File: ACAB - SEXUAL HARASSMENT POLICY FOR SEXUAL HARASSMENT AGAINST STUDENTS

The Berlin-Boylston Regional School Committee and the Berlin-Boylston Regional School District 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 Berlin-Boylston Regional School District.

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 it also, includes 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 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.

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; 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 including sexual 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.

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 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.

NOTICE OF SEXUAL HARASSMENT

The regulations require a school district to respond when the district has actual notice of sexual harassment. School districts have actual notice when an allegation is made known to any school employee. Schools must treat seriously all reports of sexual 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. 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 circumstances). Schools are required to investigate every formal complaint and respond meaningfully to every known report of sexual harassment.

The regulation highlights the importance of supportive measures 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 regulation would require remedies designed to restore or preserve access to the school's education program or activity.

REPORTING

Any person may file a report of sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), at any time either in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. However, is a person files a false complaint in bad faith, knowingly and intentionally, they will be subject to discipline.

Title IX Coordinator:

~~Jannel Fitzpatrick, Pupil Personnel Director, 508-869-2837, jfitzpatrick@bbrsd.org~~

Director of Pupil Personnel Services
Berlin-Boylston Public Schools
215 Main Street
Boylston, MA 01505
(508) 869-2837 x1105

Or

Director of Curriculum and Grants
Berlin-Boylston Public Schools
215 Main Street
Boylston, MA 01505
(508) 869-2837 x1111

The contact information for the Title IX Coordinators will always be prominently displayed on the school's website.

INVESTIGATIONS

The School will investigate and adjudicate formal complaints of sexual harassment using a grievance process that incorporates due process principles, treats all parties fairly, and reaches reliable responsibility determinations. The school's grievance process will:

Give both parties written notice of the allegations, an equal opportunity to select an advisor of the party's choice at the party's own expense (who may be, but does not need to be, an attorney), and an equal opportunity to submit and review evidence throughout the investigation;

Use trained Title IX personnel to objectively evaluate all relevant evidence without prejudgment of the facts at issue and free from conflicts of interest or bias for or against either party;

Protect parties' privacy by requiring a party's written consent before using the party's medical, psychological, or similar treatment records during a grievance process;

Obtain the parties' voluntary, written consent before using any kind of "informal resolution" process, such as mediation or restorative justice, and not use an informal process where an employee allegedly sexually harassed a student;

Apply a presumption that the respondent is not responsible during the grievance process (often called a "presumption of innocence"), so that the school bears the burden of proof and the standard of evidence is applied correctly;

Use the preponderance of the evidence standard for all complaints of harassment on the basis of sex, regardless of whether the complaint is against students or district employees;

Ensure the decision-maker is not the same person as the investigator and/or the Title IX Coordinator (i.e., no "single investigator models");

Parties may submit written questions for the other parties and witnesses to answer;

Protect all complainants from inappropriately being asked about prior sexual history ("rape shield")

Send both parties a written determination regarding responsibility explaining how and why the decision- maker reached conclusions;

Effectively implement remedies for a complainant if a respondent is found responsible for sexual harassment;

Offer both parties an equal opportunity to appeal;

Protect any individual, including complainants, respondents, and witnesses, from retaliation for reporting sexual harassment or participating (or refusing to participate) in any Title IX grievance process;

Make all materials used to train Title IX personnel publicly available on the school's website or, if the school does not maintain a website, make these materials available upon request for inspection by members of the public; and

Document and keep records of all sexual harassment reports and investigations for at least seven years.

RECORD KEEPING

Schools must create and maintain records documenting every Title IX sexual harassment complaint. Records relating to complaints of sexual harassment must be kept in accordance with the records retention schedule. Such records include: records of a school's investigation (including complaints (formal and informal), notices, the determination, investigative report, disciplinary measures or remedies, etc.); records of any appeals and materials associated with the appeal; records of any supportive measures taken in response to a complaint of sexual harassment (even if the complainant does not file a formal complaint); records of any informal resolution process; all materials used to train Title IX Coordinators, Investigators, decision makers, and those facilitating an informal resolution. The training materials must be kept on the School's website.

RETALIATION IS PROHIBITED

Any person who experiences retaliation for exercising their rights under Title IX can file a retaliation complaint with the Title IX Coordinator. The school will keep the names/identity of parties and witnesses confidential unless such disclosure is required under another law, or is necessary to conduct a thorough grievance procedure.

SUPPORTIVE MEASURES

When alleged sexual harassment is reported, the Title IX Coordinator must inform the victim to their right of supportive measures even if no formal complaint is filed. The school must consider the alleged victim's wishes with respect to supportive measures. Supportive measures for those involved in the sexual harassment complaint process may include: counseling, extending deadlines, modifications of work and/or class schedules, school escort services, increased school security and/or monitoring, mutual restrictions on contact between the individuals involved through a safety plan.

Supportive measures will be kept confidential whether they are provided to the alleged victim or accused person to the extent the confidentiality will not interfere with the supportive measure offered.

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

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

Approved by: BBRSD School Committee 8/9/2022

BBRSD School Committee 2/11/2025