coordinator for complaints of discrimination, harassment, and retaliation under this Procedure is:

Title, Name, address, phone, email

Commented [JC8]: No appeal

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N. Employment Agencies: The contact information for state and federal employment discrimination enforcement agencies is as follows: (1) Federal: United States Equal Employment Opportunity Commission (EEOC); John F. Kennedy Federal Building; 15 New Sudbury Street, Room 475; Boston, MA 02203-0506; 1-800-669-4000; [EEOC Boston Area Office Website: https://www.eeoc.gov/field-office/boston/location](https://www.eeoc.gov/field-office/boston/location); and (2) State: Massachusetts Commission Against Discrimination (MCAD); Boston Headquarters; One Ashburton Place; Sixth Floor, Room 601; Boston, MA 02108; (617)-994-6000; [MCAD Website: https://www.mass.gov/orgs/massachusetts-commission-against-discrimination](https://www.mass.gov/orgs/massachusetts-commission-against-discrimination).

LEGAL REFS.: Section 504 of the Rehabilitation Act of 1973;
Title II of the Americans with Disabilities Act of 1990;
Title VI of the Civil Rights Act of 1964;
Title VII of the Civil Rights Act of 1964;
Title IX of the Education Amendments of 1972; the Age Act;
M.G.L. c. 151B and c. 151C; M.G.L. c. 76, § 5;

CROSS REFS.: JICFB, Bullying Prevention
AC, Nondiscrimination
ACGB, Title IX Sexual Discrimination Grievance Procedure

SOURCE: MASC July 2024

[MASC acknowledges the contribution of Nuttall, MacAvoy & Joyee, P.C. in the development of the grievance procedures originally published in 2022, which have been retained as part of MASC's 2024 revised grievance procedures.](#)

~~File: ACGB~~

~~GRIEVANCE PROCEDURE FOR COMPLAINTS OF SEXUAL HARASSMENT UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972~~

DRAFT MASC: MASC model policy was updated in 2024. Recommend MASC version.

~~The following grievance procedures apply to all complaints made by students or staff of sexual harassment, sexual assault or sexual violence under Title IX of the Education Amendments of 1972 and in accordance with School Committee Policy ACAB.~~

~~I. Reporting of Sexual Harassment Complaints~~

~~A. How to Report a Complaint of Sexual Harassment~~

~~Students and employees who believe they have experienced or witnessed sexual harassment should notify the District's designated Title IX Coordinator, Mariana L. MacDonald (mmaedonald@k12.somerville.ma.us). If the complaint concerns allegations against the Title IX Coordinator, then the complaint should be filed with the Superintendent or designee.~~

~~Employees who witness sexual harassment or have a reasonable belief that it is occurring, are required to report it immediately to the Title IX Coordinator.~~

~~Reports of sexual harassment may also be made by employees to their direct supervisor and by students to a teacher, counselor, school nurse or building administrator, who shall immediately bring such report to the attention of the Title IX Coordinator.~~

~~The complaint may be filed by the alleged victim or any other party. Any person filing a complaint is encouraged to do so within a short time after the occurrence giving rise to the complaint, to assure a prompt investigation and fair resolution.~~

~~B. Handling of Sexual Harassment Complaints~~

~~All complaints shall be processed in a fair, expeditious and confidential manner. The Title IX Coordinator is responsible for overseeing the complaint response, including implementation of supportive measures and the grievance/appeal process. In doing so, the Title IX Coordinator may delegate certain duties to a designee. Complaints can be investigated by a building administrator, district level staff member, or the Title IX Coordinator. The decision maker must be a separate individual from the investigator. The Title IX Coordinator (or designee), investigator and decision maker shall not have a conflict of interest or bias. All Title IX personnel shall receive appropriate training in accordance with Section VIII below.~~

~~II. Supportive Measures and Filing of a Formal Complaint~~

~~A. Supportive Measures~~

~~Once a report of sexual harassment has been received, the Title IX Coordinator or designee will promptly contact the alleged victim (the "Complainant") to discuss the availability of supportive measures and consider the Complainant's wishes with respect to supportive~~

~~measures. The District must investigate sexual harassment allegations in any formal complaint. The District must inform the Complainant of the availability of supportive measures with or without filing a formal complaint, and explain to the Complainant the process for filing a formal complaint. Supportive measures shall also be offered to the Respondent as necessary to ensure continued and equal access to the education program and/or activity during any investigation.~~

~~"Supportive measures" are individualized services reasonably available that are nonpunitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, and deter sexual harassment. Supportive measures must be offered to both the Complainant and the Respondent, and may include, but not be limited to: no contact orders, change of class schedules, modifications of assignments/work, leaves of absence, increased security and monitoring of certain areas of the campus, and other appropriate measures.~~

~~In addition to the above supportive measures, the District, in its discretion, may consider the emergency removal of a student in accordance with applicable student discipline regulations. The District may place an employee on paid administrative leave during the course of an investigation of sexual harassment allegations against said employee as determined appropriate and consistent with any applicable collective bargaining agreement.~~

B. Filing a Formal Complaint

~~A formal complaint may be filed in writing by the Complainant or presented verbally and put into writing and signed by the Title IX Coordinator or designee. The District will respect the wishes of the Complainant with respect to whether the District investigates a report of sexual harassment, unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the Complainant is not clearly unreasonable in light of the known circumstances.~~

C. Contents of a Formal Complaint

~~A formal complaint is signed by a Complainant or the Title IX Coordinator or designee alleging sexual harassment against a Respondent and requesting that the District investigate the allegation of sexual harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the District. A formal complaint may be filed with the Title IX Coordinator or designee in person, by mail, or by electronic mail, by using the contact information set forth herein.~~

~~The District must investigate sexual harassment allegations in any formal complaint. If the allegations in the formal complaint do not meet the definition of sexual harassment as set forth under Title IX, or did not occur in the District's education program or activity, the District must dismiss such allegations for the purposes of Title IX, but may still address the allegations in any manner that the District deems appropriate consistent with its policies, procedures and code of conduct, including but not limited to its anti-bullying policies and plan~~

III. Informal or Formal Resolution of Complaint

~~The District must offer the Complainant a formal resolution process and may offer an informal~~

~~resolution process. If the District does not provide the option of informal resolution, the formal resolution process shall be followed.~~

~~A. Informal Resolution Process~~

~~If the District elects to offer an informal resolution process, such process shall be offered and implemented at the election of the Complainant and only after receipt of voluntary, informed, written consent of both the Complainant and the Respondent. The Complainant may elect informal resolution of a complaint at any time prior to a final determination by the decision-maker. This may include conciliation and/or mediation by an individual trained to conduct such processes. At any time prior to agreeing to a resolution, either party has the right to withdraw from the informal resolution process and resume the formal complaint grievance process.~~

~~The District shall not offer an informal resolution process when a student alleges sexual harassment by staff.~~

~~B. Formal Resolution Process~~

~~The formal complaint process will comply with the grievance procedures outlined below.~~

IV. Grievance Procedure

~~In accordance with Title IX and its supporting regulations, the District shall implement the following process when investigating formal complaints of sexual harassment:~~

~~A.~~ ~~The Complainant and Respondent will be treated equally throughout the investigation process and be provided with written notice of the allegation (including sufficient details known at the time and with sufficient time to prepare a response before any initial interview), the grievance process, the range of possible remedies the District may provide a Complainant and disciplinary sanctions the District might impose on a Respondent, following determinations of responsibility. Both parties have the right to have a representative/advisor participate in the process on their behalf.~~

~~B.~~ ~~Any interim supportive measures, as appropriate, will be offered to both parties.~~

~~C.~~ ~~The investigator will conduct an objective evaluation of all available evidence. This shall include an interview of both the Complainant and the Respondent, during which each party shall have a full opportunity to state their case through the presentation of witnesses and other evidence. Witnesses and other persons relevant to the complaint, if any, may also be interviewed. Please note that, during the investigation, rape shield protections apply to the Complainant and Complainants may generally not be asked about their prior sexual behavior.~~

~~D.~~ ~~During the investigation process, the parties shall not be prohibited from discussing the complaint or collecting evidence.~~

~~E.~~ ~~The investigation shall be completed in a reasonable time frame within thirty (30) school days except for good cause. Good cause may include, but not limited to, unavailability of a party, concurrent pending law enforcement investigation, or need for interpreter or accommodation~~

of any party or witnesses' disability.

~~F. During the investigation, there is a presumption that the Respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process.~~

~~G. The investigator will make findings based on a preponderance of the evidence standard.~~

~~H. The investigator will not request or solicit information from any party or witness that constitutes disclosure of information that is protected under a legally recognized privilege, unless the holder of the privilege voluntarily waives the privilege.~~

~~I. Prior to the conclusion of the investigation, and at least ten (10) calendar days prior to completion of the investigation, the Complainant and Respondent will both be provided a copy of the investigation report and an opportunity to submit any additional information they would like considered by the investigator before their report is finalized. Both parties shall be provided 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.~~

~~J. Once the investigation has been completed, the investigator will submit their investigation report, with recommendations with regard to responsive measures, to the decision maker. The Complainant and Respondent shall also be advised, in writing, of the investigator's findings and recommendations.~~

~~K. The decision maker will review the investigation report and hold a disciplinary hearing with the Respondent, in accordance with applicable procedures (for student or employee).~~

~~L. The decision maker will advise both parties of the final determination and any related remedial/responsive measures in a manner that complies with applicable laws regarding student confidentiality and appeal rights. The Respondent will be notified of any disciplinary action and other remedial measures, if the complaint is substantiated. Notice of such final determination will be made in writing and sent simultaneously to the parties along with information about how to file an appeal.~~

V. Disciplinary Action

If a complaint is substantiated, the District will act promptly to eliminate the behavior and will refer the matter to the proper supervisor or administrator for appropriate responsive measures, including but not limited to disciplinary action and restoring a sense of safety for the Complainant. For students, discipline will be imposed consistent with the Code of Conduct and Massachusetts Student Discipline Law.

Discipline of employees will be consistent with collective bargaining procedures, if applicable, and may include disciplinary action up to and including dismissal.

Responsive measures will also include any steps necessary to prevent the recurrence of any discrimination and/or harassment and will include corrective action aimed at eliminating any discriminatory effects on the complainant and others, as appropriate.

VI. Retaliation Prohibited

~~Retaliation in any form against any person because of or related to a sexual harassment or retaliation complaint, or because of or related to cooperation with an investigation of a sexual harassment or retaliation complaint, is unlawful and prohibited. Retaliation is also prohibited against any individual that participates or chooses not to participate in the grievance process.~~

~~If retaliation occurs, it could be considered grounds discipline, up to and including suspension and/or discharge for employee(s), and appropriate disciplinary action for students.~~

~~VII. ———~~ Appeal Procedure

~~Both parties have the right to appeal the decision maker's determination to the Superintendent or designee. Any appeal should be submitted in writing to the Superintendent within ten (10) calendar days of receipt of the final determination.~~

~~The Superintendent or designee in reviewing the appeal may consider the following factors:~~

- ~~A. Was there any procedural irregularity with the investigation process?~~
- ~~B. Is there any new evidence not reasonably available at the time of the investigation?~~
- ~~C. Did the Title IX investigator have a conflict of interest?~~

~~The decision of the appeal process is final and is not subject to further review by the School Committee.~~

~~VIII. ———~~ Training Requirements

~~All Title IX personnel including Title IX Coordinators, investigators, decision makers, people who facilitate any informal resolution process shall receive training as required by Title IX and its supporting regulations. All training materials shall be made available to the public for inspection upon request.~~

Coded ACAB-R in materials provided

SOURCE: Somerville

File: ACGB

TITLE IX SEXUAL DISCRIMINATION GRIEVANCE PROCEDURE

DRAFT NOTE: Policies match, no action required.

OVERVIEW

The Somerville Public Schools is committed to maintaining school environments free of sexual discrimination.

Sexual discrimination in any form or for any reason is prohibited. This includes sexual discrimination by administrators, personnel, students, vendors, and other individuals in school or at school related events.

The School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school district does not and will not discriminate on the basis of sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, marital status, familial status, pregnancy or pregnancy-related conditions and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

Retaliation against any individual who has brought sexual discrimination to the attention of school officials, or against an individual who has participated, or refused to participate, in the investigation thereof is unlawful and will not be tolerated by the Somerville Public Schools. Conduct that reasonably may constitute retaliation is subject to this Grievance Procedure.

The Somerville Public Schools has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

SCOPE

The Title IX Sexual Discrimination Grievance Procedure has been developed in accordance with the revised Title IX regulations, 34 CFR Part 106, effective August 1, 2024, which mandate specific procedures for responding to and investigating allegations of sexual discrimination under Title IX. This Grievance Procedure applies to all allegations of sexual discrimination under Title IX, including sex-based harassment which is further defined in the Definitions section below. For the purposes of this procedure the term “sexual discrimination” shall include the terms “sex-based harassment” and “sexual harassment” except as may otherwise be distinguished.

The Title IX Sexual Discrimination Grievance Procedure applies to conduct that occurs within the United States in an education program or activity of the District, regardless of whether such District program or activity is conducted on or off school grounds. Additionally, this Grievance Procedure applies to the District’s obligation under Title IX to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient’s education program or activity or outside the United States. A District

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education program or activity includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurred.

~~Allegations of conduct that meet the definition of sexual discrimination, including sex-based harassment under Title IX, will be addressed through the Title IX Sexual Discrimination Grievance Procedure. Allegations of conduct that meet the definition of sexual discrimination, including sex-based harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual Discrimination Grievance Procedure.~~

~~Allegations of conduct that do not meet the definition of sexual discrimination, including sex-based harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the District's Civil Rights Grievance Procedure. (See exception under Section II, Part 4, Step 4 below). The definitions of sexual harassment under Title VII, M.G.L. c. 151B, and M.G.L. c. 151C are set out in the Civil Rights Grievance Procedure.~~

Essential Requirements of Title IX Grievance Procedure:

- A. The Somerville Public Schools will treat complainants and respondents equitably.***
- B. The Somerville Public Schools requires that any Title IX Coordinator, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decision-maker may be the same person as the Title IX Coordinator or investigator.
- C. The Somerville Public Schools presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.
- D. The Somerville Public Schools has established timeframes for the major stages of the grievance procedures which are set forth in detail below. See: II Filing a Title IX Formal Complaint
- E. The Somerville Public Schools allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay as set forth below. See II. Filing a Title IX Formal Complaint, Step (10); Step 10, paragraphs (2) and (6).
- F. The Somerville Public Schools will take reasonable steps to protect the privacy of the parties and witnesses and keep the identity of complainants, respondents, and witnesses confidential, except as permitted by the Family Educational Rights and Privacy Act (FERPA), as otherwise required by law, and/or as necessary during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

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- G. The Somerville Public Schools will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
- H. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the Somerville Public Schools to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless The Somerville Public Schools obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
 - Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or if the questions and evidence concern specific incidents of the [complainant's](#) prior sexual behavior with respect to the [respondent](#) and are offered to prove [consent](#). The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.
- I. In the course implementing supportive measures, informal resolution, and/or a grievance procedure, and throughout the same, if either a complainant or respondent is an elementary or secondary student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

DEFINITIONS

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual discrimination under Title IX. Parents and/or legal guardians of a complainant are not considered a complainant but may file a Formal Complaint on behalf of a minor child and act on behalf of the minor child in any Title IX matter. For the purpose of this Procedure the terms "complainant" and "alleged victim" shall have the same meaning.

Formal Complaint: A document or electronic submission filed by a complainant, that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the Formal Complaint, or a document signed by the Title IX coordinator, that:

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- (1) alleges sexual discrimination against a respondent; and
- (2) requests that the District investigate the allegation of sexual discrimination

At the time of filing a Formal Complaint, the complainant must be participating in or attempting to participate in the District's education program or activity with which the Formal Complaint is being filed.

Sex-Based: Under Title IX, Sex-Based is a form of sexual discrimination which includes three (3) types of misconduct based on sex:

- (1) any instance of quid pro quo harassment by a school employee;
- (2) unwelcome conduct on the basis of sex, including unwelcome conduct based on sex stereotyping or on the basis of traditional notions of masculinity and femininity, that is sufficiently severe and pervasive and objectively offensive conduct, effectively denying a person equal educational access; or
- (3) any instance of sexual assault, dating violence, domestic violence, or stalking as defined below.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system and set out below:

- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity. In Massachusetts, pursuant to M.G.L. c. 265, § 13B, a child under the age of 14 is incapable of giving consent to indecent touching.
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. In Massachusetts, pursuant to M.G.L. c. 265, § 23, the statutory age of consent is 16 years of age.

For the purposes of the definition of sexual assault, the term "consent" shall be defined in a manner consistent with Massachusetts laws.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence: A felony or misdemeanor crime 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

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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 in which the crime of violence occurred; 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 in which the crime of violence occurred.

Stalking: Engaging in a "course of conduct" directed at a specific person that would cause a "reasonable person" to fear for the person's safety or the safety of others or suffer "substantial emotional distress."

For the purposes of this definition:

"Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

"Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

"Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Party or Parties: The complainant and/or respondent.

Principal: The Principal or Principal's designee.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual discrimination

Superintendent: The Superintendent or Superintendent's designee.

Supportive Measures: Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the Complainant or Respondent, while designed to ensure equal educational access, protect safety, and/or deter sexual discrimination

- Supportive Measures may be offered before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party, while designed to ensure equal educational access, protect safety, and/or deter sexual discrimination
- Supportive measures available to complainants and respondents include but are not limited to: counseling; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the building and/or campus; and other similar measures. ~~Violations of the restrictions imposed by supportive measures may be considered a violation of school rules and may also be considered in determining whether sexual discrimination has occurred.~~

Title IX Coordinator: Employee(s) designated by the District to coordinate its efforts to comply with Title IX.

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I. REPORTING SEXUAL DISCRIMINATION

- A. Who May Report Sexual Discrimination: Anyone may report an allegation of sexual discrimination
- B. How to Report Sexual Discrimination: Individuals are encouraged to report allegations of sexual discrimination to the Title IX Coordinator or the Principal, but any District employee who receives a report of sexual discrimination will respond to the report as outlined below.
- C. Internal Reporting: Any District employee who receives a report of sexual discrimination shall respond by promptly informing the Principal or Title IX Coordinator of the report. Any District employee who observes sexual discrimination of a student should intervene to stop the conduct and shall promptly inform the Principal or Title IX Coordinator of the incident. If a report involves an allegation against the Principal or Title IX Coordinator, the District employee shall instead report the allegation to the Superintendent.

Any Principal who receives a report of sexual discrimination shall promptly inform the relevant Title IX Coordinator of the report.

- D. District's Response to Report: The District will respond to all reports of sexual discrimination promptly and equitably, and in a manner consistent with this Procedure and any other relevant District procedures and policies. Upon receipt of a report, the Title IX Coordinator shall:
 - (1) Promptly and confidentially contact the complainant to discuss the availability of supportive measures;
 - (2) Inform the complainant of the availability of supportive measures with or without the filing of a Title IX Formal Complaint;
 - (3) Consider the complainant's wishes with respect to supportive measures;
 - (4) If the District does not provide the complainant with supportive measures, document the reasons why such response was reasonable; and
 - (5) Explain to the complainant the process for filing a Title IX Formal Complaint. Only the filing of a Title IX Formal Complaint will trigger the Title IX Formal Complaint grievance process, outlined in Section II.

II. FILING A TITLE IX FORMAL COMPLAINT

Only the filing of a Title IX Formal Complaint will trigger the Title IX Formal Complaint grievance process, outlined below.

- A. Who may file a Title IX Formal Complaint: Although anyone may report sexual harassment, only a complainant or a Title IX Coordinator may file a Title IX Formal Complaint. If a complainant chooses not to file a Formal Complaint, the complainant's choice to not initiate an investigation will generally be respected, unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable/warranted in light of the known circumstances. The Title IX Coordinator will

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take into account concerns articulated by the parties, the best interests of the community, fairness to all concerned, and the District's legal obligations under applicable state and federal laws. ~~Where the Title IX Coordinator signs the Formal Complaint, the Title IX Coordinator is not a complainant or a party during the grievance process and must comply with the requirement to be free from conflicts or bias.~~

- B. Processing of a Title IX Formal Complaint: Title IX Formal Complaints will be investigated promptly and equitably by the Title IX Coordinator or designee, as follows:

Step 1: Title IX Formal Complaint is filed:

- (1) A Formal Complaint shall state (if known to the reporter or alleged victim) the name(s) of the persons involved, witnesses to the conduct, if any, a description of the conduct, and to the extent possible, the dates and locations of the conduct. ~~A Formal Complaint will not be dismissed solely because it was not completely filled out or it was filled out incorrectly.~~
- (2) A Formal Complaint may be filed at any time, including during non-business hours. Formal Complaints submitted outside of normal business hours will be deemed received on the following school working day.
- (3) At the time of the filing of the Formal Complaint, the alleged victim must be participating in or attempting to participate in the education program or activity of the school district with which the Formal Complaint is filed.
- (4) A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator listed in this Procedure, and by any additional method designated by the school.
- (5) Consolidation of Formal Complaints: The District may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. ~~When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.~~ The District is not permitted to consolidate complaints if consolidation would violate the Family Educational Rights and Privacy Act (FERPA). Consolidation would not violate FERPA when the District obtains prior written consent from the parents or a student who has reached 18 years of age to the disclosure of their education records.
- (6) The District may consider the use of the Informal Resolution Process with the consent of the parties. See Section II(E).
- (7) Throughout this process, there shall be a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Step 2: Consider Supportive Measures for both the complainant and the respondent: Once a Formal Complaint is filed, the Title IX Coordinator will ensure that supportive measures are considered for both parties. See Section I(D).

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Step 3: Written Notice of Allegations: Upon receipt of a Formal Complaint, the District shall send written notice to the parties which shall include:

- 1) The District's Title IX grievance procedures and any informal resolution process;
- 2) Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- 3) A statement prohibiting retaliation.
- 4) A statement prohibiting knowingly submitting false information;
- 5) A statement that the respondent is presumed not responsible for the alleged conduct;
- 6) That a determination regarding responsibility is made at the conclusion of the grievance process;
- 7) that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney; and
- 8) That the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If the District provides a description of the evidence the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

If, in the course of the investigation, the District decides to investigate allegations of sexual harassment that are not included in the initial written notice of allegations, the District shall provide notice of the additional allegations to the parties ~~whose identities are known.~~

Step 4: Consider Whether Dismissal of Formal Complaint Warranted: Some Formal Complaints will be subject to mandatory or discretionary dismissal under Title IX.

- 1) The District may dismiss a complaint of sex discrimination if:
 - The District is unable to identify the respondent after taking reasonable steps to do so;
 - The respondent is not participating in the District's education program or activity and is not employed by the District;
 - The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the District

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- determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. ~~Before dismissing the complaint, the District will make reasonable efforts to clarify the allegations with the complainant.~~
- 2) Upon dismissal, the District will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the District will also notify the respondent simultaneously of the dismissal and the basis for the dismissal.
 - 3) The District will notify the complainant that a dismissal may be appealed and will ~~Thi~~ provide the complainant with an opportunity to appeal the dismissal of a ~~complaint~~. If the dismissal occurs after the respondent has been notified of the allegations, then the District will also notify the respondent that the dismissal may be appealed. Dismissals may ~~only~~ be appealed on the following bases:
 - Procedural irregularity ~~that would change the outcome;~~
 - New evidence ~~that would change the outcome and~~ that was not reasonably available when the dismissal was made; and
 - The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent ~~that would change the outcome.~~
 - 4) If the dismissal is appealed, the District will:
 - Notify the parties of any appeal, ~~including notice of the allegations, if notice was not previously provided to the respondent;~~
 - Implement appeal procedures equally for the parties;
 - Ensure that the decision-maker for the appeal did not take part in ~~the an~~ investigation ~~of the allegations or dismissal of the complaint;~~
 - Ensure that the decision-maker for the appeal has been trained consistent with the Title IX regulations;
 - Provide the parties a reasonable and equal opportunity to ~~make a statement in support of, or challenging, the outcome; and provide any additional information relative to the appeal, if necessary.~~
 - Notify the parties of the result of the appeal and the rationale for the result.
 - 5) When a complaint is dismissed, the District will, at a minimum:
 - Offer supportive measures to the complainant as appropriate;
 - If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
 - Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the District's education program or activity.

Commented [JC9]: This is discretionary , not required**Commented [JC10]:** How can you determine if it would "change the outcome" until you investigate the appeal - which again is discretionary. You could say "if would likely have a material impact on the findings"**Commented [JC11]:** Typically would be Supt or designee (Central Office)

File: ACGB

- 6) Dismissal of a Formal Complaint for purposes of Title IX shall not preclude the District from addressing the allegations under any other relevant District policies or procedure(s), including but not limited to, the Civil Rights Grievance Procedure, the Bullying Prevention and Intervention Plan, the Student Code of Conduct/[Handbook](#), and/or a collective bargaining [agreement](#) contract, nor will it preclude the District from addressing the allegations pursuant to the grievance process set out in Section II of this Procedure. ~~The Title IX Coordinator shall have the discretion to make any such referrals and proceed as appropriate in regard to the allegations.~~

Step 5: Initial Investigation: All Formal Complaints will be investigated by the Title IX Coordinator or other individual designated to serve as the investigator by the Title IX Coordinator. The investigator shall be responsible for seeking and gathering evidence relative

to the investigation. Any Formal Complaint against an employee who holds a supervisory position shall be investigated by a person, who is not ~~subject to~~ [under](#) that supervisor's authority. During the Formal Complaint resolution process:

- (1) The District will provide for adequate, reliable, and impartial investigation of complaints.
- (2) Standard of Proof: The investigator shall make factual findings based on a preponderance of the evidence standard.
- (3) The burden is on the District—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
- (4) The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.
- (5) The District shall provide equal opportunity for the parties to present ~~testimony~~ [fact](#) and ~~expert witnesses~~ and other inculpatory and exculpatory evidence [relative to the allegations](#).
- (6) The District shall not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no “gag” orders).
- (7) Each party may have one (1) advisor of their own selection and at their own expense participate in this grievance process. In the case of a student under the age of 18, this advisor may be in addition to the student's parents/guardians. Any restrictions on the participation of an advisor will be applied equally to each party. The advisor may, but is not required to, be an attorney. Any evidence received by an advisor in this process is subject to confidentiality and may be used only for the purpose of the grievance process. Advisors are prohibited from disseminating or disclosing such evidence outside of the grievance process.
- (8) The District shall send prior written notice to the parties of any investigative interviews, meetings, or hearings in which their participation is invited or expected.
- (9) Privacy of Medical Treatment and Mental Health Treatment Records: The District may not access or use either the complainant's or the respondent's medical, psychological, or similar treatment records unless the District obtains the party's written consent to do so.

File: ACGB

- (10) The investigator may impose reasonable timeframes on all parties as required to facilitate the timely completion of the investigation. The investigator may extend any of the timeframes beyond the time periods identified in this Procedure for good cause. If a complaint or report of sexual discrimination is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the applicable time frames, but may extend the investigation period to account for the unavailability of witnesses while school is not in session. If the investigator extends the investigation, the investigator will notify the parties of the extension and the reasons therefore in writing.

Step 6: Opportunity for Parties to Access and Respond to Evidence: The District must provide the parties with an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. send the parties, and their advisor(s) (if they have one), in electronic format or hard copy. If the District provides a description of the evidence it will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party Parties shall be afforded ten (10) calendar days to inspect, review and respond to the evidence. The District shall not require, allow, rely upon, or otherwise use evidence that constitutes information protected from disclosure by a legally recognized privilege, unless it has been waived by the holder of the privilege.

- (1) Prior to providing evidence to the parties, the investigator may redact confidential information that is not directly related to the allegations or that is otherwise barred from use under Title IX or by privilege (e.g., treatment records), the Family Educational Rights and Privacy Act and/or 603 CMR 23.00. Information that is directly related to the investigation, and that is not expressly barred from disclosure under Title IX (e.g., treatment records), the Family Educational Rights and Privacy Act, and/or 603 CMR 23.00, must be made available for review by both parties.
- (2) The parties and their advisors shall be prohibited from dissemination of any of the evidence for any purpose not directly related to this grievance procedure.

Step 7: Completion of the Investigative Report: The District must send the parties, and their advisor, an Investigative Report that fairly summarizes relevant evidence but does not reach any conclusions regarding responsibility, in electronic format or hard copy, within twenty-five (25) school days of receipt of the Formal Complaint, unless otherwise extended for good cause. ~~A copy of the Investigative Report will also be sent to the decision maker. The decision maker shall not be the same person as the Title IX Coordinator or investigator unless the District has otherwise provided for the same in this Grievance Procedure and has specifically sets forth under what circumstances the single investigator model may be used.~~

Commented [JC12]: Under new regs, have discretion to use single investigator model for investigator/decisionmaker

~~**Step 8:** Parties' Opportunity to Respond to Investigative Report: The District shall provide each party ten (10) calendar days for the parties to respond to the investigative report. The Investigative Report will notify the parties of the opportunity to submit to the decision maker directed questions of the other party and/or any witness within that same ten (10) calendar days. (See Step 9).~~

[File: ACGB](#)

Step 9: Directed Written Questions from the Parties: After the Investigative Report has been sent to the parties, but prior to reaching a determination regarding responsibility, the decision-maker shall afford both the complainant and the respondent the opportunity to submit to the decision-maker written, relevant questions of the other party or any witness, provide the party with the other party's and/or witness's written responses to said written questions, and allow for additional, limited follow-up questions from each party in writing. Questions that seek disclosure of information protected under a legally recognized privilege, Family Educational Rights and Privacy Act, and/or 603-CMR-23.00 shall not be permitted, unless the person holding the privilege has waived the privilege.

- (1) The complainant shall be protected from answering questions about the complainant's prior sexual behavior unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.
- (2) Upon receipt of the Investigative Report, each party shall have ten (10) calendar days to submit directed relevant questions to the decision-maker in writing.
 - a. All questions must be posed in a respectful manner (e.g., without profanity and without attacking a person's character or motivations).
 - b. Questions that are not relevant will be excluded, and the decision-maker shall explain to the party posing the question the reason(s) for excluding any question.
- (3) Upon receipt of the directed questions from the District, each party and witness shall have five (5) calendar days to respond to those questions in writing.[†]
- (4) After receipt of the answers by the parties, any follow-up questions by the parties shall be submitted to the decision-maker in writing within three (3) calendar days, and those follow-up questions shall be responded to in writing within three (3) calendar days of receipt.
- (5) Each party will be provided a copy of the other party's or witness's written answers.

Step 10: Determination of Responsibility/Findings of Fact by the Decision-Maker:

- (1) The decision-maker shall issue a written determination of responsibility for any sex discrimination that was determined to have occurred under Title IX. The determination shall be sent to all parties and shall include a description of the procedural steps taken, findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, the range of disciplinary sanctions to which the respondent may

[†]The parent or guardian may act on behalf of the party in drafting questions and submitting written answers. In the case of young children, reasonable accommodation based on disability, and/or other good cause, either party and/or any witness may request and have their oral responses reduced to writing by the investigator or Title IX Coordinator.

be subject, whether remedies will be provided to the complainant, and procedures and bases for appeal. The decision maker's written determination shall not be completed by the Title IX Coordinator or the investigator.

- (2) ~~Standard of Proof: The decision maker shall make factual findings to determine whether sex discrimination occurred based on a preponderance of the evidence standard. The standard of proof requires the decision maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision maker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decision maker will not determine that sex discrimination occurred~~
- (3) ~~The decision maker's findings shall be based on an objective review of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a complainant, respondent, or witness.~~
- (4) ~~The decision maker shall not draw inferences about the determination of responsibility based solely on a party's failure or refusal to answer questions.~~
- (5) ~~The written determination must be sent simultaneously to both parties.~~
- (6) ~~This determination shall be sent within twenty (20) school days of the issuance of the investigative report unless an extension is agreed upon by the parties or if the process is otherwise reasonably delayed. Except where the parties have agreed to an extension of the timeline or where the process is otherwise reasonably delayed, the written determination shall be issued within sixty (60) school days of receipt of the Formal Complaint. **~~

C. Remedies: If the decision-maker determines that sexual discrimination has occurred, the Title IX Coordinator will, as appropriate:

- (1) Coordinate the provision and implementation of remedies to a complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by sex discrimination;
- (2) Eliminate the harassing environment, which must include but need not be limited to providing remedies to a complainant that are designed to restore or preserve the complainant's equal access to the District's education programs and/or activities. These remedies may be the same individualized services as the supportive measures outlined in Section I(D) above and/or may consist of alternative interventions and/or punitive or disciplinary sanctions that burden the respondent.
- (3) Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.

D. Discipline: Persons who engage in sexual discrimination or retaliation may be subject to disciplinary action, including, but not limited to, reprimand, suspension, termination, expulsion (if applicable under M.G.L. c. 71, §§ 37H or 37H ½), or other sanctions as determined by the District administration, subject to applicable procedural requirements. The Title IX Coordinator will, as appropriate:

- (1) Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions

File: ACGB

- ~~(2) Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.~~
- ~~(3) Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and~~
- ~~(4) Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.~~

~~Although the respondent may, in accordance with Title IX, be subject to emergency removal at any time, the respondent may not be subject to disciplinary sanctions for the misconduct defined under this Procedure until after this grievance process has been completed.~~

~~No discipline may be imposed on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.~~

Commented [JC13]: This seems repetitiv

~~Not withstand the above paragraph a determination of no responsibility for purposes of Title IX shall not preclude the District from addressing the allegations under any other relevant District policies or procedure(s), including but not limited to, the Civil Rights Grievance Procedure, the Bullying Prevention and Intervention Plan, the Student Code of Conduct, and/or a collective bargaining contract, nor will it preclude the District from addressing the allegations pursuant to the grievance process set out in Section II of this Procedure. The Title IX Coordinator shall have the discretion to make any such referrals and proceed as appropriate in regard to the allegations.~~

Commented [JC14]: This is also stated above I believe

E. Informal Process: At any time prior to determining whether sex discrimination occurred pursuant to the district's grievance procedure, the district, at its discretion, may opt to offer and facilitate informal resolution options, such as mediation or restorative justice. The district may determine whether or not it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made. Both parties must give voluntary, informed, written consent to attempt any offered informal resolution. Any informal resolution under this Procedure will be facilitated by trained personnel. **

- (1) The informal resolution process is not available to resolve allegations that an employee engaged in sex-based harassment of a student or such a process would conflict with Federal, State or local law.
- (2) The informal process is voluntary, and the alleged victim and/or respondent may terminate or decline any informal process at any time and resume the Formal Complaint grievance process. The District, as a condition of participation, must not require the parties to waive the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or the exercise of any other right.

File: ACGB

- (3) The informal process shall not exceed thirty (30) calendar days, during which time the timelines of the Formal Complaint process will be stayed.
 - (4) During the informal process the Title IX Coordinator shall take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.
- F. Emergency Removal under Title IX: The District may remove a respondent on an emergency basis at any time provided that the District: (1) undertakes an individualized safety and risk analysis; (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual discrimination justifies removal and that there is no alternative to the respondent's emergency removal to mitigate the threat presented; and (3) provides the respondent with notice and the opportunity to challenge the decision immediately following the removal.
- G. Anonymous Reports: The District may be on notice of an allegation of sexual discrimination through receipt of an anonymous report. In cases of anonymous reports, the District's obligation is to respond in a manner that is not clearly unreasonable in light of the known circumstances. If the anonymous reporter is the complainant and they request confidentiality, the District can and should offer supportive measures to the extent consistent with maintaining the request for confidentiality. If an anonymous report is received without a disclosure of the complainant's identity, the District will be unable to provide the complainant supportive measures in response to that report. The District may in conformance with applicable state laws and regulations be required to report sexual discrimination identified in an anonymous complaint to state and/or local authorities such as the Massachusetts Department of Children and Families in conformance with state statutes and regulations and/or take actions to protect the safety of the school community (contacting the police, for example) that may result in the identity of the reporting person being disclosed. Although the District shall respond to anonymous reports of sexual discrimination in accordance with this Procedure, a Formal Complaint cannot be filed anonymously.
- H. Appeals: The complainant or respondent may appeal from a determination regarding responsibility and/or from the District's dismissal of a Formal Complaint or any allegations therein, only on the following bases:
- (1) procedural irregularity that affected the outcome of the matter;
 - (2) newly discovered evidence that could affect the outcome of the matter; and/or
 - (3) Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

An appeal may be made to the Superintendent or designee within five (5) calendar days after receiving the determination of responsibility or dismissal. Appeals must be made in writing (email is sufficient) to the Superintendent, _____Public Schools
XXXXXXXXXX,XXXXXXXXXX, Massachusetts 00000 xxxxx @xxxxxxxx.xxx.

File: ACGB

The Superintendent or designee shall:

- (1) Notify the parties of any appeal, including notice of the allegations consistent with paragraph (c) of this section if notice was not previously provided to the respondent;
- (2) Implement appeal procedures equally for the parties;
- (3) Ensure that the decision-maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- (4) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging the outcome;
- (5) Decide the appeal no later than thirty (30) calendar days of the date of receipt of the written appeal.

In cases in which it has been determined that a respondent student is subject to long-term suspension as a result of a finding of sexual discrimination in accordance with this Procedure, the respondent may elect to exercise their appeal under the disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, §§ 37H, 37H ½ or 37H ¾) in place of this appellate procedure.

The Title IX Formal Complaint grievance process is deemed complete when either the time period for appeal has lapsed or upon the issuance of the Superintendent's decision on a timely filed appeal.

- I. Recordkeeping: Records related to this Procedure will be maintained for a period of seven (7) years:
 - (1) For each complaint of sex discrimination, records documenting the informal resolution process and/or the grievance procedures and the resulting outcome.
 - (2) For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or records documenting the actions the District took to meet its obligations under Title IX.
 - (3) For all training all materials used to provide training to meet its obligations under Title IX. A District must make these training materials available upon request for inspection by members of the public.
- J. Employment Agencies: The contact information for state and federal employment discrimination enforcement agencies is as follows: (1) Federal: United States Equal Employment Opportunity Commission (EEOC); John F. Kennedy Federal Building; 15 New Sudbury Street, Room 475; Boston, MA 02203-0506; 1-800-669-4000; [EEOC Boston Area Office Website: https://www.eeoc.gov/field-office/boston/location](https://www.eeoc.gov/field-office/boston/location); and (2) State: Massachusetts Commission Against Discrimination (MCAD); Boston Headquarters; One Ashburton Place; Sixth Floor, Room 601; Boston, MA 02108; (617)-994-6000; [MCAD Website: https://www.mass.gov/orgs/massachusetts-commission-against-discrimination](https://www.mass.gov/orgs/massachusetts-commission-against-discrimination)
- K. Identification of key personnel involved in Title IX process for reports and/or Formal Complaints of sexual discrimination:

File: ACGB

Identification of key personnel involved in Title IX process for reports and/or Formal Complaints of sexual discrimination:

- Title IX Coordinator: [NAME], [TITLE] , Somerville Public Schools, [ADDRESS, [TEL] [FAX] [EMAIL]
- ~~Investigator(s):~~
 - ~~Elementary Level: Title, Name, Phone, Email~~
 - ~~(Each) High School: Title, Name, Phone, Email~~
 - ~~(Each) Middle School: Title, Name, Phone, Email~~
 - ~~All Staff: Title, Name, Phone, Email~~
- ~~Decision maker:~~
 - ~~(list each School Title, Name, Phone, Email~~
 -
- ~~Appeal Officer: Title, Name, Phone, Email~~
- ~~Informal Resolution Facilitator: Title, Name Phone, Email~~

Commented [JC15]: If you want to list investigators, though not necessary - I would do it by position not name so don't need to update periodically

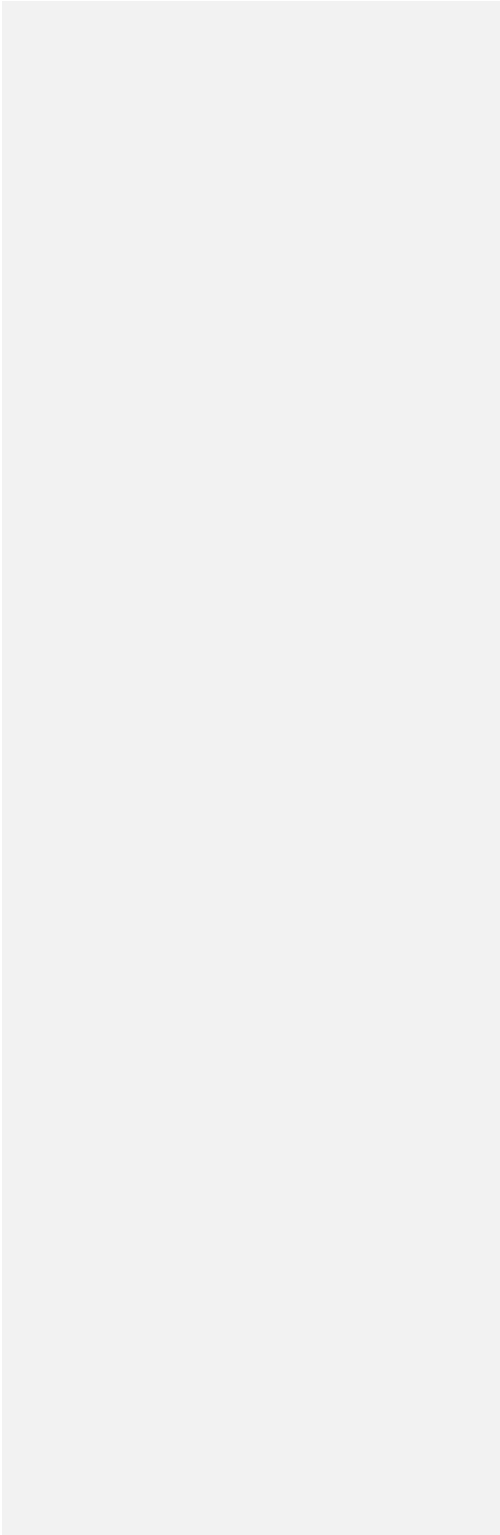
The ~~District will notify students, employees, applicants for admission or employment, parents and legal guardians of students, and unions of the name, title, office address, email address and telephone number~~contact information for ~~of~~ the Title IX Coordinator. ~~This information~~ will be prominently displayed on the District's website.

LEGAL REFS.: Section 504 of the Rehabilitation Act of 1973;
Title II of the Americans with Disabilities Act of 1990;
Title VI of the Civil Rights Act of 1964;
Title VII of the Civil Rights Act;
Title IX of the Education Amendments of 1972; the Age Act;
M.G.L. c. 151B and c. 151C; and M.G.L. c. 76, § 5

CROSS REFS.: JICFB, Bullying Prevention;
AC, Nondiscrimination
ACGA, Civil Rights Grievance Procedure
JIC, Student Discipline

SOURCE: MASC July 2024

MASC acknowledges the contribution of Nuttall, MacAvoy & Joyce, P.C. in the development of the grievance procedures originally published in 2022, which have been retained as part of MASC's 2024 revised grievance procedures.



File: AD

MISSION STATEMENT

Commented [JC16]: This policy is not legally required, discretionary and is pretty vague in my view.

DRAFT NOTE: MASC model policy. If adopted, the committee should adapt it for Somerville.

In today's society our students are continuously excited by new and challenging stimuli; adaptability to change therefore becomes a paramount objective of learning.

The mastery of basic skills is essential to our students as they prepare to function as responsible individuals. Students must also know how to direct their own learning by mastering the skills of independent inquiry, because circumstances do not enable us to predict with certainty just what today's students will need to know when they become tomorrow's adults. The optimum environment should be sought so that all students can develop physically and emotionally and acquire the information, academic skills, critical judgment, and creativity needed to lead to a better understanding of themselves, each other, and the world around them.

The school district must continually strive to create, implement, and improve programs that are compatible with appropriate curricula and provide opportunities for innovation in teaching and learning. If this is accomplished, students will then come to realize more fully their own potential as individuals and be better prepared to appreciate and act responsibly in the society in which they live.

SOURCE: MASC – Updated 2022

CROSS REFS.: IA, Instructional Goals

NOTE: This policy serves as a placeholder. Districts should insert their own Mission Statement if available.

The cross references are to related sample policies in this manual. They are also examples of cross-references that may be useful in an individual School Committee's policy manual.

[File: ADC](#)

~~USE OF TOBACCO PRODUCTS ON SCHOOL PREMISES~~

DRAFT NOTE: MASC model policy was update on 2022. Recommend MASC version.

~~Use of any tobacco products[§] within the school buildings, school facilities, or on school grounds or school buses by any individual, including school personnel and students, is prohibited at all times.~~

~~A staff member determined to be in violation of this policy shall be subject to disciplinary action.~~

~~A student determined to be in violation of this policy shall be subject to disciplinary action pursuant to the student discipline code.~~

~~This policy shall be promulgated to all staff and students in appropriate handbook(s) and publications.~~

~~Signs shall be posted in all school buildings informing the general public of the District policy and requirements of state law.~~

~~[§]Tobacco Product: Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.~~

~~LEGAL REF: ——— M.G.L. [71:37H](#)~~

~~Adoption date: January 1996~~

~~Reviewed: October 2008~~

~~Amended: December 2015~~

~~SOURCE: Somerville~~

File: ADC

TOBACCO PRODUCTS ON SCHOOL PREMISES PROHIBITED

Use of any tobacco products, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, electronic cigarettes, electronic cigars, electronic pipes or other similar products that rely on vaporization or aerosolization ([e.g. vaping](#)), within the school buildings, school facilities, on school grounds or school buses, or at [any](#) school sponsored events by any individual, including school personnel and students, is prohibited ~~at all times~~.

A staff member determined to be in violation of this policy shall be subject to disciplinary action [up to and including dismissal](#).

A student determined to be in violation of this policy shall be subject to disciplinary action pursuant to the student discipline [code](#).

This policy shall be promulgated to all staff and students in appropriate handbook(s) and publications.

Signs shall be posted in all school buildings informing the general public of the District policy and requirements of state law.

SOURCE: MASC - Updated 2022

LEGAL REF: M.G.L. [71:37H](#); [270:6](#)

CROSS REFS.: GBED, Tobacco use on School Property by Staff Members Prohibited
JICH, Alcohol, Tobacco and Drug Use by Students Prohibited

Commented [JC17]: Doesn't necessarily need to be in this policy, but may want in handbook - disabling any equipment used to enforce this policy is also grounds for disciplinary action.

File: ADDA

BACKGROUND CHECKS**DRAFT NOTE: Policies match, no action required.**

It shall be the policy of the school district that, as required by law, a state and national fingerprint criminal background check will be conducted to determine the suitability of full or part time current and prospective school employees, who may have direct and unmonitored contact with students. School employees shall include, but not be limited to any apprentice, intern, or student teacher or individuals in similar positions, who may have direct and unmonitored contact with students. The School Committee shall only obtain a fingerprint background check for current and prospective employees for whom the School Committee has direct hiring authority. In the case of an individual directly hired by a school committee, the chair of the School Committee shall review the results of the national criminal history check. The Superintendent shall also obtain a state and national fingerprint background check for any individual who regularly provides school related transportation to students. The School Committee, Superintendent or Principal, as appropriate, may obtain a state and national fingerprint criminal background check for any volunteer, subcontractor or laborer commissioned by the School Committee, school or employed by the city or town to perform work on school grounds, who may have direct and unmonitored contact with students. School volunteers and subcontractors/laborers who may have direct and unmonitored contact with students must continue to submit state CORI checks.

The fee charged by the provider to the employee and educator for national fingerprint background checks will be \$55.00 for school employees subject to licensure by DESE and \$35.00 for other employees, which fee may from time to time be adjusted by the appropriate agency. The employer shall continue to obtain periodically, but not less than every 3 years, from the department of criminal justice information services all available Criminal Offender Record Information (CORI) for any current and prospective employee or volunteer within the school district who may have direct and unmonitored contact with students.

Direct and unmonitored contact with students is defined in DESE regulations as [unsupervised](#) contact with a student when no other employee who has received a suitability determination by the ~~school or~~ district is present. "Contact" refers to any contact with a student that provides the individual with opportunity for physical touch or personal communication.

This policy is applicable to any fingerprint-based state and national criminal history record check made for non- criminal justice purposes and requested under applicable federal authority and/or state statute authorizing such checks for licensing or employment purposes. Where such checks are allowable by law, the following practices and procedures will be followed.

Requesting CHRI (Criminal History Record Information) checks

Fingerprint-based CHRI checks will only be conducted as authorized by state and federal law, in accordance with all applicable state and federal rules and regulations. If an applicant [for employment](#) or employee is required to submit to a fingerprint-based [state-check](#) and national criminal history record check, ~~he/she~~ they shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for [submitting-completing a fingerprint checks](#). ~~In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment.~~

Commented [JC18]: May want to add language that employees are required to advise the District of any pending criminal charges (e.g. misdemeanor, felony), within five days of the issuance of a criminal complaint.

Access to CHRI

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts CORI laws and regulations. CHRI cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the Massachusetts Department of Criminal Justice Information Services (DCJIS) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Federal law and regulations provide that the exchange of records and information is subject to cancellation if dissemination is made outside of the receiving entity or related entities. Furthermore, an entity can be charged criminally for the unauthorized disclosure of CHRI.

Storage of CHRI

CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with the most recent CJIS Security Policy have been implemented to ensure the security and confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards.

Commented [JC19]: I'm not sure what this sentence means - I would say at a minimum compliance with MA Municipal Records Retention statute

In addition to the above, each individual involved in the handling of CHRI will strictly adhere to the policy on the storage, retention and destruction of CHRI.

Retention and Destruction of CHRI

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes only:

- Historical reference and/or comparison with future CHRI requests,
- Dispute of the accuracy of the record
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in a secure location in the office of the superintendent. When no longer needed, CHRI and any summary of CHRI data must be destroyed by shredding paper copies and/or by deleting all electronic copies from the electronic storage location, including any backup copies or files. The shredding of paper copies of CHRI by an outside vendor must be supervised by an employee of the district.

CHRI Training

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at the district will review and become familiar with the educational and relevant training materials regarding SAFIS and CHRI laws and regulations made available by the appropriate agencies, including the DCJIS.

Determining Suitability

In determining an individual's suitability, the following factors will be considered: these factors may include, but not necessarily be limited to: the nature and gravity of the crime and the underlying conduct,

the time that has passed since the offense, conviction and/or completion of the sentence, nature of the position held or sought, age of the individual at the time of the offense, number of offenses, any relevant evidence of rehabilitation or lack thereof and any other factors deemed relevant by the district.

A record of the suitability determination will be retained. The following information will be included in the determination:

- The name and date of birth of the employee or applicant;
- The date on which the school employer received the national criminal history check results; and,
- The suitability determination (either "suitable" or "unsuitable").

A copy of an individual's suitability determination documentation must be provided to another school employer, or to the individual, upon request of the individual for whom the school employer conducted a suitability determination.

Relying on Previous Suitability Determination.

The school employer may obtain and may rely on a favorable suitability determination from a prior employer, if the following criteria are met:

- The suitability determination was made [by another Massachusetts school employer](#) within the last seven years; and
- The individual has not resided outside of Massachusetts for any period longer than three years since the suitability determination was made; and either
- The individual has been employed continuously for one or more school employers or has gaps totaling no more than two years in his or her employment for school employers; or
- If the individual works as a substitute employee, the individual is still deemed suitable for employment by the school employer who made a favorable suitability determination.
- ~~Upon request of another school employer, the initial school employer shall provide documentation that the individual is still deemed suitable for employment by the initial school employer.~~

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Commented [JC20]: I'm not sure where these timelines are coming from, I don't believe they are in the CORI Regulations so it's a policy decision whether to rely on older CORI' conducted by another former employer?

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Adverse Decisions Based on CHRI

If inclined to make an adverse decision based on an individual's CHRI, the district will take the following steps prior to making a final adverse determination:

- Provide the individual with a copy of ~~his/her~~ **their** CHRI used in making the adverse decision;
- Provide the individual with a copy of this CHRI Policy;
- Provide the individual the opportunity to complete or challenge the accuracy of ~~his/her~~ **their** CHRI;
- And
- Provide the individual with information on the process for updating, changing, or correcting CHRI.

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time depending on the particular circumstances not to exceed thirty days to correct or complete the CHRI [and an opportunity to meet with the employer to review the CHRI and provide any additional information the applicant/employee wants considered as part of any employment decision.](#)

Secondary Dissemination of CHRI

If an individual's CHRI is released to another authorized entity, a record of that dissemination must be made in the secondary dissemination log. The secondary dissemination log is subject to audit by the DCJIS and the FBI.

The following information will be recorded in the log: Subject Name;

- Subject
- Date of Birth;
- Date and Time of the dissemination;
- Name of the individual to whom the information was provided;
- Name of the agency for which the requestor works;
- Contact information for the requestor; and
- The specific reason for the request.

Reporting to Commissioner of Elementary and Secondary Education

Pursuant to state law and regulation, if the district dismisses, declines to renew the employment of, obtains the resignation of, or declines to hire a licensed educator or an applicant for a Massachusetts educator license because of information discovered through a state or national criminal record check, the district shall report such decision or action to the Commissioner of Elementary and Secondary Education in writing within 30 days of the employer's action or educator resignation. The report shall be in a form requested by the Department and shall include the reason for the action or resignation as well as a copy of the criminal record checks results. The superintendent shall notify the employee or applicant that it has made a report pursuant to the regulations to the Commissioner.

Pursuant to state law and regulation, if the district discovers information from a state or national criminal record check about a licensed educator or an applicant for a Massachusetts educator license that implicates grounds for license action pursuant to regulations, the Superintendent shall report to the Commissioner in writing within 30 days of the discovery, regardless of whether the district retains or hires the educator as an employee. The report must include a copy of the criminal record check results. The school employer shall notify the employee or applicant that it has made a report pursuant to regulations to the Commissioner and shall also send a copy of the criminal record check results to the employee or applicant.

C.O.R.I. REQUIREMENTS

It shall be the policy of the district to obtain all available Criminal Offender Record Information (CORI) from the department of criminal justice information services of prospective employee(s) or volunteer(s) of the school department including any individual who regularly provides school related transportation to students, who may have direct and unmonitored contact with students, prior to hiring the employee(s) or to accepting any person as a volunteer. ~~State law requires that school districts obtain CORI data for employees of taxicab companies that have contracted with the schools to provide transportation to pupils.~~ The Superintendent, Principal, or their certified designees shall periodically, but not less than every three years, obtain all available Criminal Offender Record Information from the department of criminal justice informational services on all employees, individuals who regularly provide school related transportation to students, including taxicab company employees, and volunteers who may have direct and unmonitored contact with students, during their term of employment or volunteer service.

The Superintendent, Principal, or their certified designees may also have access to Criminal Offender

Record Information for any subcontractor or laborer who performs work on school grounds, and who may have direct and unmonitored contact with **students**, and shall notify them of this requirement and comply with the appropriate provisions of this policy.

Commented [JC21]: This may also apply to internships/coops off campus

Pursuant to a Department of Education regulation, "Direct and unmonitored contact with students means contact with students when no other employee, for whom the employer has made a suitability determination of the school or district, is present. "-Contact" refers to any contact with a student that provides the individual with opportunity for physical touch or personal **communication**. The school employer may determine when there is potential for direct and unmonitored contact with students by assessing the circumstances and specific factors including but not limited to, whether the individual will be working in proximity with students, the amount of time the individual will spend on school grounds, and whether the individual will be working independently or with others. An individual shall not be considered to have the potential for direct and unmonitored contact with students if he or she has only the potential for incidental unsupervised contact in commonly used areas of the school grounds."

Commented [JC22]: This definition is repeated above already

In accordance with state law, all current and prospective employees, volunteers, and persons regularly providing school related transportation to students of the school district shall sign an acknowledgement form authorizing receipt by the district of all available CORI data from the department of criminal justice information services. In the event that a current employee has a question concerning the signing of the acknowledgement form, ~~he/she~~ they may meet with the Principal or Superintendent; however, failure to sign the CORI acknowledgement form may result in a referral to local counsel for appropriate action. Completed acknowledgement forms must be kept in secure files. The School Committee, Superintendent, Principals or their designees certified to obtain information under the policy, shall prohibit the dissemination of school information for any purpose other than to further the protection of school students.

CORI is not subject to the public records law and must be kept in a secure location, separate from personnel files and may be retained for not more than three years. CORI shall be shared with the individual to whom it pertains, pursuant to law, regulation and the following model policy, and in the event of an inaccurate report the individual should contact the department of criminal justice informational services.

Access to CORI material must be restricted to those individuals certified to receive such information. In the case of prospective employees or volunteers, CORI material should be obtained only where the Superintendent had determined that the applicant is qualified and may forthwith be recommended for employment or volunteer duties.

The hiring authority, subject to applicable law and the model policy, reserves the exclusive right concerning any employment decision.

The Superintendent shall ensure that on the application for employment and/or volunteer form there shall be a statement that as a condition of ~~the~~ employment or volunteer service the school district is required by law to obtain Criminal Offender Record Information for any employee, individual who regularly provides transportation, or volunteer who may have direct and unmonitored contact with students. Current employees, persons regularly providing school related transportation, and volunteers shall also be informed in writing by the Superintendent prior to the periodic obtaining of their Criminal Offender Record Information.

The Superintendent shall amend employment applications to include questions concerning criminal records which the Massachusetts Commission against Discrimination has determined may be legally asked of prospective employees. Any employment application which seeks information concerning prior

arrests or convictions of the applicant shall include the following statement: "An applicant for employment with a sealed record on file with the commission of probation may answer 'no record' with respect to an inquiry herein relative to prior arrests or criminal court appearances. In addition, any applicant for employment may answer 'no record' with respect to any inquiry relative to prior arrests, court appearances and adjudications in all cases of delinquency or as a child in need of service which did not result in a compliant transferred to the superior court for criminal prosecution."

Records sealed pursuant to law shall not operate to disqualify a person in any examination, appointment or application for public service on behalf of the Commonwealth or any political subdivision thereof.

The Superintendent shall revise contracts with special education schools and other providers to require a signed statement that the provider has met all legal requirements of the state where it is located relative to criminal background checks for employees and others having direct and unmonitored contact with students.

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LEGAL REFS.: M.G.L. [6:167](#)-178; [15D:7](#)-8; [71:38R](#), [151B](#), [276:100A](#)
P.L. 92-544; Title 28 U.S.C. § 534; Title 28 C.F.R. 20.33(b)
42 U.S.C. § 16962
603 CMR [51.00](#)
803 CMR 2.00
803 CMR 3.05 (Chapter 149 of the Acts of 2004)
[FBI Criminal Justice Information Services Security Policy Procedure for correcting a criminal record](#)
[FAQ - Background Checks](#)

Amended: November 2014

NOTE: The Department of Criminal Justice Information Services (DCJIS) has adopted regulations requiring that it maintain a model CORI policy and that any written policy must meet the minimum standards as found in the model. Therefore, MASC recommends that school districts retain both the school district specific policy incorporated here and the DCJIS model policy attached as [ADDA-R](#).

SOURCE: Somerville

File: ADDA-R

DCJIS MODEL CORI POLICY

DRAFT NOTE: Policies match, no action required.

This policy is applicable to the criminal history screening of prospective and current employees, subcontractors, volunteers and interns, and professional licensing applicants.

Where Criminal Offender Record Information (CORI) and other criminal history checks may be part of a general background check for employment, volunteer work, licensing purposes, the following practices and procedures will be followed.

CONDUCTING CORI SCREENING

CORI checks will only be conducted as authorized by the DCJIS, state law, and regulation, and only after a CORI Acknowledgement Form has been completed.

If a new CORI check is to be made on a subject within a year of ~~his/her~~ their signing of the CORI Acknowledgement Form, the subject shall be given seventy-two (72) hours' notice that a new CORI check will be conducted.

ACCESS TO CORI

All CORI obtained from the DCJIS is confidential, and access to the information must be limited to those individuals who have a "need to know". This may include, but not be limited to, hiring managers, staff submitting the CORI requests, and staff charged with processing job applications. The district must maintain and keep a current list of each individual authorized to have access to, or view, CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.

CORI TRAINING

An informed review of a criminal record requires training. Accordingly, all district personnel authorized to review or access CORI will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

USE OF CRIMINAL HISTORY IN BACKGROUND SCREENING

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied.

Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

VERIFYING A SUBJECT'S IDENTITY

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the

Commented [JC24]: Not sure why you would need both ADDA and ADDA-R - seems repetitive to me.

Commented [JC25]: Why 72 hour notice - simply advise them doing it.

applicant to ensure the record belongs to the applicant.

If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

INQUIRING ABOUT CRIMINAL HISTORY

In connection with any decision regarding employment, volunteer opportunities, or professional licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

DETERMINING SUITABILITY

If a determination is made, based on the verification of identity information as provided in this policy, that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- a. Relevance of the record to the position sought;
- b. The nature of the work to be performed;
- c. Time since the conviction;
- d. Age of the candidate at the time of the offense;
- e. Seriousness and specific circumstances of the offense;
- f. The number of offenses;
- g. Whether the applicant has pending charges;
- h. Any relevant evidence of rehabilitation or lack thereof; and
- i. Any other relevant information, including information submitted by the candidate or requested by the organization.

The applicant is to be notified of the decision and the basis for it in a timely manner.

ADVERSE DECISIONS BASED ON CORI

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DCJIS' Information Concerning the Process for Correcting a Criminal Record.

SECONDARY DISSEMINATION LOGS

All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record any dissemination of Cori outside this organization, including dissemination at the request of the subject.

Adopted by the Somerville School Committee:
Amended: October 2014

SOURCE: Somerville/MASC

File: ADF

SCHOOL DISTRICT WELLNESS PROGRAM**DRAFT NOTE: Somerville with MASC updates.**

The Somerville School Committee recognizes the relationship between student well-being and student achievement as well as the importance of a comprehensive district wellness program. Therefore, the school district will provide developmentally appropriate and sequential nutrition and physical education as well as opportunities for physical activity. The wellness program will be implemented in a multidisciplinary fashion and will be evidence based.

Wellness Committee

The school district will establish a wellness committee that consists of at least one (1): parent/guardian, student, nurse, school food service representative, Somerville School Committee member, school administrator, member of the public, and other community members as appropriate. If available, a qualified, credentialed nutrition professional will be a member of the wellness committee. Only employees of the district who are members of the wellness committee may serve as wellness program coordinators. Wellness coordinators, in consultation with the wellness committee, will be in charge of implementation and evaluation of this policy.

Commented [JC26]: Of course its SC decision, but does not seem a like a matter within the purview of SC.

Nutrition Guidelines

It is the policy of the school district that all foods and beverages made available on campus during the school day are consistent with School Lunch Program nutrition guidelines. Guidelines for reimbursable school meals will not be less restrictive than regulations and guidance issued by the Secretary of Agriculture pursuant to law. The district will create procedures that address all foods available to students throughout the school day in the following areas:

- guidelines for maximizing nutritional value by decreasing fat and added sugars, increasing nutrition density and moderating portion size of each individual food or beverage sold within the school environment;
- separate guidelines for foods and beverages in the following categories:
 1. foods and beverages included in a la carte sales in the food service program on school campuses;
 2. foods and beverages sold in vending machines, snack bars, school stores, and concession stands;
 3. foods and beverages sold as part of school-sponsored fundraising activities; and
 4. refreshments served at parties, celebrations, and meetings during the school day; and
 5. specify that its guidelines will be based on nutrition goals, not profit motives.

Nutrition and Physical Education

The school district will provide nutrition education aligned with standards established by the USDA's National School Lunch Program and the School Breakfast Program in all grades. The school district will provide physical education training aligned with the standards established by the Department of Education. The wellness program coordinators, in consultation with the wellness committee, will develop procedures that address nutrition and physical education.

Nutrition Education

The following list contains examples of goals your school district may want to consider for inclusion in its policy. Each school district must determine its own goals and include them in its policy.

- Students receive nutrition education that teaches the skills they need to adopt and maintain healthy eating behaviors.
- Nutrition education is offered in the school cafeteria as well as in the classroom, with coordination between the foodservice staff and other school personnel, including teachers.
- Students receive consistent nutrition messages from all aspects of the school program.
- Division health education curriculum standards and guidelines address both nutrition and physical education.
- Nutrition is integrated into the health education or core curricula (e.g., math, science, language arts).
- Schools link nutrition education activities with the coordinated school health program.
- Staff who provide nutrition education have appropriate training.
- The level of student participation in the school breakfast and school lunch programs is appropriate.

Physical Education Activities

The following list contains examples of goals your school district may want to consider for inclusion in its policy. Each school district must determine its own goals and include them in its policy.

- Students are given opportunities for physical activity during the school day through physical education (PE) classes, daily recess periods for elementary school students, and the integration of physical activity into the academic curriculum where appropriate.
- Students are given opportunities for physical activity through a range of before- and/or after-school programs including, but not limited to, intramurals, interscholastic athletics, and physical activity clubs.
- Schools work with the community to create ways for students to walk, bike, rollerblade or skateboard safely to and from school.
- Schools encourage parents and guardians to support their students' participation in physical activity, to be physically active role models, and to include physical activity in family events.
- Schools provide training to enable staff to promote enjoyable, lifelong physical activity among students.

Other School-Based Activities

The wellness program coordinators, in consultation with the wellness committee, are charged with developing procedures addressing other school-based activities to promote wellness.

The following list contains examples of goals your school district may want to consider for inclusion in its policy. Each school district must determine its own goals and include them in its policy.

- An adequate amount of time is allowed for students to eat meals in adequate lunchroom facilities.
- All students who participate in subsidized food programs are able to obtain food in a non-stigmatizing manner.
- Environmentally-friendly practices such as the use of locally grown and seasonal foods, school

gardens, and non-disposable tableware have been considered and implemented where appropriate.

- Physical activities and/or nutrition services or programs designed to benefit staff health have been considered and, to the extent practical, implemented.

Evaluation

The wellness committee will assess all education curricula and materials pertaining to wellness for accuracy, completeness, balance and consistency with the state and district's educational goals and standards. Wellness program coordinators shall be responsible for devising a plan for implementation and evaluation of the district wellness policy and are charged with operational responsibility for ensuring that schools meet the goals of the district wellness policy. Wellness program coordinators will report to the School Committee annually.

LEGAL REFS.: The Child Nutrition and WIC Reauthorization Act of 2004, Section 204,
 P.L. 108 -265
 The Richard B. Russell National School Lunch Act, 42 U.S.C. §§ 1751 - 1769h
 The Child Nutrition Act of 1966, 42 U.S.C. §§ 1771 - 1789
 ~~M.G.L. 111:223~~
 ~~105 CMR 201~~

CROSS REFS.: [EFC](#), Free and Reduced-Cost Food Services
 ~~IHAMA, Teaching About Alcohol, Tobacco and Drugs~~
 ~~IHAMB, Teaching About Alcohol, Tobacco and Drugs~~
 ~~KHA, Public Solicitations In The Schools~~
 ~~KHB, Advertising In The Schools~~
 ~~KL, Public Solicitations/Advertising in District Facilities~~

ADOPTED: April 20, 2006
Revised: December 1, 2009

SOURCE: Somerville

File: AE

COMMITMENT TO ACCOMPLISHMENT

DRAFT NOTE: Somerville with MASC updates.

The Somerville School Committee accepts ultimate responsibility for all facets of school operations. **Because it is accountable to the residents of the District,** The Somerville School Committee will maintain a program of accountability consisting of the following elements:

- Clear statements of expectations and purpose as these relate to operations, programs, departments, and positions.
- Provisions for the staff, resources, and support necessary to achieve stated expectations and purposes, subject to financial support by residents of the District.
- Evaluation of operations, instructional and staff development programs to determine how well expectations and purposes are being met.
- Specific performance objectives to enable individuals to direct their own efforts to the goals and objectives of the District.
- Evaluation of the efforts of employees in line with stated objectives, with the first purpose of evaluation being to help each individual make a maximum contribution to the goals of the District.

Every effort will be made by the Somerville School Committee, Superintendent, and staff to fulfill the responsibilities inherent in the concept of accountability.

Adoption date: January 1996
Revised: December 1, 2009

SOURCE: Somerville