

December 16, 2020

Via Zoom and Googledoc

WESTPORT BOARD OF EDUCATION

POLICY COMMITTEE

NOTICE OF SPECIAL MEETING

AGENDA

(Agenda Subject to Modification in Accordance with Law)

SPECIAL NOTICE ABOUT PROCEDURES FOR THIS ELECTRONIC MEETING:

Pursuant to the Governor's Executive Orders No. 7B and 9H, there will not be a physical location for this meeting. This meeting will be held electronically and live streamed on westportct.gov and shown on Optimum Government Access Channel 79 and Frontier Channel 6020. Emails to BOE members can be sent to BOE@westportps.org. Comments to be read during the public comment period must be submitted to the meeting's Googledoc during the submission period. Please see the following link for instructions and guidelines:

https://www.westportps.org/uploaded/site_files/www/boe/Procedures_and_Guidelines_for_Public_Participation_in_Remote_Board_Meetings.pdf. We will use our best efforts to read public comments if they are received during the public comment period and if they state your full name and address. Meeting materials will be available at westportps.org along with the meeting notice posted on the Meeting Agenda page.

WORK SESSION:

8:00 a.m. Held Remotely Via Zoom Pursuant to Executive Order 7B and 9H

DISCUSSION:

1. Review of CABE Audit, CABE Policy Highlights and Updates, and Shipman & Goodwin model policies for planning future policy work, *pages 1-108*
2. Any Other Policy Matters

ADJOURNMENT

The meeting can also be viewed on Cablevision on channel 79; Frontier channel 6020, and by video stream @www.westportct.gov

PUBLIC PARTICIPATION WELCOME USING THE FOLLOWING GUIDELINES:

- Public comment will be accepted via a Google doc and the comments will be read aloud at the meeting. A link will be provided prior to the meeting.
- There will be no in-person public comment due to public health concerns.
- A maximum of 15 minutes will be provided for public comments.
- Comments on agenda items are limited to 1 minute each.

It is the policy of the Town of Westport that all Town-sponsored public meetings and events are accessible to people with disabilities. If you need assistance in participating in a meeting or event due to a disability as defined under the Americans with Disabilities Act, please contact Westport's ADA Coordinator at 203-341-1043 or eflug@westportct.gov at least three (3) business days prior to the scheduled meeting or event to request an accommodation.



Please share this
informative
publication with
your Policy
Review
Committee



Vincent A. Mustaro, Senior Staff Associate for Policy Service

81 Wolcott Hill Road, Wethersfield, CT 06109

(860) 571-7446 / 1-800-317-0033 – Fax (860) 571-7452

Update Mailing No. 1
November 17, 2020

Policy Update Service

POLICY DEPARTMENT:

Vincent A. Mustaro, Senior Staff Associate

vmustaro@cabe.org

Pam Brooks, Senior Administrative Associate

pbrooks@cabe.org

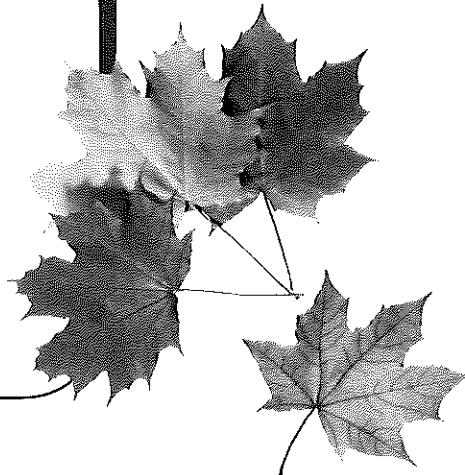
Terry DeMars, Administrative Associate

tdemars@cabe.org



Policy Topics of Interest

- A. School Mascots and Other Identifications
- B. Crowdfunding, Revisited
- C. Title IX Update
- D. Responding to Hate Speech in Schools
- E. Remote Work/Telecommuting/Telework



SAMPLE POLICIES & REGULATIONS ARE INCLUDED.



PLEASE NOTE:

Sample policies are distributed for demonstration purposes only. Unless so noted, contents do not necessarily reflect official policies of the Connecticut Association of Boards of Education.

The Update Service is a subscription service which provides a brief discussion of current policy issues of concern to Connecticut school districts. Sample policies, which reflect changes in state and federal law and judicial action affecting policy, are part of the newsletter.

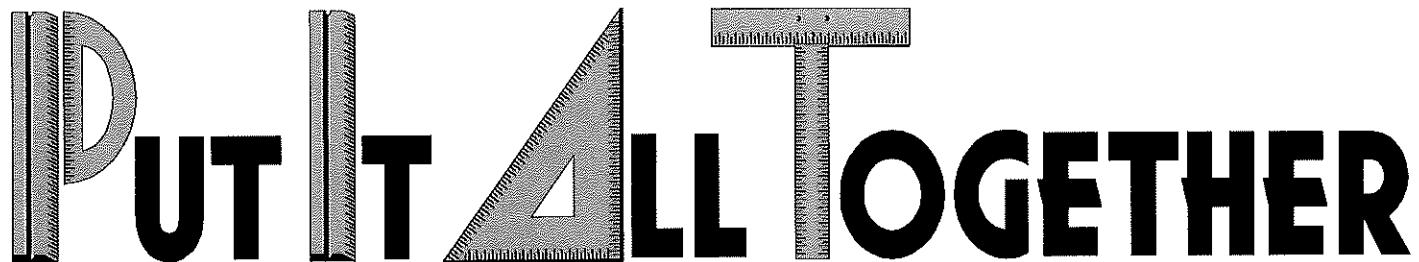
The sample policies are intended to provide a basis for drafting policy which meets the needs of the local school district. The samples should always be considered as open to modification nor do they replace the advice of the district's legal counsel. Rarely does one policy statement reflect the needs and concerns of all districts.

To make the best use of the Update Service, it is suggested that a discussion on the various issues be held. The sample policies should be used to determine the areas for which policy should be developed or revised, to get ideas for what a policy should contain and as a starting point for editing, modifying and discussing the local district's positions.

If you have questions about Update Service, sample policies or about policy in general, please call CABE Policy Services Department at (860) 571-7446 or (800) 317-0033.

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MASCOTS

~Page 1~

UPDATE MAILING NO. 1

NOVEMBER 17, 2020

A strong emotional connection exists to school mascots. They rally crowds into a frenzy and can serve as a touchstone to alumni and serve as a reminder of the simpler days of youth. In short, they help to embody the admirable qualities of loyalty, unity and healthy competition.

However, in school districts across the country and some in Connecticut, some mascots have become to be viewed as symbols that cause divisions rather than unity and marginalize members of the community. This is especially true for districts with mascots based on Native Americans.

From time immemorial, the greatness of tribal nations and Native people has been part of the foundation of America's story. Native Americans contribute daily to America's greatness in a variety of ways and roles. However, negative Indian stereotypes, such as those perpetuated by some sports mascots, affect the reputation and self-image of Native Americans and can foster ongoing discrimination against tribal citizens.

Indian mascots and the stereotypes they represent present a misleading image of Indian people and contribute to the myths that have been used to cover a history of oppression. Progress is evident over the last fifty years resulting in the elimination of over two-thirds of derogatory Indian sports mascots and logos. Native American team names, mascots and logos promote incorrect images of contemporary Native Americans, cultural bias and an environment tolerant of stereotypes. Native American team names, mascots and logos negatively impact Native students' sense of community and belonging in the school environment, leaving some students feeling marginalized from the school community.

The National Collegiate Athletic Association, NCAA, in 2005, formally condemned the use of disparaging mascots and banned the use of Indian names, logos, and mascots during its championship tournaments. However, more remains to be done.

The U.S. Commission on Civil Rights called for an end to the use of Native American images and team names by non-Native schools almost two decades ago. The Commission stated that it believes the use of Native American images and nicknames in school is insensitive and should be avoided. The Commission's view called such mascots inappropriate and insensitive in light of the long history of forced assimilation that American Indian people have endured in this country.

Since the civil rights movement of the 1960s many overly derogatory symbols and images offensive to African-Americans have been eliminated. However, many public schools, post-secondary institutions and some professional sports teams continue to use Native American nicknames and imagery. American Indian leaders have voiced their opposition to such mascots and team names because they mock and trivialize Native American religion and culture.

It is disturbing that Native American references used as mascots are still to be found in educational institutions. Schools are places where diverse groups of people come together to learn not only the "Three R's" but also how to interact respectfully with people from different cultures. The U.S. Commission on Civil Rights stated, "The use of stereotypical images of Native Americans by educational institutions has the potential to create a racially hostile environment that may be intimidating to Indian students."



MASCOTS

~Page 2~

In our increasingly diverse society, the stereotyping of any racial, ethnic, religious or other groups, promoted in the public schools, teaches a dangerous lesson that such stereotyping is acceptable. Schools must not perpetuate misrepresentations of any culture or people. Indian-based names as mascots are not accurate representations of Native Americans and give a distorted view of the past.

It is assumed that the initial use of Indian imagery for use as sports mascots was not done to offend Native Americans. However, many Native Americans still face problems of poverty, education, housing and health. The need to eliminate Indian-based mascots in sports is just one facet of the larger need to eliminate obstacles confronting American Indians. The elimination of such mascots will provide a greater opportunity for education about real Indian people, current Native American issues, and the variety of American Indian cultures in the country.

Maine, in May 2019, became the first state in the nation to ban Native American mascots. This is indicative of an issue going on for many decades regarding the use of Native American nicknames and imagery. California, in 2015, banned the use of the "Redskins" nickname, but did not disallow all Native imagery. Oregon has also put limitations in place. Prior to the pandemic-based closing of this year's session of the General Assembly, lawmakers in Connecticut were considering legislation banning such mascots.

Not every school district that uses Native American nicknames is being disrespectful. In some situations, the nicknames have the

blessing of a local tribe. However, in the vast majority of cases, the use of such nicknames is a carryover from a less understanding time. In some districts, such as Hillsborough County Schools in Florida and Driggs, Idaho, a battle has raged for many years over such mascots, based on the Confederate-style, heritage-not-hate attitude to keep such nicknames as mascots. Conflicts rage over the racist imagery that such mascots present.

The argument for keeping such mascots usually is put forth by white people in largely white communities. The argument presented is that the use of Native imagery is an honor, and it's not racist when we do it. That was an argument used in 2013 in Wisconsin when the state's legislature changed a state law regarding public school's need to get tribal permission to use Native nicknames. Some argue that such mascots honor Native Americans. Most Native American representatives do not share that view.



A group known as the Native American Guardian's Association, indicating that it is a group of Native Americans, has complicated the picture. They want to keep respectful use of Native mascots in the name of keeping their history alive. The group has expressed this view across the country in several districts. This has provided a cover for anyone who wants to keep a Native American nickname as a mascot, and wants to point to supportive Native Americans of that. Maine's action points out that there is legislative recognition that using people as mascots, without their consent or approval, is not acceptable. The issue continues to move forward.



MASCOTS

~Page 3~

Several school districts in Connecticut have, over the last few years and especially now amid the current national reckoning on race and social justice, removed their Native American-themed mascots. Guilford's Board of Education voted to end its use of the "Indians" mascot. Newington and Farmington have announced plans to change their Native American mascots. Montville is planning talks with the Mohegan Tribe to discuss its mascot. The tribe has announced that it would no longer support Native-related team names. North Haven is reviewing its current mascot for possible change.

Manchester and RHAM have renamed their mascots. Glastonbury High School and Valley Regional High School in Deep River received petitions from students and alumni asking for a change in their respective mascots and to discontinue the use of Native American imagery. The Glastonbury Board of Education, in late August, voted to eliminate the nickname, "The Tomahawks," citing racial insensitivity. As previously indicated, Connecticut lawmakers were considering legislation banning such mascots.

The strong emotional ties to mascots in a community may best be represented by the Killingly school district, which initially voted to remove the "Redmen" nickname its high school sports teams used for 80 years after a long battle, because it was viewed as offensive to Native Americans. Newly elected members to the Board of Education were successful in their bid to restore the name. This action resulted in national headlines and has created controversy within the district.

Currently, there are 17 Connecticut schools that still use mascots or images associated with Native Americans or other indigenous peoples.

Policy Implications

Native American mascots can result in harmful stereotyping that negatively impacts all youth, especially Native youth. The discussion of such mascots has resurfaced amid the national discussion on racial justice sparked by the killing of George Floyd. A broader examination of the nation's record on the issues is underway. It has helped to initiate a conversation about what actually happened to indigenous people after settlers came to America. The removal of racist symbols is not done to avoid talking about race, but as an initial step to talk more openly about racism.

State statute provides that boards of education have the obligation to "reduce racial, ethnic and economic isolation" (C.G.S. 10-4a) of students. Districts have the moral imperative to undergo a review to determine whether or not its current mascot aligns with the district's vision, mission, and obligations under state law.

The nation's current racial unrest has inspired many conversations. The use of Native people as mascots is one such prevalent theme of such discussions. The overall goal is to build a safe and nurturing school community and improving academic achievement for all students. School mascots are intended to make a statement about what the school values.

A new policy, #1328, "School Mascots and Other Identifications," with an accompanying administrative regulation follow for your consideration and use. This is considered an optional policy for inclusion in the district's policy manual.

School Mascots

An optional sample policy to consider.

Community Relations

School Mascots and Other Identifications

The _____ Board of Education (Board) recognizes the need to express school spirit through the selection and use of a mascot, team name, colors and other school identifiers, such as yearbooks, annuals, names of newspapers and other publications, names for activities and events, school songs and slogans.

The selection of a mascot, team names, school colors as well as other school identifiers shall be respectful of diverse cultural values and reflect a positive school culture. The selection is considered part of the Board's statutory obligation to reduce the racial, ethnic and economic isolation of students. The selection of a mascot shall contribute to the Board's goal to build a safe and nurturing school community. The name chosen shall be in alignment with the District's vision and mission statements and the Board's obligations under state law.

Alternate Language: All mascots, nicknames, and descriptors, including symbols, banners, flags, pennants, mascots or similar identifiers, used by school's sport's teams, extracurricular clubs, curricular clubs or organizations shall respect cultural differences and values. The Board prohibits the use of any race or ethnic group as a mascot or nickname.

Alternate Language: It is the policy of the Board that any assignment of school colors, mascots, nicknames or logos shall be limited to those selections that are uniformly accepted and understood to be non-discriminatory and non-disparaging to any sex, sexual orientation, racial, ethnic, or religious group and that the selection process for any new school colors, nicknames, logos or mascots shall involve a diverse group of community, student, and District representatives.

Alternate Language: The Board believes mascots/logos should reflect positive images embracing history, community spirit, and traditions. Mascots/logos shall not be derogatory or offensive to persons of any race, color, religion, sex, sexual orientation, national origin, ancestry, age or to persons with a disability. The mascot/logo shall not depict violence or abuse.

The Board shall not permit any District school to use an athletic team name, logo or mascot which names, refers to, represents, or is associated with Native Americans, including aspects of Native American culture and specific Native American tribes. The Board shall establish a date by which any such school, considered in violation of this policy, shall choose a new team name, logo, or mascot. [**alternate language:** The Board specifically prohibits the use of any Native American mascot by any District school, on or after _____.]

Community Relations

School Mascots and Other Identifications (continued)

Definitions

1. **“School mascot”** means a symbol, character, name, or logo that should represent a school in a positive manner with an emphasis on expression of school unity and pride. The school mascot shall be respectful of different cultural values and attitudes, and will depict individuals and groups with fairness, dignity, and respect.
2. **“Native American mascot”** means a name, symbol, or image that depicts or refers to an American Indian Tribe, individual, custom or tradition that is used by a school as a mascot, nickname, logo, letterhead or team name. This prohibition includes, but is not limited to, the use of such team names as “Redskins,” “Savages,” “Chiefs,” “Chieftains,” and “Braves.”

A school may continue to use the team name “Warriors” provided it is not combined with a symbol or image that depicts or refers to an American Indian Tribe, individual, custom, or tradition.

A school may continue to use a mascot that may be associated with Native American culture, custom or tradition if the mascot depicts an animal or other image that is not a person. Examples of such mascots include team names and images such as the “Thunderbirds,” “White Buffalo,” and “Eagles.”

Nothing in this policy shall be construed to prohibit a school from:

1. Displaying art work, historical exhibits or other cultural educational exhibits or conducting educational programs related to Native Americans as long as the display or program is not associated with a Native American mascot.
2. Honoring the contributions of Native Americans by naming a school, building or program after a Native American.

The school mascot, team names, school colors, and other school identifiers must be unique and cannot be a duplication of a professional, corporate, international, national, or local mascot, name, and colors, nor other copyrighted identifiers. School identifiers shall be selected on the basis of a positive reflection of the school.

Cognizant of the cost involved when a mascot is changed, the Board authorizes the school to continue to use uniforms and other materials bearing the prohibited athletic team name, logo, or mascot that were purchased before the date prescribed by the Board in this policy and to use the normal process in place regarding uniform changes and the phasing out of uniforms and other materials with the old mascot. The total cost shall be calculated pertaining to the change of mascot/logo and a plan created to prevent placing an undue financial burden on the local taxpayer. Funding contributions from booster/support groups will also be considered.

Community Relations

School Mascots and Other Identifications (continued)

The Superintendent or his/her designee shall develop administrative regulations for selecting school mascots and colors. The regulations shall affirm the involvement of students, parents/guardians and community members in the essential activities related to selecting a school's mascot and colors.

Optional additional language to consider:

1. A petition to rename existing mascots may be submitted to the Board. Upon approval by the Board, existing mascots may be renamed when agreed to by a majority vote of the current student body. Imagery, symbols and costumes used in conjunction with a school's mascot may be modified at any time at the discretion of the school Principal.
2. The Superintendent/Board of Education (*choose*) shall have the final approval authority for all mascots and other identifiers.
3. The logos of the district and its individual school sites, divisions, and departments are the sole and exclusive property of the District. No person, group or organization or association may use, in any manner whatsoever, any district logo without the express written permission of the Superintendent or his/her designee specifying the nature, extent, purpose and duration of such use.

(cf. 0521 – Nondiscrimination)

(cf. 0523 – Equity and Diversity)

(cf. 3280 – Gifts, Grants and Bequests)

(cf. 5145.42 – Racial Harassment of Students)

(cf. 6121 – Nondiscrimination in the Instructional Program)

(cf. 7551 – Naming of Facilities)

Legal Reference: Connecticut General Statutes

10-4a Educational interests of state identified.

10-220 Duties of boards of education.

10-221 Boards of education to prescribe rules, policies and procedures.

Policy adopted:

cps 11/20

A sample administrative regulation to consider.

Community Relations

School Mascots and Other Identifications

In order to meet the requirements of Board policy #1328 the Superintendent hereby establishes the following administrative regulations for the process of selecting school colors, mascots, nicknames or logos.

All mascots, nicknames and other identifiers used by a school's sport teams, extracurricular clubs, curricular clubs, or organizations shall respect cultural differences and values. The use of any racial or ethnic group as a mascot or nickname is prohibited by the Board of Education.

To select school colors, a mascot, nickname or logo, together or separately, the Superintendent/Principal (choose) will:

1. Form a committee that includes a diverse group of parents/guardians, students, administrative and teacher staff, non-certified support staff and community members to develop and/or review submissions for potential colors, mascot, nickname, and/or logo.
2. Review each proposal for colors, mascot, nickname, and/or logo to determine how the selection would inspire a positive image for the school and would unify school spirit. Submissions deemed to be in any way offensive or in violations of the policy will be screened out by the committee.
3. Develop a list of potential colors, mascot, nickname, and/or logo.
4. Ask the community to review and comment on the list for 30 days prior to final selection by students.
5. A challenge to the selection of or proposed changes to an existing school mascot, team names, school colors, and other school identifiers by a member or members of the staff, student body, parents/guardians, and/or community members shall be made in writing to the Principal of the school or to the Superintendent. The challenge will be reviewed and a recommendation made to the Board.
6. Allow the students to select their mascot/logo through a voting process implemented by the Principal. The student selection will be a recommendation to the Superintendent.
7. Board of Education, acting on the Superintendent's recommendation, must approve the choice(s) before it (they) become(s) official.

Building mascots, logos, slogans, annual or newspaper names, names for activities, events and other identifiers and caricature portrayals will be free from bias and derogatory connotations or effects associated with race, creed, color, national origin, gender, sexual orientation, or disability. School identifiers will be reviewed by each school with the objective of assuring respect for cultural differences, values, and attitudes and of treating individuals with respect, dignity and fairness.

Students, teachers, parent(s)/guardian(s) and other community members shall be involved in the selection of mascots and other school identifiers in order to ensure that the objectives of this policy are met.

Community Relations

School Mascots and Other Identifications (continued)

The Superintendent shall have the final approval authority for all mascots and other identifiers. In the event the Superintendent determines that an existing mascot or other identifier violates this policy, he/she may require that use of the name be discontinued and that a new mascot or other identifier be selected.

The naming or re-naming of a _____ District school or program, mascots, logos, slogans, annuals or newspaper names, names for activities, events and other identifying behaviors shall take place in the following manner:

1. Schools will request suggestions from students, teachers and parent(s)/guardian(s) and other community members. The submitted suggestions will state that the name must be free from bias and derogatory connotations associated with race, creed, color, national origin, gender, sexual orientation, or disability. An objective of such school identification shall be to assure respect for cultural differences, values, and attitudes and to treat individuals with respect, dignity and fairness. The written submitted suggestions shall address the following:
 - a. Description of school entity to be named.
 - b. Suggested name.
 - c. Why does this name appear to be significant and appropriate?
 - d. Is there a symbolism involved which is appropriate?
 - e. Names of those making suggestion.
2. Suggestions will be reviewed by a committee of: Principal of the school; three (3) parent(s)/guardian(s) of the school; three (3) teachers of the school; three (3) students from each grade level of the school. If the school is selecting a team name or mascot, the committee shall additionally include at least one (1) community member. (Student Council representatives may replace the three (3) students from each grade level.) The committee will choose five (5) suggestions, using the parameters listed in the paragraph above.
3. Students will select the best of three (3) from the five (5) suggestions chosen by the committee. Written ballots will be dispensed in homerooms or at an assembly and will be counted by the committee members.
4. The top-named suggestion, along with the next two (2) preferences, will be submitted to the Superintendent for approval.

Regulation approved:

cps 11/20



CROWDFUNDING REVISITED

~Page 1~

UPDATE MAILING NO. 1

NOVEMBER 17, 2020

Public Schools have long used donations to enrich students' academic experiences and to fund materials that school district budgets cannot always afford. The COVID-19 pandemic will put increased significant pressures on school budgets.

Historically, schools have raised such donations from the local community, often through PTO/PTA fundraisers. In many instances teachers also spend their own money on needed school supplies. Today, online crowdfunding makes it possible for teachers to generate donations from beyond their local community. By tapping into a wider network of donors, schools can raise more funding for classroom resources, giving rural and low-income communities equal access.



As teachers use crowdfunding to access resources for their classrooms, K-12 leaders are prioritizing those sites that provide transparency, integrity, and security throughout the process. Some of the best practices from crowdfunding sites identified by the American Association of School Administrators (AASA) follow.

Characteristics of Best-in-Class Crowdfunding Sites:

1. Financial transparency and accountability

- Materials, not cash-** Crowdfunding sites that purchase and send resources directly to verified schools, instead of depositing cash into teachers' personal bank accounts are best at ensuring accountability and integrity.

- Transparency at every step** – Crowdfunding sites should publicly display details about each material that was funded (unit cost, vendor, etc.) and provide easy-to-understand explanations of fees and overhead costs.
- Capturing impact** – For every request funded, crowdfunding sites should require teachers to report how the resources were used in the classroom and how students benefited.

2. Integrity Controls

- School ownership of funded materials** – While teachers should be given discretion over the use of resources for which they earned funding, crowdfunding sites should designate that the school, rather than the teacher, ultimately owns the funded resources.
- District visibility and reporting** – The best crowdfunding sites notify principals when items are being shipped to schools, and provide line-by-line reporting to districts upon request.

3. Privacy and Safety

- Student Protection** – Crowdfunding sites used by teachers should have mechanisms for protecting student privacy, as well as a privacy policy tailored to the unique needs of students in public schools.

The following are key questions for district leaders to consider regarding crowdfunding sites:



CROWDFUNDING REVISITED

~Page 2~

1. Does the site meet all the criteria listed above?
2. Is the site focused on K-12 education?
3. Is the site run by a nonprofit organization?
4. Does the site connect teachers and donors from beyond their network and from outside the state, and to funding from companies and foundations?

Source: "Crowdfunding in K-12 Education: Best practices for District Leaders," AASA.

Policy Implications

Two new crowdfunding policies follow. The first is a model crowdfunding policy and an administrative regulation for K-12 education promulgated by DonorsChoose and AASA. The model is not static. It evolves with industry best-practices, DonorsChoose experiences and insights, and recommendations and input from stakeholders such as AASA, NSBA, CCSSO, ASBO, school administrators, state auditors, and other critical partners.

The first document is a succinct crowdfunding school board policy. That is followed with detail appropriate for an administrative regulation.

The administrative regulation contains four sections. Section 1 defines crowdfunding. Section 2 identifies cross-cutting responsibilities of eligible staff. Section 3 identifies the criteria required for eligible district-approved crowdfunding services. A district-approved crowdfunding service allows teachers to use the service without prior approval for each classroom project. Section 4 lists approval requirements for staff seeking to use a service that is not on the pre-approved list.

Another new crowdfunding policy is also provided. In addition, CABE's original sample policy and administrative regulation, developed in January 2017, are also included for your comparison and consideration.

These materials, codified as #3281.2 are considered optional for inclusion in the district's policy manual.



An optional policy to consider. This policy and administrative regulation has been developed by DonorsChoose and made available by AASA. It was developed with input from AASA, NSBA, CCSSO, ASBO, school administrators, & state auditors.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

This policy defines “crowdfunding” as an Internet-based request for resources from individuals and organizations to support activities or projects that enhance an educational program.

Teachers may only use crowdfunding services that have at least a three-star rating on Charity Navigator. All crowdfunding classroom-projects must:

- support the school’s priorities as established by the Principal;
- align with the district’s technology plan and requirements (as applicable);
- not receive cash payments to district personnel, exempting reimbursement to teachers for verified reasonable project costs;
- comply with applicable federal and state student privacy laws;
- provide status reports to the school’s Principal upon commencement and delivery of materials and resources to the school site; and
- provide that materials and supplies must become the property of the school.

Employees that launch crowdfunding campaigns in violation of this policy do so at their own risk and may not act-on-behalf or hold themselves out as acting-on-behalf of their school or the district.

(cf. 1324 – Solicitation of Funds by School Groups, Booster Clubs or Parent Groups)

(cf. 3280 – Gifts, Grant, and Bequests)

(cf. 3281 – School Fund Raisers)

Policy adopted:

cps 11/20

An administrative regulation to consider.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

Section 1 – Crowdfunding Definition

This policy defines “crowdfunding” as an Internet-based request for resources from individuals and organizations to support activities or projects that enhance an educational program.

Section 2 – Crowdfunding Responsibilities of Eligible Staff

1. Eligible staff are teachers and front-line educators currently employed by the public school district.
2. The purpose of this crowdfunding policy is to support a teacher’s efforts to enhance the district or school’s educational programming. Postings that describe the purpose and rationale for conducting the crowdfunding campaign may not negatively reflect upon the District, its programs and services, its staff, or its students.
3. All posting must comply with applicable federal and state student privacy laws, including the FERPA, IDEA, and applicable laws and regulations.
4. Postings may not include identifiable student images without prior parental permission.
5. Eligible staff posting projects must consult with appropriate district personnel to ensure desired technologies align with the district or school’s technology plan and requirements.
6. The school Principal or district administrators ARE NOT REQUIRED to pre-approve classroom projects posted by eligible staff to approved sites meeting the requirements of Section 3 of this regulation.
7. The school Principal or designated district administrators ARE REQUIRED to pre-approve classroom projects posted by eligible staff to non-approved sites in accordance with Section 4 of this regulation.

Section 3 – Pre-Approved Crowdfunding Services

1. The Superintendent or designee shall identify approved crowdfunding sites for use by eligible staff.
2. Eligible staff may pursue crowdfunding classroom projects using approved sites/services without pre-approval for each project.
3. An approved crowdfunding services must:
 - a. Only allow currently employed eligible staff to create projects;
 - b. Have at least a three-star rating on Charity Navigator;

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

Section 3 – Pre-Approved Crowdfunding Services (continued)

- c. Prohibit cash payments to district personnel, exempting reimbursement to teachers for reasonable project costs verified by receipt submission to the crowdfunding service;
- d. Protect the privacy of students in accordance with state and federal law, and district policy;
- e. Provide individual unit/item cost and inventory reporting on the materials and supplies shipped to schools;
- f. Track the shipment and delivery of materials to verified public schools with notification to the school Principal;
- g. Require the materials and supplies to become the property of the district or school, in accordance with district policy;
- h. Require subsequent documentation of the project's educational benefit; and
- i. Provide dedicated reporting for school district officials regarding the status of each request and the materials delivered to verified public schools.

Section 4 – Non-Approved Crowdfunding Services

- 1. Staff must seek prior approval from the Superintendent, Superintendent's designee, or the responsible school Principal for each classroom project using a non-approved crowdfunding service.
- 2. Non-approved crowdfunding services must contain terms and conditions that are acceptable to the Board and consistent with Board policy and applicable laws and regulations.

(cf. 1324 – Solicitation of Funds by School Groups, Booster Clubs or Parent Groups)

(cf. 3280 – Gifts, Grant, and Bequests)

(cf. 3281 – School Fund Raisers)

Regulation approved:

cps 11/20

Another version of this optional policy to consider.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

The Board of Education (Board) recognizes that crowdfunding is a useful tool to assist teachers and other employees in the procurement of funding for specific projects and/or programs. Crowdfunding campaigns have been used with great success to provide revenues for such benefits as classroom supplies, educational programs and activities and community advancement. However, the District also recognizes that unregulated use of employee crowdfunding campaigns that are administered on behalf of the District or an individual school or classroom within the District can subject the District and employees to legal liability.

Purpose

The purpose of this policy is to ensure that crowdfunding campaigns administered by employees in their capacity as District employees or on behalf of the District or to supplement any District programs are effectively regulated and are appropriately used to further the District's objectives and mission.

Definitions

“Crowdfunding campaign” means the practice of raising funds to meet an advertised goal or need by soliciting funds from a large number of people, typically via the Internet.

Prohibition on Unapproved Crowdfunding on Behalf of the District

District employees, including teachers, coaches, staff, and paraprofessionals, may not engage in crowdfunding campaigns in their official capacity as a District employee, on behalf of the District or for the benefit of a District program or activity, without obtaining prior written authorization from the building administrator.

Employees who have not obtained prior written approval pursuant to this policy may not:

- a. Solicit funds or items on behalf of the District or an individual school or classroom within the District on a crowdfunding website;
- b. Give the appearance of soliciting funds or items on behalf of the District on a crowdfunding website;
- c. Use the District's name, logo, mascot, or other identifying information in a crowdfunding post;
- d. Link to or reference any of the District's websites or social media sites; or
- e. Link to or reference any other sites, platforms, or accounts associated with the District.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

Prohibition on Unapproved Crowdfunding on Behalf of the District (continued)

Absent prior written approval by the District of a crowdfunding project pursuant to this policy, employees are prohibited from providing any information that would lead a reasonable person to conclude that the funds identified on the crowdfunding website are to be used by the District or for any District purpose or program.

Procedures

Employees wishing to utilize crowdfunding for District purposes or programs are required to obtain written permission to do so by submitting a request to the building administrator. Written permission must be received before launching any crowdfunding web page or effort.

It shall be the responsibility of building administration to approve or deny all crowdfunding requests. Crowdfunding requests that are incomplete, not submitted in writing, and/or do not meet the requirements of this policy shall not be considered for approval. Information required to be included in the crowdfunding request includes:

1. The name, job title, school, and contact information for the person overseeing the campaign;
2. The crowdfunding website to be used;
3. The items requested and/or the amount of funds targeted to be raised;
4. The classroom, program, and/or activity to be benefited;
5. The exact language that will be included in the post and/or advertising for the crowdfunding campaign; and
6. The start and projected end dates of the post and/or advertising.

Guidelines for Crowdfunding

1. All crowdfunding campaigns involving classroom materials, projects, or resources must be consistent with the District-approved curriculum;
2. Before the building administration accepts technology related items, the building administration is responsible for confirming acceptability with the Coordinator of Technology and Media Services;
3. All crowdfunding campaigns, including the solicitation of donations, online posting, selection of items, and/or use of funds must be consistent with all applicable laws and District policies;

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

Guidelines for Crowdfunding (continued)

4. All crowdfunding campaigns must have specific, pre-determined beginning and ending dates; and
5. To the extent that physical property and not funds are solicited, such property shall be delivered directly to the building administrator of the building where the items are to be used and shall be deemed District property, subject to District policies concerning the use and disposal of District property.

Crowdfunding campaigns may not:

1. Include personally identifying information of any District student or otherwise focus on any identifiable student or groups of students;
2. Include pictures of District students on the crowdfunding website or post any personal or biographical information about any individual student or students on the website;
3. Reveal any confidential information concerning student academic or disciplinary records, personal confidences, health or medical information, family status or income, or assessment or testing results;
4. Reveal any confidential information about colleagues obtained through employment practices;
5. Disparage the District or any of its buildings, programs, students, or employees or paint the District or any of its employees, students, or programs in a negative light;
6. Be used for personal gain to the teacher or of any individual other than the District related benefits associated with the campaign's purpose;
7. Result in funds and/or items being provided or delivered directly to the individual who requested the funds;
8. Solicit funds for items or projects that are religious or political in nature or that have a religious or political purpose;
9. Violate Title IX or any other applicable state or federal law;
10. Be contingent on additional District spending or require "matching" funds from the District or another organization;
11. Request food items that do not meet the "smart snacks" standards of the USDA regulations for school nutrition; or
12. Contain language that suggests or states that an item or items for which the donations are being sought are required for or otherwise integral to a student's special education program, necessary for a student to achieve his or her IEP goals, or necessary to ensure participation of a student or students with disabilities in school or any program offered by the District.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding (continued)

Requirements for Crowdfunding Sites

All crowdfunding sites that are approved by the District must meet all of the following requirements:

1. The site must be operated by a legitimate corporation or limited liability company with no significant history of fraud, unlawful activity, financial mismanagement, or other misconduct; and
2. The site must have a policy that requires all funds raised by an individual on behalf of the school to go directly to the school, not the individual who posted or advertised the fundraising request.

Additional Requirements and Regulations

Where a crowdfunding campaign requires the electronic transfer of funds, the building administrator in consultation with the business manager shall ensure that such transfer is made properly and in accordance with acceptable standards of practice. Where such transfer cannot be properly achieved, the campaign should not be approved.

The District reserves the right to refuse funds that have been raised through an approved crowdfunding campaign if it discovers that the project violated this policy or was in violation of the crowdfunding site's requirements, policies, or regulations.

The District reserves the right to terminate any pre-approved crowdfunding campaign for any reason or withhold approval for any crowdfunding campaign project for any reason.

Delegation of Responsibility

The Superintendent or his/her designee shall ensure that procedures and guidelines are in place to monitor all crowdfunding requests. Building administrators will be responsible for forwarding all information to his or her staff. Building administrators are responsible for reviewing all crowdfunding requests and determining the appropriate response. The building administrator or designee shall review any ongoing crowdfunding campaigns to ensure compliance. The District's Business Manager shall ensure the proper recording and accounting of any funds or items received through a crowdfunding campaign and shall be notified of any unused funds and determine the most appropriate method of expending or returning any unused funds. These duties are intended as a guideline and in no way establish liability on the part of the District if a crowdfunding campaign fails to comply with District policies, state or federal law.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding (continued)

(cf. 1324 – Solicitation of Funds by School Groups, Booster Clubs or Parent Groups)

(cf. 3280 – Gifts, Grant, and Bequests)

(cf. 3281 – School Fund Raisers)

Policy adopted:

cps 11/20

An optional policy to consider.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

The _____ Board of Education (Board) believes online fundraising campaigns, including crowdfunding campaigns, may further the interests of the District. Any person or entity acting on behalf of the District and wishing to conduct an online fundraising campaign for the benefit of the District shall begin the process by seeking prior approval from the Superintendent or his/her designee. Money or items raised by an online fundraising campaign will be the property of the District only upon acceptance by the Board, and will be used only in accordance with the terms for which they were given, as agreed to by the Board.

“Crowdfunding service” means a web-based service used for the solicitation of goods, services and/or money from a large number of people via the Internet. Crowdfunding is considered a form of fundraising.

Any staff, administrators, school-related groups, or members of the public seeking grants or donations on behalf of the school or for the benefit of the school and/or its students should first discuss such request with the building Principal.

Prior to finalization of any grant or donation associated with the school and/or its students, all requests for grants or donations must be approved by the Superintendent or his/her designee. When the appropriateness of a request is in doubt or if the grant/donation obligates the school to engage in specific actions, obligations or involves the addition of District/school funding, the Superintendent shall refer the request to the Board for final acceptance or rejection.

Approval of requests shall depend on factors including, but not limited to:

- Compatibility with the District's educational program, mission, vision, core values, and beliefs;
- Congruence with the District and school goals that positively impact student performance;
- The District's instructional priorities;
- The manner in which donations are collected and distributed by the crowdfunding platform;
- Equity in funding; and
- Other factors deemed relevant or appropriate by the District.

If approved, the requestor shall be responsible for preparing all materials and information related to the online fundraising campaign and keeping District administration apprised of the status of the campaign.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns - Crowdfunding (continued)

The requestor is responsible for compliance with all state and federal laws and other relevant District policies and procedures. All items and money generated are subject to the same controls and regulations as other District property and shall be deposited or inventoried accordingly. No money raised or items purchased shall be distributed to individual employees.

Note: Online fundraising campaigns have become an increasingly popular mechanism for individual educators to raise money. “Crowdfunding” can be defined as the use of small amounts of capital from a large number of individuals to finance a project, business venture, or to fundraise for a specific cause or charity. For examples of organizations dedicated to crowdfunding for education please visit: DonorsChoose.org, an organization with a mission to empower “public school teachers from across the country to request much-needed materials and experiences for their students” or AdoptAClassroom.org, an organization with a mission to give “teachers a hand by providing needed classroom materials so that students can succeed.”

District employees shall comply with all of the following provisions relating to online solicitations and the use of crowdfunding services for school-related purposes. All property and proceeds received as a result of online fundraising or solicitation as the result of a crowdfunding service become the property of the Board. As a result, no online fundraising may occur except as provided below:

1. The school Principal, subject to the approval of the Superintendent or his/her designee, shall approve all online fundraising activities prior to any employee posting any such fundraising solicitation.
2. Employees may only use crowdfunding services that send the items or proceeds solicited by the employee directly to the school where he or she is employed.
3. The employee must verify under the crowdfunding services’ terms and conditions that he/she meets all requirements for such solicitation.
4. Any employee seeking to display or post a picture of a District student in conjunction with a fundraising solicitation must secure the written consent of the student’s parents/guardians.
5. If an employee’s proposal is approved by the crowdfunding service, the employee agrees to use the donated materials solely as stated in the employee’s proposal.
6. If a solicitation is not fully funded within the time period requested by the crowdfunding service, donations will be returned to the donor or to the employee as “account credits.”
7. If for any reason, a solicitation cannot be concluded (for example, the employee no longer works at the original school), donations shall be returned to the donor or to the employee as “account credits.”

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns - Crowdfunding (continued)

8. Any solicitation shall be for educational purposes only. The solicitation of personal items (for example, winter coats, nutritional snacks) shall benefit students directly.
9. Unless otherwise approved by the Superintendent or his/her designee in writing, all goods and/or proceeds received through any online solicitation shall become the property of the Board and not of the individual employees who solicited the item(s) or funds.
10. To the extent an employee solicits any technology or software, the employee shall secure the prior written approval of the Director of Technology or his/her designee prior to any such solicitation.
11. The Board reserves the right to deny approval of solicitation of any funding or grant application or to refuse acceptance of any funds awarded or donated.

(cf. 1324 – Solicitation of Funds by School Groups, Booster Clubs or Parent Groups)

(cf. 3280 – Gifts, Grant, and Bequests)

(cf. 3281 – School Fund Raisers)

Policy adopted:

cps 1/17

An administrative regulation to consider.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

The Board of Education (Board) considers crowdfunding as a fundraiser.

A District professional employee may submit a proposal to benefit the _____ Public Schools by raising funds or acquiring materials via a crowdfunding platform that has been approved by the Superintendent or his/her designee. The individual proposal shall first be submitted to the building Principal for approval. Once approved by the Principal, the Superintendent or her/his designee will then review the proposal. A decision on the application will be made within _____ business days. A list of approved crowdfunding platforms will be maintained by the Superintendent or his/her designee.

Guidelines

1. When posting pictures/videos/images of any students or staff, all Board policies and administrative regulations must be followed. Some platforms require their own student permission forms.
2. A file is to be maintained at the school for any crowdfunding request. This file shall contain:
 - a. The Principal's fundraising approval form;
 - b. The written detail of the projects as well as what is posted on the platform website;
 - c. Any photos or images posted with the project; and
 - d. A copy of all agreements and permission forms.
3. Platform terms:
 - a. When using platforms there can be different terms. Principals or directors should understand the terms prior to the start of a project:
 - i. AON-All or nothing: This means that if the amount requested is not reached, the project does not get funded. The donor then has the option to pick another project to fund or give the current teacher a credit toward their next project.
 - ii. KIA-Keep it all: This means that if any amount is reached, the school will get a check even if the goal is not reached.
 - b. Make sure to monitor and take down sites when the event or request is completed.
4. Equipment – If the request involves equipment, either technology or non-technology, preapproval needs to be obtained from:
 - a. District Technology Coordinator
 - b. Maintenance: Contact the Director of Maintenance, as electric and plumbing considerations may need to be reviewed before any equipment is ordered.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

Guidelines (continued)

5. All non-monetary items (supplies, equipment...) obtained are the property of the District and all inventory procedures apply.
6. All monetary donations should be properly recorded in the funds accounting system at each school. A line item may need to be set up for a new account if this is a new project. Please note, no school banking information should ever be given out. A check should be requested to be mailed to the school in the name of the school, not to an individual person.
7. When developing a project, it is necessary to be mindful as to what is being requested. The intent of the request always needs to be followed.
8. If a proposal is successfully funded, the author(s) shall immediately notify the District Business Office.
9. All gifts, grants, bequests and contributions must be officially accepted by the Board of Education, become the property of the District and, if applicable, will remain in the school where the author(s) was (were) located at time of the grant award.

Denial of Proposal

If the proposal is denied by the Superintendent or her/his designee, s/he will communicate the reason for denial. Reasons for denial may include:

- The proposal requests the purchase or use of technology that is not compatible with the District's current or future plans for the purchase and/or use of technology.
- The proposal requests the purchase and/or use of technology not supported by the District Network Administrator and the Assistant Director of Curriculum and Instruction for Instructional Technology.
- The proposal requests the purchase of curriculum materials and supplies that are not standards-based.
- The proposal requests materials that could be substituted by similar materials that are already supplied by the District or will be supplied by the District.
- The proposal seeks to start a program that would require the continued use of materials or funding beyond what is obtained through the proposal.
- The proposal will result in demands on staff not involved in the proposal.

Business/Non-Instructional Operations

School Fund Raisers

Online Fundraising Campaigns – Crowdfunding

Denial of Proposal (continued)

- The proposal is in conflict with or takes away from adequate instructional time and/or established foci of the District Improvement Plan or the School Improvement Plans.
- The proposal requests athletic equipment or donations not consistent with or in direct conflict with the athletic programs of the District.
- The proposal is in conflict with current and/or planned curriculum and instruction initiatives, Board policy, one or more of the District Collective Bargaining Agreements, regulations of the Connecticut Department of Education and/or Connecticut General Statutes.

Regulation approved:

eps 1/17



TITLE IX UPDATE

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UPDATE MAILING NO. 1

NOVEMBER 17, 2020

What is Title IX?

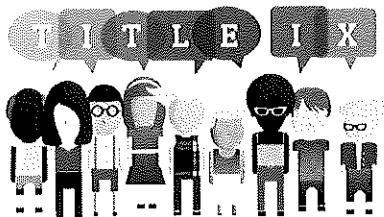
Title IX of the education amendments of 1972 states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." (20 U.S.C. §1681)

The scope of this short statute is very broad. It protects any individual, not just for public schools. Any entity providing an education program or activity must comply with the law's requirements as a condition of receiving federal funds.

How does Title IX apply to sexual harassment?

Until recently, Title IX did not specifically address sexual harassment. Two U.S. Supreme Court decisions established when a



school district could be held liable in court for sexual harassment under Title IX. The Court in *Gebser v. Lago Vista Independent School District* decided that a district may be liable for monetary damages when an employee with authority to take corrective action had actual notice of sexual harassment within a district program or activity but responds with deliberate indifference. (This case involved a teacher's sexual harassment of a student.)

Davis v. Monroe County Board of Education established that when a student is sexually harassed by another student, the district can only be liable when the harassment is "severe, pervasive, and objectively offensive." Therefore, teasing or name calling, even if based on a student's sex, would not rise to the level of sexual harassment under Title IX.

What is the Office for Civil Rights?

The U. S. Department of Education's Office for Civil Rights (OCR) enforces federal laws that prohibit discrimination in education, including Title IX. OCR has the authority to withhold federal funding if it finds a violation that the district is unwilling to resolve. An individual who believes he or she has been discriminated against may file a complaint with OCR, initiating an investigation. OCR also conducts compliance reviews and issues written policy guidance to assist districts to be in compliance with the laws it enforces.

The policy guidance promulgated by OCR through its "Dear Colleague Letters" established a higher standard for administrative enforcement than the two aforementioned Supreme Court cases. These advisories addressed bullying and issues contributing to the creation of a hostile environment.

During the Obama administration, OCR issued numerous letters regarding Title IX which resulted in debate about how to address sexual violence and harassment while protecting the due process and First Amendment rights of the accused. Critics also accused the Obama administration of "ruling by letter" rather than through the formal rulemaking process. Secretary of Education DeVos promised a new approach.



TITLE IX UPDATE

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What are the new Title IX regulations?

OCR on November 16, 2018 proposed new rules to amend Title IX regulations. The proposed new rules were designed to address sexual harassment and to address due process concerns raised by advocates for accused students in higher education. The proposed new rules treated K-12 schools and colleges identically in most instances.

After a lengthy comment period, in which almost 125,000 public comments were received, the new regulations were released on May 6, 2020 and became effective as of August 14, 2020.

The new regulations define sexual harassment as conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct. (*quid pro quo* sexual harassment.)
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or
3. *Sexual assault, dating violence, domestic violence, or stalking*, as these terms are defined in the federal Violence Against Women Act.

Districts are required to respond promptly, in a manner that is not deliberately indifferent, to actual knowledge of sexual harassment in an education program or activity of the district. The new rules provide that notice of potential sexual harassment by any employee of the school district is sufficient to trigger the district's duty to respond.

Are districts required to change its policies based on the new Title IX rules?

Yes. The CABE Policy Service previously made available new sample policies and administrative regulations to assist districts in their compliance efforts. The new policies, #4000.1 and #5144.44, are applicable to employees and students. They replace CABE's previous versions.

Some of the major changes to the policies as a result of the Title IX final rule include the following:

- The definition of prohibited conduct was revised to include conduct that meets the Title IX definition of sexual harassment.
- A new provision requires any employee who receives a report of prohibited conduct based on sex to notify the Title IX Coordinator.
- The new provisions directs the superintendent to develop a Title IX formal complaint process that complies with the elements of the new regulations. CABE's sample administrative regulation fulfills this requirement.
- Districts must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints. Such process is required to be posted on the district's website.
- Schools are required to respond when they have "actual knowledge" of a complaint of sexual harassment, which can include a report to any employee of an elementary or secondary school. The previous Title IX guidance, which held schools responsible for incidents they "reasonably should" have been aware of.



TITLE IX UPDATE

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- Schools must respond when harassment occurs “in the school’s education program or activity.” The final rule expands the definition of “program or activity” to include locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurs.
- The final rule allows parents or guardians of K-12 students to file complaints on their behalf, and requires parental notification of complaints against their children.
- Unlike colleges and universities, elementary and secondary schools are not required to hold hearings on student complaints.
- The rule requires schools to provide “supportive measures” to students, with or without a formal complaint. That might include providing counseling or changing class schedules to avoid sharing a classroom with the accused.

What is the impact of the new Title IX regulations on Connecticut school districts?

The new Title IX regulations, effective as of August 14, 2020, impose significant challenges to all school districts. Keeping up with the new rules’ extensive training, recordkeeping and documentation requirements will require additional staff time. Harmonizing the Title IX formal complaint procedures with districts’ existing policies and student codes of conduct may be difficult. In addition, the new regulations pose some legal questions to which there are no satisfying answers.

For example, the Trump administration has rescinded much of OCR’s past Title IX guidance, but has left the 2010 Dear Colleague Letter pertaining to bullying still in effect. This implies that OCR will continue to rely on its previous standards for complaints alleging harassment based on protected characteristics other than sex. The need exists, therefore, for school districts to follow their school attorney’s advice when allegations of harassment arise.

What should school districts now do?

The new Title IX regulations became effective as of August 14, 2020. In order to be in compliance, districts need to replace their previous policy. Employees in the district should be trained to recognize potential sexual harassment. Title IX Coordinators and other employees involved in the formal complaint process (investigators and decision-makers) must also be trained on the definition of sexual harassment and other specific topics listed in the regulations.

Policy Implications

As previously indicated, CABE has developed and made available new Title IX policies and administrative regulations applicable to staff (#4000.1) and to students (#5145.44).

In addition, policy personnel from school board associations, such as CABE, from across the country have collaborated on the development of new Title IX policies, administrative regulations, and related materials. The material jointly developed follows for your consideration and will serve as an in-depth review of the requirements. They serve as additional samples for Connecticut districts to consider.

Another version of this sample policy to consider.

Personnel -- Certified/Non-Certified

Students

Title IX

Sexual harassment affects a student's ability to learn and an employee's ability to work. Providing an educational and workplace environment free from sexual harassment is an important District goal. The District does not discriminate on the basis of sex in any of its education programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106) concerning everyone in the District's education programs and activities, including applicants for employment, students, parents/guardians, employees, and third parties.

Title IX Sexual Harassment Prohibited

Sexual harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited. Any person, including a District employee or agent, or student, engages in Title IX Sexual Harassment whenever that person engages in conduct on the basis of an individual's sex that satisfies one or more of the following:

1. A District employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; or
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's educational program or activity; or
3. Sexual assault as defined in 20 U.S.C. §1092(f)(6)(A)(v), dating violence as defined in 34 U.S.C. §12291(a)(10), domestic violence as defined in 34 U.S.C. §12291(a)(8), or stalking as defined in 34 U.S.C. §12291(a)(30).

Examples of sexual harassment include, but are not limited to, touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, spreading rumors related to a person's alleged sexual activities, rape, sexual battery, sexual abuse, and sexual coercion.

Definitions (from 34 C.F.R. §106.30)

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Education program or activity includes locations, events, or circumstances where the District has substantial control over both the Respondent and the context in which alleged sexual harassment occurs.

Personnel -- Certified/Non-Certified

Students

Title IX

Definitions (continued)

Formal Title IX Sexual Harassment Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation.

Respondent means an individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment.

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Title IX Sexual Harassment Complaint or where no Formal Title IX Sexual Harassment Complaint has been filed.

Title IX Sexual Harassment Prevention and Response

The Superintendent or designee will ensure that the District prevents and responds to allegations of Title IX Sexual Harassment as follows:

1. Ensures that the District's comprehensive health education program incorporates (a) age-appropriate sexual abuse and assault awareness and prevention programs in grades pre-K through 12, and (b) age-appropriate education about the warning signs, recognition, dangers, and prevention of teen dating violence in grades 7-12. This includes incorporating student social and emotional development into the District's educational program as required by State law and in alignment with Board policy.
2. Incorporates education and training for school staff as recommended by the Superintendent, Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager.
3. Notifies applicants for employment, students, parents/guardians, employees, and collective bargaining units of this policy and contact information for the Title IX Coordinator by, at a minimum, prominently displaying them on the District's website, if any, and in each handbook made available to such persons.

Making a Report

A person who wishes to make a report under this Title IX Sexual Harassment grievance procedure may make a report to the Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the person is comfortable speaking. A person who wishes to make a report may choose to report to a person of the same gender.

Personnel -- Certified/Non-Certified

Students

Title IX

Making a Report (continued)

School employees shall respond to incidents of sexual harassment by promptly making or forwarding the report to the Title IX Coordinator. An employee who fails to promptly make or forward a report may be disciplined, up to and including discharge.

The Superintendent shall insert into this policy and keep current the name, office address, email address, and telephone number of the Title IX Coordinator.

Title IX Coordinator:

Name: _____ Address: _____
Email: _____ Telephone: _____

Processing and Reviewing a Report or Complaint

Upon receipt of a report, the Title IX Coordinator and/or designee will promptly contact the Complainant to: (1) discuss the availability of supportive measures, (2) consider the Complainant's wishes with respect to supportive measures, (3) inform the Complainant of the availability of supportive measures with or without the filing of a Formal Title IX Sexual Harassment Complaint, and (4) explain to the Complainant the process for filing a Formal Title IX Sexual Harassment Complaint.

Further, the Title IX Coordinator will analyze the report to identify and determine whether there is another or an additional appropriate method(s) for processing and reviewing it. For any report received, the Title IX Coordinator shall review appropriate Board policies pertaining to Uniform Grievance Procedure; Workplace Harassment; Abused and Neglected Child Reporting; Employee Ethics; Conduct; Conflict of Interest; Harassment of Students; Prevention of and Response to Bullying, Intimidation, and Harassment; Teen Dating Violence Prohibited; Student Behavior, to determine if the allegations in the report require further action.

Reports of alleged sexual harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational program or activity that is productive, respectful, and free of sexual harassment.

Personnel -- Certified/Non-Certified

Students

Title IX (continued)

Formal Title IX Sexual Harassment Complaint Grievance Process

When a *Formal Title IX Sexual Harassment Complaint* is filed, the Title IX Coordinator will appoint a qualified person to undertake the investigation. The Superintendent or designee shall implement procedures to ensure that all Formal Title IX Sexual Harassment Complaints are processed and reviewed according to a Title IX grievance process that fully complies with 34 C.F.R. §106.45.23. The District's grievance process shall, at a minimum:

1. Treat Complainants and Respondents equitably by providing remedies to a Complainant where the Respondent is determined to be responsible for sexual harassment, and by following a grievance process that complies with 34 C.F.R. §106.45 before the imposition of any disciplinary sanctions or other actions against a Respondent.
2. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
3. Require that any individual designated by the District as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process:
 - a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent.
 - b. Receive training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially.
4. Require that any individual designated by the District as an investigator receiving training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
5. Require that any individual designated by the District as a decision-maker receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.
6. Include 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.

Personnel -- Certified/Non-Certified

Students

Title IX

Formal Title IX Sexual Harassment Complaint Grievance Process (continued)

7. Include reasonably prompt timeframes for conclusion of the grievance process.
8. Describe the range of possible disciplinary sanctions and remedies the District may implement following any determination of responsibility.
9. Base all decisions upon the preponderance of evidence standard.
10. Include the procedures and permissible bases for the Complainant and Respondent to appeal.
11. Describe the range of supportive measures available to Complainants and Respondents.
12. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Enforcement

Any District employee who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action up to and including discharge. Any third party who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action, including, but not limited to, suspension and expulsion consistent with student behavior policies.

Note: This sample policy uses the preponderance of the evidence standard, not the clear and convincing evidence standard. Preponderance of evidence is a standard used in civil cases. It means "the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force." Clear and convincing is a higher standard, requiring more than preponderance of the evidence but less than proof beyond a reasonable doubt. It means "evidence indicating that the thing to be proved is highly probable or reasonably certain." Consult the board attorney regarding the appropriate standard for the district.

Any person making a knowingly false accusation regarding sexual harassment will likewise be subject to disciplinary action.

Personnel -- Certified/Non-Certified

Students

Title IX

Enforcement (continued)

This policy does not increase or diminish the ability of the District or the parties to exercise any other rights under existing law.

Retaliation Prohibited

The District prohibits any form of retaliation against anyone who, in good faith, has made a report or complaint, assisted, or participated or refused to participate in any manner in a proceeding under this policy. Any person should report claims of retaliation.

Any person who retaliates against others for reporting or complaining of violations of this policy or for participating in any manner under this policy will be subject to disciplinary action, up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

(cf. 0521 – Nondiscrimination)

(cf. 0521.1 – Grievance Procedure for Section 504, Title IX, and Title VII)

(cf. 4118.11/4218.11 – Nondiscrimination)

(cf. 4118.112/4218.112 – Sex Discrimination and Sexual Harassment in the Workplace)

(cf. 5131.911 – Bullying/Safe School Climate Plan)

(cf. 5145.5 – Sexual Harassment)

(cf. 5145.51 – Peer Sexual Harassment)

Legal Reference: United States Constitution, Article XIV

Civil Rights Act of 1964, Title VII, 42 U.S.C. S2000-e2(a).

Equal Employment Opportunity Commission Policy Guidance (N-915.035) on Current Issues of Sexual Harassment, Effective 10/15/88.

Title IX of the Education Amendments of 1972, 20 USCS §1681, *et seq.*

Title IX of the Education Amendments of 1972, 34 CFR §106, *et seq.*

Title IX Final Rule, 34 CFR §106.45, *et seq.*, May 6, 2020

34 CFR Section 106.8(b), OCR Guidelines for Title IX.

Personnel -- Certified/Non-Certified

Students

Title IX

Legal Reference: continued

Definitions, OCR Guidelines on Sexual Harassment, Fed. Reg. Vol 62, #49, 29 CFR Sec. 1606.8 (a0 62 Fed Reg. 12033 (March 13, 1997) and 66 Fed. Reg. 5512 (January 19, 2001)

The Clery Act, 20 U.S.C. §1092(f)

The Violence Against Women Act, 34 U.S.C. §12291(a)

Mentor Savings Bank, FSB v. Vinson 477 US.57 (1986)

Faragher v. City of Boca Raton, No. 97-282 (U.S. Supreme Court, June 26,1998)

Burlington Industries, Inc. v. Ellerth, No. 97-569, (U.S. Supreme Court, June 26,1998)

Gebbser v. Lago Vista Indiana School District, No. 99-1866, (U.S. Supreme Court, June 26,1998)

Davis v. Monro County Board of Education, No. 97-843, (U.S. Supreme Court, May 24, 1999.)

Connecticut General Statutes

46a-60 Discriminatory employment practices prohibited.

Conn. Agencies Regs. §46a-54-200 through §46a-54-207

Constitution of the State of Connecticut, Article I, Section 20.

P.A. 19-16 An Act Combatting Sexual Assault and Sexual Harassment

Policy adopted:

cps 11/20

Another version of this administrative regulation to consider. A complaint procedure is legally required.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

This procedure implements the District's investigation and response process to a Formal Title IX Sexual Harassment Complaint after a decision to pursue one has been made. (See 34 C.F.R. Part 106.) Use this procedure to comply with 34 C.F.R. §106.45, Grievance Process for Formal Complaints of Sexual Harassment. Use Appendix "Title IX Sexual Harassment Glossary of Terms," in conjunction with this procedure.

This procedure contains a Table of Contents and lettered Sections.

Table of Contents

- A. Overview of 34 C.F.R. §106.45 Grievance Process
- B. Notice of Allegations
- C. Consolidation of Formal Title IX Sexual Harassment Complaints
- D. Dismissal of Formal Title IX Sexual Harassment Complaint
- E. Informal Resolution of Formal Title IX Sexual Harassment Complaint
- F. Investigation of Formal Title IX Sexual Harassment Complaint
- G. Determination Regarding Responsibility; Remedies
- H. Appeals
- I. Recordkeeping

Section A – Overview of 34 C.F.R. §106.45 Grievance Process

The District treats Complainants and Respondents engaging in the Formal Title IX Sexual Harassment Complaint Grievance Process (Grievance Process) equitably and adheres to the following guidelines:

1. ***Presumption of Non-Responsibility.*** The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process. 34 C.F.R. §106.45(b)(1)(iv).
2. ***Grievance Process Required Before Imposing Sanctions.*** The District complies with this Grievance Process before imposing any disciplinary sanctions or other actions against a Respondent. 34 C.F.R. §106.45(b)(1)(i).
3. ***Supportive Measures.*** The District may provide 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 campus, and other similar measures to Complainants and/or Respondents. 34 C.F.R. §106.45(b)(1)(ix). See Appendix, Title IX Sexual Harassment Glossary of Terms, for the definition of supportive measures.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section A – Overview of 34 C.F.R. §106.45 Grievance Process (continued)

4. ***Evidence Considered.*** All relevant evidence – including both inculpatory and exculpatory evidence – is objectively evaluated. Credibility determinations are not based on a person’s status as a Complainant, Respondent, or witness. The District does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, e.g., attorney-client privilege, doctor-patient privilege, or spousal privilege, unless the person holding such privilege has waived the privilege 34 C.F.R. §106.45(b)(1)(ii) and (x).
5. ***Standard of Proof.*** All determinations are based upon the preponderance of evidence standard 34 C.F.R. §106.45(b)(1)(vii).
6. ***Right to Appeal.*** Each party may appeal any determination as described in Section H Appeals, below 34 C.F.R. §106.45(b)(1)(viii); 34 C.F.R. §106.45(b)(8)(i).
7. ***Timeline.*** This Grievance Process is concluded within 90 school business days after receipt of a Formal Title IX Sexual Harassment Complaint. As used in this Grievance Process, school business days means days on which the District’s main office is open. For good cause, this Grievance Process may be temporarily delayed or extended for a limited time only if the Complainant and the Respondent are provided written notice of the delay/extension and the reasons for it. Good cause may include: the absence of a party, a party’s advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities 34 C.F.R. §106.45(b)(1)(v).
8. ***Disciplinary Sanctions and Remedies.*** Following a determination of responsibility, the District may implement recommended disciplinary sanctions, up to and including: discharge, for a Respondent-employee; expulsion, for a Respondent-student; and termination of any existing contracts and/or prohibition from District property and activities, for a third-party Respondent. 34 C.F.R. §106.45(b)(1)(vi). Where a determination of responsibility for sexual harassment is made against a Respondent, remedies designed to restore or preserve equal access to the District’s education program or activities are provided to a Complainant. Remedies may include the same individualized services described in Supportive Measures, above. Unlike Supportive Measures, however, remedies may be disciplinary or punitive, and they may burden the Respondent. 34 C.F.R. §106.45(b)(1)(i). The District may implement remedies up to and including the recommended disciplinary sanctions described above 34 C.F.R. §106.45(b)(1)(vi).

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section A – Overview of 34 C.F.R. §106.45 Grievance Process (continued)

9. **Training Requirements.** The District ensures certain training requirements are met. At a minimum, any individual designated by the District as a Title IX Coordinator, investigator, decision-maker (including the Initial Decision-Maker and Appellate Decision-Maker), or any person designated by the District to facilitate an informal resolution process will:
 - a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent; and
 - b. Receive training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and Grievance Process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially (including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias).

Any individual designated by the District as an investigator receives training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Any individual designated by the District as a decision-maker receives training on issues of relevance of questions and evidence, including training about when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant to the allegations 34 C.F.R. §106.45(b)(1)(iii).

Section B – Notice of Allegations

Upon signing a Formal Title IX Sexual Harassment Complaint or receiving a Formal Title IX Sexual Harassment Complaint filed by a Complainant, the Title IX Coordinator:

1. Provides written notice to all known parties of the following information:
 - a. This procedure “Formal Title IX Sexual Harassment Complaint Grievance Process,” including any available informal resolution process.
 - b. The allegations of sexual harassment potentially constituting Title IX sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX sexual harassment, and the date and location of the alleged incident, if known.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section B – Notice of Allegations (continued)

- c. That the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process.
 - d. That all parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
 - e. That all parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Title IX Sexual Harassment Complaint (including evidence the District does not intend to rely on in determining responsibility, and inculpatory or exculpatory evidence) so that each party can meaningfully respond to the evidence before the investigation concludes.
 - f. That the District's behavior policies prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.
2. Provides a second written notice to all known parties if, during the investigation, the District decides to investigate allegations not included in the first written notice.
 3. Decides whether to personally conduct the investigation or appoint a qualified investigator. If the Title IX Coordinator appoints a qualified investigator, provides written notice of the appointment to the Investigator.

When the Complainant's Identity Is Unknown

If the Complainant's identity is unknown, e.g., where a third-party reports that a Complainant was victimized by sexual harassment but does not reveal the Complainant's identity, or a Complainant reports anonymously, the Grievance Process may proceed if the Title IX Coordinator determines it is necessary to sign a Formal Title IX Sexual Harassment Complaint, even though the written notice provided in Section B.1, above, will not include the Complainant's identity 85 Fed. Reg. 30133. If the Complainant's identity is later discovered, the Title IX Coordinator provides another written notice to the parties.

When the Respondent's Identity is Unknown

If the Respondent's identity is unknown, e.g. where a Complainant does not know the Respondent's identity, the Grievance Process shall proceed because an investigation might reveal the Respondent's identity, even though the written notice provided in Section B.1, above, will not include the Respondent's identity. If the Respondent's identity is later discovered, the Title IX Coordinator provides another written notice to the parties 85 Fed. Reg. 30138.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process (continued)

Section C – Consolidation of Formal Title IX Sexual Harassment Complaints

When the allegations of sexual harassment arise out of the same facts or circumstances, the Title IX Coordinator may consolidate Formal Title IX Sexual Harassment Complaints alleging sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party 34 C.F.R. §106.45(b)(4).

Section D – Dismissal of Formal Title IX Sexual Harassment Complaint

After an investigation, if the Title IX Coordinator determines that the conduct alleged would not constitute Title IX sexual harassment even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the Title IX Coordinator dismisses the Formal Title IX Sexual Harassment Complaint with regard to that conduct for purposes of Title IX sexual harassment only. Such a dismissal does not preclude action under another applicable District policy or procedure.

At any time during the investigation, the Title IX Coordinator may dismiss the Formal Title IX Sexual Harassment Complaint, or any allegations contained in it, if any of the following occur:

1. The Complainant notifies the Title IX Coordinator in writing that he or she wants to withdraw the Formal Title IX Sexual Harassment Complaint or any allegations contained in it;
2. The Respondent is no longer enrolled or employed by the District; or
3. Specific circumstances prevent the District from gathering enough evidence to reach a determination as to the Formal Title IX Sexual Harassment Complaint or allegations in it.

Upon dismissal, the Title IX Coordinator promptly sends simultaneous written notice to the parties of the dismissal, reason(s) for the dismissal, and the right to appeal the dismissal 34 C.F.R. §106.45(b)(3).

Section E – Informal Resolution of Formal Title IX Sexual Harassment Complaint

At any time prior to reaching a determination regarding responsibility, the District may facilitate informal resolution (Informal resolution may be offered only if a Formal Title IX Sexual Harassment Complaint is filed) of a Formal Title IX Sexual Harassment Complaint, such as mediation, that does not involve a full investigation and adjudication, provided that the District (34 C.F.R. §106.45(b)(9)):

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section E – Informal Resolution of Formal Title IX Sexual Harassment Complaint (continued)

1. Provides the parties written notice disclosing:
 - a. The allegations;
 - b. Informal resolution process requirements, including the circumstances where parties are precluded from resuming a Formal Title IX Sexual Harassment Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Grievance Process for the Formal Title IX Sexual Harassment Complaint; and
 - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Section F – Investigation of Formal Title IX Sexual Harassment Complaint

The Investigator or Title IX Coordinator follows these steps when investigating the allegations in a Formal Title IX Sexual Harassment Complaint.

Investigator or Title IX Coordinator:

During an investigation and throughout the Grievance Process (34 C.F.R. §106.45(b)(5)):

1. Ensures that the burden of proof and burden of gathering evidence rest on the District and not the parties involved 34 C.F.R. §106.45(b)(5)(i).
2. Provides an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence 34 C.F.R. §106.45(b)(5)(ii).
3. Refrains from restricting the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence 34 C.F.R. §106.45(b)(5)(iii).

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section F – Investigation of Formal Title IX Sexual Harassment Complaint (continued)

4. Provides the parties the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice (who may, but is not required to, be an attorney). 34 C.F.R. §106.45(b)(5)(iv).
5. Provides, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate. 34 C.F.R. §106.45(b)(5)(v).
6. Provides the parties an equal opportunity to inspect and review any evidence obtained during the investigation that is directly related to the Formal Title IX Sexual Harassment Complaint's allegations (including evidence the District does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence). 34 C.F.R. §106.45(b)(5)(vi).
7. Prior to the completion of the investigative report, sends to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy and provides each party with 10 school business days to submit a written response.
8. Upon receipt of a party's written response to the evidence, reviews the response and sends a copy to the other party in an electronic format or a hard copy.

Prepares an investigative report summarizing all relevant evidence. 34 C.F.R. §106.45(b)(5)(vii).

Sends to each party and the party's advisor, if any, the investigative report in an electronic format or hard copy, for their review and written response. Id. [Note: This step must occur at least 10 school business days before the Initial Decision-Maker's determination regarding responsibility.]

At the conclusion of the investigation, sends to the Initial Decision Maker in an electronic format or hard copy:

1. The Formal Title IX Sexual Harassment Complaint;
2. All evidence gathered during the investigation that is directly related to the Formal Title IX Sexual Harassment Complaint's allegations (including evidence the District does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence); and
3. The investigative report.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process (continued)

Section G – Determination Regarding Responsibility; Remedies

Initial Decision Maker:

The Superintendent or designee acts as the Initial Decision-Maker for all Formal Title IX Sexual Harassment Complaints, unless it involves allegations against the Superintendent or designee or against a Board Member. In such cases, an outside consultant, e.g., an attorney or retired school administrator, acts as the Initial Decision-Maker.

Reviews Investigative Report and Corresponding Materials; Opportunity for Parties to Submit Questions.

Reviews all materials received from the Investigator.

Provides the parties with written notice of the opportunity to submit, through the Initial Decision-Maker, written, relevant questions that a party wants asked of any party or witness. 34 C.F.R. §106.45(b)(6)(ii). In the written notice, informs the parties that:

1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless they: are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
2. Any questions must be submitted to the Initial Decision-Maker within five (5) school business days.

Reviews any questions received from each party for submission to any party or witness.

Determines which questions to forward to any party or witness for answers. If any proposed questions are excluded as not relevant, provides the proposing party with a written explanation of the decision to exclude a question as not relevant.

Forwards relevant questions to any party or witness with instructions to submit answers to the Initial Decision-Maker within five (5) school business days.

Upon receipt of answers to questions, provides each party with copies of them.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section G – Determination Regarding Responsibility; Remedies (continued)

Provides the parties with written notice of the opportunity to submit, through the Initial Decision-Maker, additional, limited follow-up written, questions that a party wants asked of any party or witness. Id. Informs the parties that any questions must be submitted to the Initial Decision-Maker within five (5) school business days.

Upon receipt of answers to the additional questions, provides each party with copies of them.

Determination and Written Notice of Determination

Basing all decisions on the preponderance of evidence standard, simultaneously issues to the parties a written determination regarding responsibility that (34 C.F.R. §106.45(b)(7)(ii)):

1. Identifies the allegations potentially constituting Title IX sexual harassment;
2. Describes the procedural steps taken from the receipt of the Formal Title IX Sexual Harassment Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
3. Contains findings of fact supporting the determination;
4. Contains conclusions regarding the application of the District's policies and procedures to the facts;
5. Contains a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any recommended disciplinary sanctions for the District to impose on the Respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the Complainant; and
6. Outlines the District's procedures and permissible bases for the Complainant and Respondent to appeal.

Title IX Coordinator:

Implements any remedies for the Complainant as ordered by the Initial Decision-Maker. 34 C.F.R. §106.45(b)(7)(iv).

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process (continued)

Section H – Appeals

The determination regarding responsibility becomes final either on the date that the Appellate Decision-Maker provides the parties with the written decision of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely 34 C.F.R. §106.45(b)(7)(iii).

Complainant or Respondent:

Within 10 school business days after receiving either the Initial Decision-Maker's written determination regarding responsibility or the notice of dismissal of Formal Title IX Sexual Harassment Complaint, makes a written request to the Title IX Coordinator appealing the determination/dismissal based on:

1. Procedural irregularity that affected the outcome.
2. New evidence now available that could affect the outcome but that was not reasonably available at the time the determination.
3. The Title IX Coordinator, Investigator, or Initial Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome. 34 C.F.R. §106.45(b)(8)(i). [Note: The District may offer appeals on additional bases, so long as they are offered equally to both parties. 34 C.F.R. §106.45(b)(8)(ii). Consult the board attorney before offering additional appeal bases, as they may overlap with or impact related proceedings that occur separately from this Grievance Process, e.g., a student expulsion hearing or teacher dismissal hearing to impose recommended disciplinary sanctions as a result of this Grievance Process.]

Title IX Coordinator:

Upon receiving an appeal from one party:

1. Notifies the other party in writing that an appeal has been filed.
2. Provides both parties five (5) school business days to submit a written statement in support of, or challenging, the outcome.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section H – Appeals (continued)

3. Promptly forwards all materials relative to the appeal to the Appellate Decision-Maker.
[Note: The District must ensure that the Appellate Decision-Maker is not the same person as the Initial Decision-Maker, the Investigator, or the Title IX Coordinator. 34 C.F.R. §106.45(b)(8)(iii)(B). The Board may, but is not required to, hear and decide the appeal. If the Board acts as the Appellate Decision-Maker, the Board must receive the training in Section A.9, above. [Note: Some school attorneys recommend that the appeal not go to the Board, so that the Board's objectivity is not called into question if it needs to conduct a hearing related to recommended disciplinary sanctions resulting from the Grievance Process. [Districts should discuss their options with their board attorney.]

Appellate Decision Maker:

Within 30 school business days, affirms, reverses, or amends the written determination regarding responsibility or the notice of dismissal.

Within five (5) school business days after its decision, simultaneously issues a written decision to both parties that describes the result of the appeal and the rationale for the result. 34 C.F.R. §106.45(b)(8)(iii)(E), (F).

Section I – Recordkeeping

Title IX Coordinator:

Creates and maintains, for a period of at least seven (7) years, records of (34 C.F.R. §106.45(b)(10)(i)):

1. The sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore/preserve equal access to the District's education program or activity;
2. Any appeal and its result;
3. Any informal resolution and its result; and the footnotes should be removed before the material is used. These timelines are optional and used for ease of use and administration.
4. All materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Legal Reference: United States Constitution, Article XIV
Civil Rights Act of 1964, Title VII, 42 U.S.C. S2000-e2(a).
Equal Employment Opportunity Commission Policy Guidance (N-915.035) on Current Issues of Sexual Harassment, Effective 10/15/88Title IX of the Education Amendments of 1972, 20 USCS §1681, *et seq.*
Title IX of the Education Amendments of 1972, 34 CFR §106, *et seq.*
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34 CFR Section 106.8(b), OCR Guidelines for Title IX.
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The Violence Against Women Act, 34 U.S.C. §12291(a)
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Faragher v. City of Boca Raton, No. 97-282 (U.S. Supreme Court, June 26,1998)
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Gebbser v. Lago Vista Indiana School District, No. 99-1866, (U.S. Supreme Court, June 26,1998)
Davis v. Monro County Board of Education, No. 97-843, (U.S. Supreme Court, May 24, 1999.)
Connecticut General Statutes
46a-60 Discriminatory employment practices prohibited.
Conn. Agencies Regs. §46a-54-200 through §46a-54-207.
Constitution of the State of Connecticut, Article I, Section 20.
P.A. 19-16 An Act Combatting Sexual Assault and Sexual Harassment.

Regulation approved:
cps 11/20

Title IX Sexual Harassment Glossary of Terms

This can be used to educate employees and students about Title IX terms, and with the required Title IX response and grievance process in Board policy 4000.1/5145.44, Title IX.

Glossary of Terms

Actual Knowledge – Notice of sexual harassment or allegations of sexual harassment to any District employee or to the District's Title IX Coordinator. Assumption of knowledge based solely on the District's status as an employer or other presumption under law does not constitute actual knowledge. This standard is not met when the only official of the District with actual knowledge is the Respondent. Notice as used here includes, but is not limited to, a report or complaint of sexual harassment to the Title IX Coordinator in person, by mail, by telephone, or by email 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. 34 C.F.R. §§106.30, 106.8(a).

Appellate Decision-Maker – An individual or group, e.g., a Board-appointed appeal examiner or the Board, which reviews an appeal of the Initial Decision-Maker's determination regarding responsibility or a dismissal of a Formal Title IX Sexual Harassment Complaint (defined below). The Appellate Decision-Maker cannot be the same person as the Initial Decision-Maker, the Investigator, or the Title IX Coordinator. 34 C.F.R. §106.45(b)(8)(iii)(B). The Appellate Decision-Maker must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

Complainant – An individual who is alleged to be the victim of conduct that could constitute sexual harassment. 34 C.F.R. §106.30.

Consent – Knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance. A person's manner of dress does not constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent may be withdrawn at any time. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: (1) the person is incapacitated due to the use or influence of alcohol or drugs; (2) the person is asleep or unconscious; (3) the person is under age; or (4) the person is incapacitated due to a mental disability. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Coercion, force, or the threat of either invalidates consent.

Note: 34 C.F.R. §106.30, added at 85 Fed. Reg. 30574, states that Title IX recipients are not required to adopt a particular definition of consent with respect to sexual assault; however, in its 2020 Title IX rulemaking, the U.S. Dept. of Education (DOE) stated that “recipients must clearly define consent and must apply that definition consistently.” 85 Fed. Reg. 30125. Consult the Board Attorney if the District would like to customize this definition.

Education Program or Activity – Includes locations, events, or circumstances in the United States over which the District exercised substantial control over both the Respondent and the context in which the sexual harassment occurred. 34 C.F.R. §106.44(a).

Note: Title IX jurisdiction is geographically limited to discrimination against a person in the United States. 34 C.F.R. §106.8(d). The District’s Title IX obligations extend to off-campus sexual harassment incidents “if the off-campus incident occurs as part of the [district]’s ‘operations’ pursuant to 20 U.S.C. 1687 and 34 CFR 106.2(h)” or if the District “exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus pursuant to §106.44(a).” 85 Fed. Reg. 30196. No single factor is determinative of whether the District exercised substantial control or whether an incident occurred as part of the District’s operations. Id. at 30197. Operations may include computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in, the District’s operations. Id. at 30202. Consult the Board Attorney for further guidance.

Formal Title IX Sexual Harassment Complaint – A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation. At the time of filing a Formal Title IX Sexual Harassment Complaint, a Complainant must be participating in or attempting to participate in the District’s education program or activity with which the Formal Title IX Sexual Harassment Complaint is filed.

Note: Whether a Complainant is attempting to participate is a fact-specific inquiry. For example, a Complainant who has graduated may still be attempting to participate in an education program where he or she intends to remain involved in alumni programs or activities. 85 Fed. Reg. 30138. Consult the Board Attorney for further guidance.

Initial Decision-Maker – An individual designated by the Title IX Coordinator to reach an initial determination regarding responsibility in a Formal Title IX Sexual Harassment Complaint (defined above) by applying the standard of proof set forth in 2:265-AP2, Formal Title IX Sexual Harassment Complaint Grievance Process. See 85 Fed. Reg. 30054. The Title IX Coordinator cannot be the Initial Decision-Maker. 34 C.F.R. §106.45(b)(7)(i). The Initial Decision-Maker must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

Investigator – The Title IX Coordinator or an individual designated by the Title IX Coordinator to investigate a Formal Title IX Sexual Harassment Complaint (defined above) according to 2:265-AP2, Formal Title IX Sexual Harassment Complaint Grievance Process. The Investigator must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

Respondent – An individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment. 34 C.F.R. §106.30.

Supportive Measures – Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or Respondent before or after the filing of a Formal Title IX Sexual Harassment Complaint or where no Formal Title IX Sexual Harassment Complaint has been filed. Such measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment. Supportive measures may include 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 campus, and other similar measures. The District will maintain as confidential any supportive measures provided to a Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. 34 C.F.R. §106.30.

Sexual Harassment Governed by Laws Other Than Title IX – The District must also address sexual harassment that does not meet the definition of Title IX sexual harassment. For each report or complaint received, the Title IX Coordinator reviews Board policies to determine if they require additional action by the District in addition to or at the exclusion of policy 4000.1/5145.44 Title IX. Policies to be reviewed include those pertaining to nondiscrimination, uniform grievance procedure, harassment, reporting of child abuse and neglect, sexual abuse, harassment, bullying, and student discipline/conduct.

Title IX Sexual Harassment – Conduct on the basis of sex that satisfies one or more of the following (34 C.F.R. §106.30):

- A District employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or

- Sexual assault as defined in 20 U.S.C. §1092(f)(6)(A)(v), dating violence as defined in 34 U.S.C. §12291(a)(10), domestic violence as defined in 34 U.S.C. §12291(a)(8), or stalking as defined in 34 U.S.C. §12291(a)(30).
 - ***Sexual assault*** means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system (UCR Program) of the Federal Bureau of Investigation (FBI), and includes rape, fondling, incest, and statutory rape. 20 U.S.C. §1092(f)(6)(A)(v); 34 C.F.R. Part 668, Appendix A to Suppart D. For more information regarding the FBI UCR Program, see www.fbi.gov/services/cjis/ucr/.
 - ***Dating violence*** means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim, and (2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. 34 U.S.C. §12291(a)(10).
 - ***Domestic violence*** includes any felony or misdemeanor crimes 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 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, or 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. 34 C.F.R. §12291(a)(8).
 - ***Stalking*** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress. 34 C.F.R. §12291(a)(30).

SAMPLE FORMAL COMPLAINT FORM (TITLE IX SEXUAL HARASSMENT)

Instructions for filling out this form: If you believe that you have been the victim of sexual harassment, please fill out this form, sign where indicated below, and submit it by hand delivery, electronic mail, or U.S. mail using the contact information listed for the Title IX Coordinator for Students at #5145.44 or the contact information listed for the Title IX Coordinator for Employees at #4000.1 or _____ *[Insert any additional methods of filing this form designated by the district]*.

This formal complaint form is intended for use by the alleged victim of Title IX sexual harassment (referred to in Title IX Regulations as the “complainant”). Under Title IX and the Family Educational Rights and Privacy Act (FERPA), a parent or legal guardian may sign a complaint form and otherwise act on behalf of a minor in the formal complaint process.

If you are not filling this form out as a parent or guardian and you intend to report sexual harassment against another person in the District’s education program or activities, please report your concerns to the District’s Title IX Coordinator so that the District can take further action. **Under federal law, only an alleged victim of sexual harassment who is currently participating or attempting to participate in the District’s education program or activity (such as an enrolled student, an employee, or an applicant for employment or admission) has the right to use the formal complaint process to initiate an investigation.** The District will process all formal complaints in accordance with policy and grievance procedure 4000.1/5145.44.

Please print or type when completing this form:

Name of complainant: _____
Address: _____
Telephone number: _____
Email address: _____

Is the complainant
participating in or attempting
to participate in a District
education program or
activity? (See instructions.)

Yes
 No

If you are a parent or guardian filling this form out on behalf of a minor complainant, please provide your contact information below.

Name: _____
Address: _____
Telephone number: _____
Email address: _____

**4000.1
5145.44**
Appendix B
(continued)

You have the right to be represented by an advisor during the complaint process. The advisor may be, but does not have to be, an attorney. If you will be represented by an attorney or other advisor in presenting your complaint, please identify the person and provide the contact information below. If unknown at this time, you may provide this information at a later time.

Name: _____

Address: _____

Telephone number: _____

Email address: _____

Please list any additional individuals that you intend to bring with you to any meetings or interviews associated with this complaint and provide their contact information below. You may add additional pages or provide this information at a later time.

Name: _____

Address: _____

Telephone number: _____

Email address: _____

Please describe the facts and circumstances of the alleged sexual harassment causing this complaint. (*Give specific, factual details. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your complaint.*)

In a Title IX formal complaint process, the person who is alleged to have committed the sexual harassment is called the “respondent.” Please provide the name(s) of the person or people you allege to be the respondent(s) responsible for the alleged sexual harassment. If applicable, please include the person’s title or position:

When and where did the alleged sexual harassment occur? Please provide specific dates, times, and locations, if possible.

Please explain how the alleged sexual harassment has impacted you. This could include physical injuries as well as impacts on your ability to access or benefit from the District’s education program or activities.

Please provide the names and contact information of anyone who may have witnessed the alleged conduct.

If you have reported these allegations to another person, please state to whom you reported the alleged sexual harassment and provide their contact information (if known).

Title IX does not require complainants to attempt to resolve complaints of sexual harassment informally before filing a formal complaint. Nonetheless, if you have reported these allegations to a District employee, please state when, to whom, and what response you received.

Please list below any evidence that you believe is relevant to your allegations. This could include audio or visual media, physical objects, online materials, text messages, voicemail messages, screen captures, emails, or any other item you are attaching or intend to make available for the purpose of this complaint. If known, please also identify any information in the District's possession that you believe to be relevant to your allegations and would like the District to review (such as emails or security camera footage).

Please provide any other information that would be helpful for the District in reviewing your allegations.

Please describe the outcome or remedy you seek for this complaint.

Please provide below your physical or digital signature.

Complainant name: _____

Signature of complainant: _____

If complainant is under 18,
parent's name: _____

Signature of parent: _____

Date of filing: _____

If this formal complaint is being signed by the District's Title IX Coordinator instead of a complainant:

Title IX Coordinator Name: _____

Title IX Coordinator Signature: _____

Date of filing: _____

Notice to Complainant: This document is a legal record of the allegations of sexual harassment that you have reported to the District in order to request a formal investigation. Please keep a copy of this completed form and any supporting documentation for your records. Please also review your rights and responsibilities at 4000.1/5145.44 which is attached to this form and also available online at: Insert link or web address to your district's policy. Any questions or concerns that you may have during this process may be directed to the District's Title IX Coordinator.

If, after reviewing your complaint form, the Title IX Coordinator finds that the allegations are not appropriate for a Title IX sexual harassment formal complaint process but should be investigated by the District under a different policy or procedure, your formal complaint form will be forwarded to the appropriate District personnel in accordance with District policies. You have the right to appeal the dismissal of your formal complaint, as explained in Policy 4000.1/5145.44 and the District's Title IX formal complaint process.

The sample language below contains the minimum information that must be prominently displayed on the District's website to comply with Title IX regulations.

Sample Website Posting Regarding Title IX Compliance

The following information is provided in response to 34 C.F.R. Part 106.8 of the 2020 Title IX Regulations, mandating notice of a nondiscrimination policy and adoption and publication of grievance procedures that provide for the prompt and equitable resolution of student and employee complaints. In accordance with Title IX, the district does not, and is required not to, discriminate on the basis of sex in its educational programs or activities. The requirement not to discriminate extends to employment. As a school district serving students in kindergarten through grade 12, the district is not subject to provisions in Title IX Regulations (Subpart C) prohibiting discrimination on the basis of sex in admissions and recruitment. However, the district does not discriminate on the basis of sex in admissions or transfer requests.

The district has designated and authorized the following employee as the Title IX Coordinator to address concerns or inquiries regarding discrimination on the basis of sex, including sexual harassment, sexual assault, dating violence, domestic violence, stalking, and gender-based harassment:

Title IX Coordinator: _____

Physical Address: _____

Email Address: _____

Telephone Number: _____

Any individual may report sex discrimination, including sexual harassment, at any time, including during non-business hours, by mail, phone or email.

During district business hours, reports made be made in person.

To view an electronic copy of the District's Title IX policies, please go to: _____
(Insert website address.)

To obtain a copy of the District's Title IX policies, including the grievance process that complies with 34 C.F.R. §106.45(b) of the 2020 Title IX Regulations, please contact:

Upon receiving an allegation of sex-based harassment, the Title IX Coordinator will promptly respond in accordance with Board policies #4000.1 and #5145.44.

Inquiries about the application of Title IX may be referred to the District's Title IX Coordinator.

Title IX Training Materials

All materials used to train Title IX personnel are available for inspection upon request by contacting: _____



RESPONDING TO HATEFUL SPEECH IN SCHOOLS

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UPDATE MAILING NO. 1

NOVEMBER 17, 2020

In schools across the country, prior to the closings of schools due to the pandemic, hate filled speech had risen as students emulated divisive language which is now too common in national rhetoric and policy. A national UCLA study in 2019 found that “teachers are seeing increased incivility, intolerance and polarization in classrooms, heightened polarization on campus and an increase in students making derogatory remarks about other groups during class discussions. The study indicates what educators across the nation are facing. Explicitly racist, Islamophobia, xenophobic, homophobic, anti-Semitic, sexist, and cruel talk has become more commonplace in schools.”

Hate speech, has its offensiveness coming from an expressed idea, that people of a certain race, religion, gender, sexual orientation, ethnic origin, or disability are inferior and should be denied respect or even the rights of American citizenship.

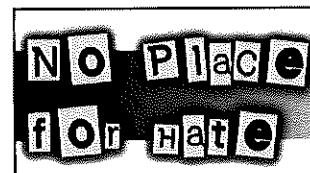
Educators need to respond to such hateful speech. However, many educators feel unsure of what to do. Educators, due to law and regulation, cannot passively ignore hateful speech that “creates an intimidating, threatening or abusive educational environment.” Educators should never let speech devaluing, disrespecting, or misrepresenting “types of people” occur in schools without response. They should always model what it looks like to challenge, engage and question such speech.

Educators must question claims that hurt because they are inaccurate, and to press instead for the engagement of facts. Inaccurate claims about “types of people” distort other people’s families, cultures, histories, and neighborhoods or falsely deem some “groups” less valuable, skilled, or deserving of opportunity. It is important to

question inaccurate or under-informed claims and to invite evidence-based reasoning and ongoing learning about complex social issues in order to achieve a deeper understanding of history and contemporary lives.

The National Coalition Against Censorship (NCAC) believes that the question of restricting “hate speech” in schools is a thorny issue. “Schools must provide access to education on a non-discriminatory basis, prevent harassment that interferes with their educational mission, and socialize students to live and work in a diverse community – and they must do all these things while recognizing that the right of free speech sometimes means the right to say things that are offensive to others.”

Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 impose the responsibility on schools to ensure that educational opportunities are provided on a non-discriminatory basis. To rise to the level of discrimination, objectionable speech must create a “hostile environment.” Further, “Under U.S. Supreme Court decisions, discrimination occurs only when harassment is so severe, persistent, and pervasive that it creates a hostile or abusive educational environment and adversely affects a student’s ability to benefit from an education program. Age and maturity of students is also relevant. NCANC has stated that, “Under current Supreme Court standards, the ‘mere utterance of an ethnic or racial epithet which engenders offensive feelings’ is not sufficient to make a hostile environment claim.”





RESPONDING TO HATEFUL SPEECH IN SCHOOLS

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Concerns about a rise in hate crimes and bias incidents have surged since the 2016 election campaign and election of President Trump, who has frequently used coarse language and racist rhetoric when describing immigrants, people of color, and women. In schools, similar worries are echoed by some students, parents, and educators who suggest that Trump's influence has emboldened some children, teenagers, and even school employees to openly espouse hateful views.

To understand how hate, intolerance, and bias are affecting school climate and impacting students and their educators, *Education Week* partnered with the nonprofit news organization ProPublica in a project called Documenting Hate. The Project analyzed three years of media reports and self-reported incidents of hate and bias in K-12 school settings, many submitted to ProPublica.

In a review of 472 verified accounts, investigators found that most incidents that took place in schools between January 2015 and December 2017 targeted black and Latino students, as well as those who are Jewish or Muslim. Most of the incidents, some of which were formally reported to school personnel, involved hate speech, both spoken and written. Reports of bodily harm were relatively rare.

The most common words were: "the n-word," various versions of "build the wall" and "go back to [insert foreign country name here, usually Mexico]." The most common hate symbol: swastikas. The largest number of reports on a single day in K-12 schools occurred on November 9, 2016, the day after Trump's election. However, is it fair to lay all the blame on the words and actions of President Trump for the vitriol spewed in schools?

Anecdotal reports aren't enough to suggest that the President's inflammatory talk has led to increased rates of bullying and new data show that bullying rates held steady in 2017, according to the Youth Risk Behavior Surveillance Survey.

One expert on school climate cautioned school leaders to avoid blaming acts of hate and bullying in the last couple of years on Trump's influence. "There is usually never just one cause of bullying, so if we scapegoat it on the President, we are overlooking the broader climate issues that were there before and will likely continue if not directly addressed," said Deborah Temkin, who is the director of education research for the nonpartisan Child Trends and previously oversaw federal efforts to combat bullying in the Obama administration.

Schools have long been a venue for bias and harassment, where targeted students can feel threatened and unwelcome and where parents worry about their children's physical safety. Administrators often falter in dealing with the ugliness, in both the immediate aftermath and over the longer-term to confront deeper-seated hate and bias in their school communities.

K-12 leaders must first investigate and identify the motivation for the incidents, Temkin said, and then establish whether there are solutions such as anti-bias training and multicultural education that could address the problem. "We know how adults respond to incidents affects the entire climate of the school, as in saying that these incidents are not okay and not the norm," Temkin said. "However, there is some assumption on the part of the parents of what a school should do that may not align to what a school should or can do."



RESPONDING TO HATEFUL SPEECH IN SCHOOLS

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Often, Temkin said, school leaders and teachers may feel pressure to discipline those who commit the hateful acts, but doing so can undermine aiming for a more sustainable outcome in trying to push back on the bias itself. The two main areas to focus on should be making sure children who were targeted feel safe and delving into why the perpetrators of the bias incidents are acting that way.

Data on hate-related incidents in schools is relatively skimpy. The U.S. Department of Justice polls students periodically about the issue as part of its National Crime Victimization Survey. A recent school crime survey revealed that more than 25 percent of students reported seeing hate-related graffiti in their schools. That same survey also revealed that the majority of students who reported being a target of hate-related words attend suburban schools.

Public schools in America's suburban communities are increasingly likely to be the most diverse, with majority white student enrollments giving way to an influx of students from a variety of racial, ethnic, and cultural backgrounds. Jewish organizations such as the Anti-Defamation League have reported that anti-Semitic incidents in general have soared to their highest levels in two decades in the U.S. over the last couple of years.

The pervasive use of social media to spread messages of hate can leave communities feeling pummeled. Many of the bias reports *Education Week* reviewed included the use of Instagram and Snapchat. Parents interviewed in various cities said they usually find out about hate-related incidents from their children or social media. While many of the reported incidents were peer-to-peer hate speech, teachers and school

support staff have also been the source of bigoted statements.

While many countries ban hate speech, the U.S. has taken a different path. The U.S. Supreme Court has consistently ruled that such speech enjoys First Amendment protection unless it is directed to causing imminent violence or involves true threats against individuals. Laws that prohibit hate speech run afoul of the fundamental First Amendment principles. The Supreme Court has said consistently that the First Amendment prohibits the government from targeting the content of speech unless it falls within an unprotected category such as incitement to violence, true threats, fighting words, and obscenity.

The government also may not regulate speech based on the viewpoint expressed. The government cannot choose sides in the marketplace of ideas, permitting speech that is positive about a racial or religious group, for example, but banning speech that is critical or derogatory. "It is firmly settled that under our Constitution the public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers."

Public schools must respect students' rights to freedom of expression, guaranteed under the First Amendment to the U.S. Constitution. However, those rights aren't absolute. There are some general exceptions to the protections afforded under the First Amendment as well as the restrictions on student speech that are peculiar to the school setting. Public schools have the responsibility to keep children safe, teach them proper behavior, and to make sure the school environment is conducive to learning.



RESPONDING TO HATEFUL SPEECH IN SCHOOLS

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In short, there is a dual responsibility for the schools to respect students' rights to freedom of expression and to protect children and the learning environment.

There are three major Supreme Court decisions that shape how K-12 public schools need to approach First Amendment issues: *Tinker v. Des Moines School District* (1969), *Bethel School District No. 403 v. Fraser* (1986), and *Hazelwood School District v. Kuhlmeier* (1988). *Tinker* protected student free speech rights by outlining two key prongs of when schools could limit student speech. If the speech causes either a (1) material and substantial disruption or (2) collides with the rights of others, K-12 public school leaders can legally restrict such speech. School officials, however, may not squelch the expression of unpopular decisions just to avoid "discomfort and unpleasantness." The banned speech would need to create a "substantial disruption" at school or would violate other students' rights. Social media and other online speech has made the issue of disruption a more complicated issue.

In addressing this issue, the courts consider several factors when deciding whether a students' speech is disruptive. These factors include:

- a. Did it interfere with classwork or other school activities?
- b. Did it cause disorder on campus?
- c. Were other students so upset that they couldn't concentrate on their school work or visited counselors in large numbers?
- d. Did administrators and/or teachers have to take considerable time away from their regular duties in order to deal with the fallout?

The *Fraser* case followed and allowed schools to limit student speech that was

lewd, vulgar, or counter to the educational mission of the school. The Court ruled that the First Amendment didn't prevent schools from disciplining students for offensively lewd and indecent speech. The Court stated that society's interest in teaching "the boundaries of socially appropriate behavior" outweighed the student's right to express his views in a way that was highly offensive to his classmates.

In *Hazelwood*, the Court established that school officials could exert editorial control in school-sponsored expressive activities, such as the student newspaper. The Court held that "...educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities...." In short, school personnel control school-sponsored expression that could reasonably be seen as bearing the stamp of approval of the school. These three cases provide the foundation for legal interpretations of First Amendment cases in schools.



Another U.S. Supreme Court ruling also impacted student expression. In *Morse v. Frederick* (2007), schools were given a fair amount of leeway in deciding whether student's speech poses a danger to classmates and teachers. This ruling indicated it was part of the school's mission to protect students from messages that could be viewed as promoting or celebrating illegal drug use.



RESPONDING TO HATEFUL SPEECH IN SCHOOLS

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Policy Implications

A number of existing policies relate to this topic. They include, but are not limited to, the policies pertaining to student discipline/student conduct, bullying, hazing, terroristic acts/threats, cyberbullying, harassment, peer harassment, sexual harassment, in-school disturbances, nondiscrimination, freedom of expression, school climate and hate crimes and bias incidents in schools. Samples of these are available.

In addition to the above cited policies, a new policy, #0525, "Hate Speech in Schools," has been developed. This is considered an optional policy for inclusion in a district's policy manual.



An optional policy to consider.

Mission – Goals – Objectives

Hate Crimes and Bias Incidents in Schools

Hate Speech, Responding to:

The _____ School District is committed to providing a safe learning and working environment that is free from discrimination, harassment, intimidation and/or bullying. District policy requires all schools and personnel to promote mutual respect, tolerance, and acceptance among students and staff. Hate-motivated incidents, including hate speech, and crimes or actions motivated by bias/prejudice/bigotry jeopardize both the safety and well-being of all students and staff. The District will not tolerate hate-motivated incidents/crimes and/or hate speech based on actual or perceived characteristics, of actual or perceived sex, sexual orientation, gender, gender identity, gender expression, race or ethnicity, ethnic group identification, ancestry, nationality, national origin, religion, color, mental or physical disability, age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, in any program or activity it conducts or to which it provides significant assistance or retaliation in any form for reporting such incidents or crimes.

The Board of Education (Board) denounces the use of words or images to harass individuals or groups based on gender, gender expression, race, religion, sexual orientation, or any other aspect of identity. "Hate speech" of this nature is contrary to the District's Mission Statement, Diversity Statement, and Core Values.

Hate speech, for the purpose of this policy, is defined as public speech that expresses hate or encourages violence towards a person or group based on something such as race, religion, sex, or sexual orientation". Hate speech is "usually thought to include communications of animosity or disparagement of an individual or a group on account of a group characteristic such as race, color, national origin, sex, disability, religion, or sexual orientation sexual identity and sexual expression.

Alternate definition: Hate speech, for the purposes of this policy, is a communication that carries no meaning other than the expression of hatred for some group, especially in circumstances in which the communication is likely to provoke violence. It is an incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, national origin, gender, religion, sexual orientation, sexual identity and sexual expression, and the like. Hate speech can be any form of expression regarded as offensive to racial, ethnic and religious groups and other discrete minorities or to women.

The Board believes educators should never tolerate hateful speech in District schools. The Board forbids hate speech, threat speech and harassment. The concept of free speech/freedom of expression is valued, not as some "right" to disparage others without any consequences, but as the ability to discuss ideas. All speech that denigrates, disrespects or misrepresents "types of people" must be challenged.

Mission – Goals – Objectives

Hate Crimes and Bias Incidents in Schools

Hate Speech, Responding to: (continued)

In order to prevent hateful speech and harassment, the Board specifically states that hate, harassment, and intimidation have no place in the schools of this District. All members of the educational community shall not be denigrated and/or threatened in order to promote a learning environment in which all students can participate and benefit from school. Students shall be provided activities in which they are asked to respect, value and learn from one another; to learn facts about communities and our shared society; and to promote messages of inclusion themselves.

Civil rights laws require educators to protect students from harassment or other discrimination based on race, color, national origin, sex, religion, disability, gender identity, gender expression and sexual orientation. Schools must maintain a safe and nondiscriminatory learning environment for all students. District staff shall prohibit harassment by name calling, conduct based upon protected classes that is so severe or pervasive that it unreasonably disrupts an individual's educational or work environment or creates a hostile work educational or work environment. The shaping of student behavior requires the explicit promotion of respectful communication. The primary antidote to a hostile environment in schools is preventative speech. Such speech requires continually talking in classrooms and on the school campus about how to respect and value other human beings.

In responding to hate speech incidents, the Board believes educators can combine formal punishment of harassers, in accordance with District policies, and with restorative dialogues in order to have students consider the consequences and causes of their speech. A powerful response to hate speech is to talk more explicitly with students about how words can hurt and about the harmful ideas under the words. It is important to talk about why hateful speech is hurtful to other students and other individuals in the community. If left undiscussed, an inaccurate claim can metastasize into hate. If left unchallenged, hateful speech can escalate into a threat. It is essential that all speech that hates and harms be challenged and questioned, within the parameters provided by law.

Hate Prevention Program

The Board believes that a comprehensive hate prevention program involving all staff and students will permit the expression of diverse viewpoints but will help to prevent hate crimes, hate speech and bias-related incidents in District schools and in the community.

1. Training shall be provided to all district staff in order to increase their awareness of the various manifestations of hate, hate speech and bias-related incidents. The training will include anti-bias and conflict resolution methods; procedures for identifying and reporting incidents of racial, religious, and sexual harassment, discrimination, and hate crime and hate speech; strategies for preventing such incidents from occurring; and resources available to assist in dealing with these incidents.

Mission – Goals – Objectives

Hate Crimes and Bias Incidents in Schools

Hate Speech, Responding to:

Hate Prevention Program (continued)

2. All students shall receive hate prevention training, including the issue of hate speech, through age-appropriate classroom activities, assemblies, and school-related activities. The Board believes that prejudice and discrimination are learned attitudes and behaviors. Teaching children that even subtle forms of hate such as ethnic slurs or epithets, negative or offensive name-calling, stereotyping, and exclusion are hurtful and inherently wrong can help to prevent more extreme, violent manifestations of hate. Structured classroom activities and programs will help children to develop empathy, while practicing the critical thinking and conflict resolution skills needed to recognize and respond to various manifestations of hate and bias-related behavior.
3. The District will develop partnerships with families, community organizations, and law enforcement agencies. These partnerships help identify resources available to school personnel to address hate incidents, raise community awareness of the issue, ensure appropriate responses to hate incidents, and ensure that youth receive a consistent message that hate-motivated and/or bias-related behavior will not be tolerated.
4. This policy shall be distributed annually to all students, their families and to all District personnel. The purpose of this policy is to promote a school climate in which racial, religious, ethnic, gender and other differences, as well as freedom of thought and expression, are respected and appreciated. The policy should have the input of parents, students, teachers, community members, and school administrators. It should respect diverse viewpoints, freedom of thought, and freedom of expression.
5. A range of corrective actions for those who violate school hate-prevention policies shall be used. The District will take a firm position against all injurious manifestations of hate, from ethnic slurs, racial epithets, and taunts, to graffiti, vandalism, discrimination, harassment, intimidation, and violence. A wide range of nondisciplinary corrective actions to respond to incidents, including counseling, parent conferences, community service, awareness training, or completion of a research paper on an issue related to hate, as well as disciplinary actions such as in-school suspension or expulsion shall be utilized. School officials shall contact local, state or federal civil rights officials to respond to more serious incidents and, in cases involving criminal activity or threat of criminal activity, should call the police.
6. Data is to be collected to focus district-wide hate prevention efforts. Collection of data on the occurrence of school-based hate or bias-related incidents or crimes will assist administrators and teachers to identify patterns and to more effectively implement hate prevention policies and programs.

Mission – Goals – Objectives

Hate Crimes and Bias Incidents in Schools (continued)

(cf. 0521 – Nondiscrimination)
(cf. 0523 – Equity and Diversity)
(cf. 0524 – Hate Crimes and Bias Related Acts)
(cf. 1316 – Civility on School Property)
(cf. 316.3 – Civil Discourse, Promoting of)
(cf. 4111.1/4211.1 – Affirmative Action)
(cf. 4118.11 – Nondiscrimination)
(cf. 4118.113/4218.113 – Harassment)
(cf. 4118.15 – Bullying, Workplace)
(cf. 4131 – Staff Development)
(cf. 5114 – Suspension/Expulsion)
(cf. 5118.1 – Homeless Students)
(cf. 5131 – Student Conduct)
(cf. 5131.91 – Hazing)
(cf. 5131.911 – Bullying/Safe School Climate Plans)
(cf. 5131.913 – Cyberbullying)
(cf. 5144 – Discipline)
(cf. 5145.2 – Freedom of Speech, Expression)
(cf. 5145.4 – Nondiscrimination)
(cf. 5145.42 – Racial Harassment)
(cf. 5145.5 – Sexual Harassment)
(cf. 5145.51 – Peer Sexual Harassment)
(cf. 5145.52 – Harassment)
(cf. 5145.53 – Transgender and Non-Conforming Youth)
(cf. 5145.6 – Student Grievance Procedure)
(cf. 6115 – Ceremonies and Observances)
(cf. 6121 – Nondiscrimination)
(cf. 6121.1 – Equal Educational Opportunity)
(cf. 6141.21 – Religions in the Public Schools)
(cf. 6141.22 – Religious Accommodations)
(cf. 6142.103 – Trauma Informed School)
(cf. 6145.23 – Gender Equity)

Legal Reference: Connecticut General Statutes
10-15c Discrimination in public schools prohibited. School attendance by five-year olds. (Amended by P.A. 97-247 to include “sexual orientation” and P.A. 11-55 to include “gender identity or expression”)
29-7m(a) Classification of crimes motivated by bias
29-7m(b) Report of crime motivated by bias.
53a-181i Intimidation based on bigotry or bias: Definitions.
3A-181i, j, k, l Intimidation based on bigotry in the first, second, or third degree.
17a-101 Protection of children from abuse.

Mission – Goals – Objectives

Hate Crimes and Bias Incidents in Schools

Legal Reference: Connecticut General Statutes (continued)
 Connecticut State Board of Education “Position Statement on Culturally Responsive Education,” adopted May 4, 2011
 P.A. 17-111 An Act Concerning Hate Crimes
 Title VII, Civil Rights Act, 42 U.S.C. 2000e, et seq.
 29 CFR 1604.11, EEOC Guidelines on Sex Discrimination.
 Title IX of the Educational Amendments of 1972, 20 U.S.C. 1681 et seq.
 34 CFR Section 106.8(b), OCR Guidelines for Title IX.
 Definitions, OCR Guidelines on Sexual Harassment, Fed. Reg. Vol 62, #49, 29 CFR Sec. 1606.8 (a0 62 Fed Reg. 12033 (March 13, 1997) and 66 Fed. Reg. 5512 (January 19, 2001)
 20 U.S.C. 7905 (Boy Scouts of America Equal Access Act)
 Amendment of U.S. Constitution - Article I.
Tinker vs. Des Moines Independent Community School District, 393 U.S., 503 (1969)
Bethel School Dist. No 403 v. Fraser, 478 U.S. 675 (1986)
Hazelwood School Dist. V. Kuhlmeier, 484 U.S. 260 (1988)
Morse v. Frederick, 551 U.S. 393 (2007)
Meritor Savings Bank. FSB v. Vinson, 477 U.S. 57 (1986)
Faragher v. City of Boca Raton, No. 97-282 (U.S. Supreme Court, June 26, 1998)
Gebbser v. Lago Vista Indiana School District, No. 99-1866, (U.S. Supreme Court, June 26, 1998)
Davis v. Monro County Board of Education, No. 97-843, (U.S. Supreme Court, May 24, 1999.)
 The Vietnam Era Veterans’ Readjustment Act of 1974, as amended, 38 U.S.C. §4212
 Title II of the Genetic Information Nondiscrimination Act of 2008
 The Americans with Disabilities Act as amended by the ADA Amendments Act of 2008
 Public Law 111-256
Meacham v. Knolls Atomic Power Laboratory 128 S.Ct. 2395, 76 U.S.L.W. 4488 (2008)
Federal Express Corporation v. Holowecki 128 S.Ct. 1147, 76 U.S.L.W. 4110 (2008)
Kentucky Retirement Systems v. EEOC 128 S.Ct. 2361, 76 U.S.L.W. 4503 (2008)
Sprint/United Management Co. v. Mendelsohn 128 S.Ct. 1140, 76 U.S.L.W. 4107 (2008)

Policy adopted:

cps 11/20



REMOTE WORK/TELECOMMUTING/TELEWORK

~Page 1~

UPDATE MAILING NO. 1

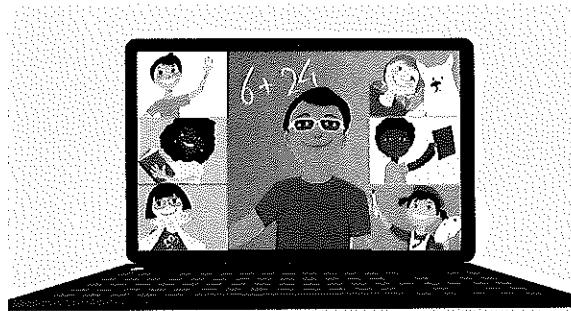
NOVEMBER 17, 2020

The COVID-19 pandemic has proven to be, among other things, a massive experiment in telecommuting. While some jobs can't be done at home, the outbreak has accelerated the trend toward telecommuting, possibly for the long term. With the initial closing of schools in all states at the onset of the coronavirus pandemic, remote learning became a necessity in the attempt of school districts to attempt to fulfill their responsibilities to educate children. The manner in which school districts across the nation planned for the reopening of schools for the 2020-2021 school year indicated that remote learning, with educators working in a remote location, was a significant part of the reopening structure due to health and safety concerns.

Until the onset of the pandemic, telecommuting was slower to take hold than many predicted when remote work technology first emerged. This inertia could be reflective of existing work cultures and mores as well as a lack of employer interest to invest in the technology and management practices necessary to operate a tele-workforce.

Before the pandemic occurred, U.S. Department of Labor statistics indicated that approximately 7% of U.S. workers had access to telecommuting, mostly in the private sector. The forced education of children in their homes with teachers instructing from locations other than brick and mortar schools changed that dramatically. Prior to the pandemic-caused

school closings, only 3% of U.S. children were educated in their homes. The current remote-learning model used in districts across the nation has the potential to significantly change, if not revolutionize, the way children are educated. The coronavirus pandemic may accomplish what years of advocacy have not: making telecommuting available to more than a handful of workers.



Global Workplace Analytics, a research and consulting service focusing on workplace flexibility strategies such as telework, predicts that the longer people are required to work at home, the greater the adoption of it when the pandemic is over. The company estimates that 56 percent of the U.S. workforce holds a job that is compatible, at least partially, with remote work. It pointed to Gallup data from 2016 that shows that 43 percent of the workforce works at home at least some of the time.

The 2020 back to school season has been more challenging than any ever experienced in our lifetimes. The usual beginning of school jitters became mixed with the fears of a still-raging pandemic, families stretched to their limits and severe economic hardships. Schools started classes in a variety of formats involving in-person instruction, partial (hybrid model) or full distance learning and the very real possibility of reclosings.



REMOTE WORK/TELECOMMUTING/TELEWORK

~Page 2~

School district decisions could affect parents, students and communities for many years. Parents of the nation's approximately 56 million K-12 students are looking for practical ways to cope with distance learning. In addition, teachers are being forced to learn how to work and teach remotely, while trying to have a close, caring relationship with their students, albeit, from a remote location.

Policy Implications

It is the expectation held by all members of the educational community that at some point all school children will again be receiving their education in school buildings with their teachers physically present.

However, school districts should consider telecommuting or remote work to be a viable alternative work arrangement in cases where the individual employee, the job, and the supervisor are well-suited to such an arrangement. Not all employees and positions are suitable for telecommuting or remote work. Telecommuting can be informal, such as working from home for a short time to complete a specific project.

A new policy, #4113.6/4213.6, "Remote Work/Telecommuting Policy/Telework," has been developed and follows for your consideration. This is currently considered an optional policy for inclusion in a district's policy manual.

Office
Conference Phone Home
Employee Email
Computer Student
Video Teacher Laptop
Work Learning
Telework Remote
Telecommuting School

A sample policy to consider.

Personnel – Certified/Non-Certified

Remote Work/Telecommuting Policy/Telework

The Board of Education (Board) recognizes that providing staff members the flexibility of working remotely may be necessary at times when widespread illness, a declared pandemic health emergency, natural disasters or other roadblocks interrupt the District's ability to conduct school and/or business on a regular basis. An authority outside the school district may, in addition to the Board and/or the Superintendent, direct school closures. In addition, the Board understands and supports the belief that during normal times of operation, it may be beneficial to have some staff members, with appropriate approval, fulfill their professional responsibilities by working remotely.

Telecommuting is not considered an entitlement, or a benefit. Telecommuting/Telework, for purposes of this policy, is defined as the performance of the essential functions of one's job description in a work location other than their assigned school or office. In addition, working remotely/telecommuting does not change in any manner the terms and conditions of employment with the _____ Board of Education. Any change in the terms and conditions of employment shall be made a part of a Memorandum of Understanding (MOU) between the Board and the applicable employee bargaining unit. (*MOUs are strongly recommended to be developed with the assistance of legal counsel.*)

This policy is temporary as necessary in order to address any immediate concern related to quarantine, natural disaster or other event that interrupts normal operations. To provide clarity, this policy outlines expectations and provides guidance should the need arise for staff to work from home.

Eligibility

Teachers instructing through teleteaching/ELearning (*the delivery of online instruction from a location other than a classroom by means of video, audio, or other electronic transmission*) will be provided approval to work remotely off site for the duration of the identified teleteaching/ELearning days. Administrative staff will also be permitted to work remotely, when deemed appropriate and necessary at those times identified by the Superintendent of Schools. Circumstances warranting such off-site work shall include situations of widespread illness, declared pandemic, lengthy school closures, natural disaster or other identification as made by the Superintendent.

School bus drivers, instructional assistants, cafeteria staff, school nursing aide staff, and secretaries normally will not be eligible for remote work. Maintenance staff may not be eligible for remote work. However, the Director of Finance/Business Manager, Chief Operating Officer/Director of Maintenance (*choose that which is appropriate for the local district*) and key/lead custodians may be eligible for remote work pending approval by the Superintendent or his/her designee.

Central Office staff may be eligible for remote work as determined by the Superintendent.

Personnel – Certified/Non-Certified

Remote Work/Telecommuting Policy/Telework (continued)

Availability

Those individuals approved for remote work will do so within the following timeframe: 8:00am to 4:00 pm unless otherwise approved ahead of time by the Superintendent. (**Alternate language:** *Employees working from a remote location shall be available to fulfill their professional responsibilities for a period of time not to exceed the length of the regular school day.*) No employee shall work more than the contracted number of days provided in the parties' bargaining unit Agreement. The total number of contractual days will vary depending on whether an employee is considered a ten month or a twelve-month employee.

Teachers and administrators working from a remote location will check their school email and voice mail and shall be available to students and families, or as otherwise directed by the administration during the timeframe listed above or for shorter intervals through various methods, including but not limited to email, voice mail, Google Classroom, or telephone.

Responsiveness

It is the Board's expectation that remote work/telecommuting takes place during the identified work day as outlined above. Communication via email, personal phone or other means may take place. It is expected that staff working during this time respond in a timely manner to requests for information and be productive employees. Lack of responsiveness on the part of the employee may result in termination of remote work/telecommuting responsibilities.

Productivity Measurement

Employee productivity will be measured on time spent on tasks and projects, response to emails, response to parents/vendors, and overall efficiency in project and task completion.

Equipment Required

The District will either provide a technology device for those who require remote work or provide the necessary technological assistance which will enable the employee to utilize his/her own computer equipment to access the Internet for continuation of required work. The Board urges caution in accessing the Internet from public places and in accessing information and content from networks outside of the District's service. Utilizing the Internet from public WIF is strongly discouraged in order to prevent compromising critical and sensitive student information and/or financial information. District technology support will continue to be available as needed. (**Optional:** The District will not support personal equipment and the employee uses such equipment at their own risk and direction.).

Remote/telecommuting work will cease when determined by the Superintendent or his/her designee.

Personnel – Certified/Non-Certified

Remote Work/Telecommuting Policy/Telework (continued)

Optional language to consider:

1. An employee's performance when teleworking will be monitored in the same manner as all employees at their assigned school or office.
2. The work location must be free of distractions, as much as possible, and the employee must be accessible by email and/or phone during work hours.
3. The Superintendent or his/her designee may authorize employees other than those identified as essential, who would otherwise report to work during emergency school closings, to instead work from an approved remote work location.
4. When schools are closed for the summer break, the Superintendent or his/her designee may authorize eligible employees to work from the alternate work location periodically on an agreed-upon schedule if they are not assigned summer school responsibilities.
5. Teleworking may be used when the completion of special project work requiring minimal interruptions is approved by the supervisor.
6. Teleworking may be used when unusual circumstances such as construction, accident, or natural disaster make the assigned work location inaccessible/uninhabitable.

Guidelines for Telework (Additional optional language)

1. Telework may not be used in lieu of taking sick leave.
2. Employees approved for telework must comply with all District policies and administrative regulations/procedures including contracts and work schedules, and meet all evaluation performance standards.
3. Work-related injuries that occur in the alternate work location must be reported to the supervisor and require adherence to the worker's compensation guidelines.
4. Employees are responsible for maintaining and protecting equipment on loan from the District. Equipment on loan shall be used for work-related purposes only and use is governed by the District's Acceptable Use Policy.
5. Employees are responsible for protecting all data and ensuring compliance with all regulations regarding confidentiality of materials.

Personnel – Certified/Non-Certified

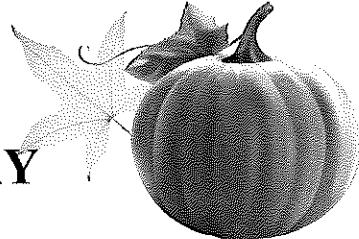
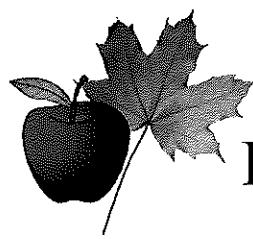
Remote Work/Telecommuting Policy/Telework (continued)

(cf. 4112/4212 – Appointment and Conditions of Employment)
(cf. 4113.1/4213.1 – Load/Scheduling/Hours of Employment)
(cf. 4113/4213 – Work Year)
(cf. 4115/4215 – Evaluation)
(cf. 4118.22 – Code of Ethics)
(cf. 4118.5/4218.5 – Acceptable Computer Network Use)

Legal Reference Connecticut General Statutes

10-221 Boards of education to prescribe rules, policies and procedures.

Policy adopted:
cps 11/20



POLICY UPDATE SUMMARY

PAGE 1

UPDATE MAILING No. 1

NOVEMBER 17, 2020

The following chart has been developed and summarized for your convenience. Please note that this does not represent all of what is required in your policy manual, and although some sections in this update may not require policy language, they may be procedural and/or recommended.

Update Section	Subject	Policy Number(s) Impacted	Policy Topic	Policy Required
A.	School Mascots and Other Identifications	1328	School Mascots	No A new optional policy and administrative regulation to consider.
B.	Crowdfunding, Revisited	3281.2	Online Fundraising Campaigns - Crowdfunding	No Two new optional policies and an administrative regulation to consider, plus previous sample.
C.	Title IX, Update	4000.1 5145.44	Title IX	Yes Two new versions of this required policy and an administrative regulation.
D.	Responding to Hateful Speech in Schools	0525	Hate Speech in Schools	No A new optional policy to consider.
E.	Remote Work/Telecommuting/ Telework	4113.6/4213.6	Remote Work/ Telecommuting	No A new optional policy to consider.

For an up-to-date list of "required" and "recommended" policies, visit us
on our website at <https://www.cabe.org/page.cfm?p=1163>

Connecticut Association of Boards of Education

81 Wolcott Hill Road ~ Wethersfield, Connecticut 06109
860-571-7446 ~ 800-317-0033 ~ Fax 860-571-7452



Connecticut Association of Boards of Education

Vincent A. Mustaro, Senior Staff Associate for Policy Services

PRESENTS POLICY HIGHLIGHTS

September 4, 2020

Volume 20 – Issue #5

Guidance Provided Regarding Fire Drills and Crisis Response Drills: C.G.S. 10-231 details the responsibilities of local school districts regarding the conducting of fire drills and crisis response drills. The Connecticut State Department of Education (CSDE) released **Addendum 8** to the **Adapt, Advance, Achieve** reopening guidance concerning fire and school safety during COVID-19. The **Addendum** is available on CABE's website.

The **Addendum** states, “During the 2020–21 school year, it will be necessary for schools to continue to perform drills while managing social distancing during evacuation and at designated assembly locations. Students and staff should be instructed that during an actual emergency, evacuation and safety are the first priorities and social distancing should be enforced only once students are outside any threatened structure or area and in a safe location.

Some of the key guidelines are as follows:

1. **Fire Drills** (i.e., building evacuations)
 - a. Conduct fire/evacuation drills as required to ensure staff and students understand how best to exit the building as quickly as possible while ensuring mask wearing and minimizing contact between individuals in hallways and stairwells.
 - b. Identify multiple designated assembly locations in safe areas that allow for students and adults to maintain social distancing while ensuring separation between cohort groups.
2. **Lockdown Drills** (i.e., shelter in place)
 - a. Conduct lockdown drills in classroom settings while maintaining social distancing and using masks.
 - b. Conduct lockdown drills in classrooms without hiding/sheltering in close proximity to each other but provide an overview of how to shelter or hide in the classroom during an actual emergency.
 - c. Conduct lockdown drills on a staggered schedule with smaller numbers of students present to maintain social distancing. However, schools must be certain that all students are receiving instruction in emergency procedures and participating in drills while they are in attendance in person.

3. Other Drills

- a. Additional preparation and planning activities to address other crises and situations should also continue, including but not limited to: table top exercises, lock-out drills, chemical exposures, and situations related to COVID-19.
- b. If conducting drills using a modified procedure, the drill must be conducted with all students in the school building on that school day and it may be necessary to conduct the drill during a class period that is extended for this purpose. If schools reopen with a hybrid in-person model, such as one in which students attend school on alternate school days to reduce the occupancy of the school building, schools must be certain that all students receive instruction in emergency procedures, and participate in drills while they are in attendance in-person.

4. Fire Doors

Fire doors must always remain closed unless equipped with a self-closing mechanism that activates when the fire alarm goes off.

5. Classroom Doors

Classroom doors can be open as long as: 1) the school building has a full sprinkler system; or, 2) the school safety plan includes language that these doors must be closed upon leaving the room.

6. Room and Space Partitions and Dividers

The use of both rigid and flexible plastic material in schools and classrooms includes the extension of existing half-height walls, sub-dividing larger spaces, and other protective barriers between people. The Connecticut State Fire Marshal has indicated that these materials will be permitted with some limitations regarding the installation as outlined below.

(Note: Shower Curtains and Shower Liners are not permitted.)

7. Rigid Material and Flexible Plastic (Polyethylene Sheeting):

- a. The use of fire-retardant polyethylene sheeting is recommended.
- b. The thickness should be sufficient for the intended application.
- c. The supporting method should ensure sufficient strength and stability.
- d. If hung from the ceiling, the material should allow a minimum of an 18" dropdown space from the ceiling to (a) assure proper air circulation (i.e., not impede the day to day air flow from the heating, ventilation and air-conditioning [HVAC] system), (b) so as not to affect automatic fire detection systems, (c) so as not to cause a sprinkler obstruction or delay in operation.
- e. If used as an extension of a half-height wall, the material should stop 18" from the ceiling for reasons stated above.

8. Use of Tents and other Membrane Structures

Chapter 31 of the 2015 International Fire Code Portion of Part III of the 2018 Connecticut State Fire Safety Code addresses the requirements and restrictions for using tents or other membrane structures for use as classroom space or to provide shelter for staff and students outside the school building. For additional resources and information, please visit the Office of the State Fire Marshal website.

Source: *Addendum 8 to Adapt, Advance, Achieve: Connecticut's Plan to Learn and Grow Together*, "Fire and School Safety During Covid-19, CSDE, August 24, 2020.

Policy Implications: Policy #6114.1, "Fire Emergency (Drills)/Crisis Response Drills," pertains to this topic. The policy and its accompanying administrative regulation clearly detail a school district's responsibilities conducting fire and crisis response drills to be in compliance with the statutes. This is a recommended policy for inclusion in a district's policy manual.

The aforementioned *Addendum* is operational, indicating the manner in which this policy is to be implemented during the COVID-19 emergency. It can, if a district so chooses, be added as a new section to the policy and/or administrative regulation, titled as "Implementation of Drills during COVID-19 Emergency."

Consider Homeless Education Requirements as School Reopen: As schools reopen in some format during this continuing COVID-19 emergency, local school officials must be mindful of provisions in the McKinney-Vento Homeless Assistance Act, as amended by the Every Student Succeeds Act, Pub. L. No. 114-95 pertaining to homeless students.

Districts must review and revise policies that act as barriers to the enrollment of children and youths experiencing homelessness, according to Section 722(g)(1)(I) of McKinney-Vento, which defines enrollment as "attending classes and participating fully in school activities (Section 725(1))."

"Therefore, if personal protective equipment (PPE) is required as a condition of returning to class, the school district must ensure that the requirement does not pose barriers to students experiencing homelessness," says SchoolHouse Connection Executive Director Barbara Duffield. "This might mean providing PPE directly, or ensuring that families and unaccompanied youth are able to obtain it."

Duffield says state education agencies are required under the law to "address other problems with respect to the education of homeless children and youths, including problems resulting from enrollment delays that are caused by uniform or dress code requirements (Section 722(g)(1)(H))." She notes that PPE requirements would be similar to a uniform or dress code requirements and would need to be addressed.

Schools should work with organizations, including other federally funded programs, to ensure the needs of homeless children and youths are met throughout the COVID-19 response.

Source: "Remember homeless education requirements for school reopenings," by Johnny Jackson, *District Administration*, June 23, 2020.

Policy Implications: The Every Student Succeeds Act (ESSA) reauthorized Title IX, Part A, the McKinney-Vento Homeless Assistance Act. Every school district is required to designate a homeless liaison. A local liaison is the local staff person responsible for working with homeless education issues in the school district.

Liaisons are responsible for ensuring the identification, school enrollment, attendance and opportunities for academic success of students in homeless situations. Some of these activities may be accomplished by the liaison himself or herself, while others are accomplished by coordinating the efforts of other staff. By linking students and their families to school and community services, liaisons play a critical role in stabilizing students and promoting academic achievement at the individual, school and district level.

The State Department of Education has stated, “Where a district has valid proof of residency requirements, it must exempt from those requirements all children and youth who are considered homeless. These children and youth have a right to enroll in school, even if their families cannot produce the documents that would otherwise be required to prove residency. The McKinney-Vento Act defines the term “homeless children and youth” as including, in part, “children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement,” as well as children of migratory agricultural workers.”

If assistance is required in matters relating to the Education of Homeless Children and Youths Program, the Connecticut State Department of Education can be contacted at 860-807-2058 or consult their Website.

Policy #5118.1. “Homeless Students” pertains to this topic. It is a mandated policy for inclusion in a district’s policy manual.

Priority Needs to be Given to SEL: Schools that attempt to start the year with something other than social-emotional learning are “going to lose,” says Ralph Simpson, deputy superintendent in Clayton County Public Schools in Georgia. As teachers restart learning this new school year, they should focus on student social-emotional learning, or SEL, before trying to make up for learning loss, educators and other experts say.

Students and staff will need to process the emotions and traumas experienced over the last several months before instruction can resume effectively. “We don’t want to start the year off by testing students, we want to start the year off by connecting with students,” says Ebony Lee, assistant superintendent for curriculum, instruction and assessment at Clayton County Public Schools.

Lee, and many of her colleagues across the country, say re-establishing relationships between students and educators will be the priority for the first few weeks of school. Research done in the wake of Hurricane Katrina showed that students struggled when schools focused too quickly on remediation, rather than social-emotional needs.

“Students and their teachers will need to discuss the pandemic’s personal impact, and then build on that foundation to develop core competencies such as self-awareness and social-awareness,” Simpson says. “Some of these discussions may be controversial as teachers and students from different ethnic backgrounds share their experiences of COVID, the killing of George Floyd and other pressing issues.”

Source: “Why social-emotional learning must come first when schools reopen,” by Matt Zalaznick, *District Administration*, July 7, 2020.

Policy Implications: Connecticut has placed a statewide emphasis on the importance of social and emotional learning for students and staff in its school year reopening plans.

Two policies which relate to this issue as the new school year begins are #6142.102, “Social and Emotional Learning (SEL),” and policy #6142.103. “Trauma Informed Schools.” These are recommended policies for your consideration.

Food for Thought:

“In the high school classroom you are a drill sergeant, a rabbi, a shoulder to cry on, a disciplinarian, a singer, a low-level scholar, a clerk, a referee, a clown, a counsellor, a dress-code enforcer, a conductor, an apologist, a philosopher, a collaborator, a tap dancer, a politician, a therapist, a fool, a traffic cop, a priest, a mother-father-brother-sister-uncle-aunt, a bookkeeper, a critic, a psychologist, the last straw.”

Source: Frank McCourt in *Teacher Man* (2005), p. 19



Connecticut Association of Boards of Education

Vincent A. Mustaro, Senior Staff Associate for Policy Services

PRESENTS POLICY HIGHLIGHTS

September 18, 2020

Volume 20 – Issue #6

Face Mask Policy Updated, Again: Two recent actions by the State Department of Education (SDE) necessitated revisions to the face masks/coverings policy. The SDE issued “Addendum 11” on August 31, 2020 and “Volume 3” of its “Frequently Asked Questions Regarding Reopening K-12 Public Schools” series on September 2, 2020. Governor Lamont’s Executive Order 7NNN, issued on August 14, 2020, mandated the wearing of face masks/coverings, with limited exemptions for those with a medical condition. This order requires the use of face masks/coverings for all students and staff when they are inside any school building. Schools are required to provide a face mask to any staff member or student who does not have one on any given school day or be prepared to deny entry to individuals who arrive at a school without a face covering. SDE also indicated that the facial coverings may also be required in certain situations outside the school building, including during outdoor instruction, extracurricular curricular activities, arrival and departure from the school and on school buses.

Originally, the medical exemption required written documentation from a licensed medical provider, the Department of Developmental Services or another state agency providing or supporting services to people with disabilities. The documentation did not need to name or describe the qualifying condition. Additional qualifying information is provided by the SDE documents of August 31 and September 2.

The SDE stated that the need for the medical exemption “is rare.” It believes such exemptions “are generally limited to individuals suffering from severe chronic obstructive pulmonary disease (COPD) such as might be seen with cystic fibrosis, severe emphysema, heart failure, or significant facial burns that would cause extreme pain or interfere with the healing of a skin graft.” Further stated by SDE was “mild or intermittent respiratory or other common conditions such as asthma, cardiovascular diseases, kidney disease, or other similar conditions are generally not contraindications to the wearing of loose-fitting face coverings.” In short, the medical exemption has become more restricted. Regrettably, this information became available after schools notified parents of the face mask policy and the allowed exemptions to the policy.

“Addendum 11” also provided additional information pertaining to the wearing of masks by teachers. It noted that teachers should wear a face mask/covering at all times in schools “except for in the rare circumstances where face covering is detrimental to the specific instruction being given.” The “Frequently Asked Questions” guidance elaborates on when the mask can be removed by a teacher.

It provides that “when the wearing of a face mask is problematic (i.e., when the teacher’s and student’s mouth must be visible during speech therapy, when a child with hearing loss needs to read lips, etc.) other appropriate control measures should be implemented, including ensuring proper social distancing and/or the use of physical barriers between students and staff.” It remains unclear whether teachers can be allowed to not wear a mask for their entire class session.

The “Frequently Asked Questions” document also provided some additional information regarding mask breaks for students. It stated that mask breaks outdoors are best. Mask breaks indoors must be done with social distancing maintained, in well-ventilated areas and with everyone facing in the same direction. It is suggested such breaks be limited to no more than 15 minutes.

The additional information provided by the SDE also indicates that students not wearing a face mask should not be sent to the school’s isolation room.

Policy Implications: As additional information is made available by the SDE, the face mask/covering policy will be updated. Policy #4118.237/5141.8 has been revised, due to the additional information for the second time since it was first issued. It is available upon request. The revised policy has also been posted on the CABE website in the member section under “Hot Policy Topics.”

Special Education Policies Revised: As a result of a court decision, *A.R. v. Connecticut State Board of Education*, all students with disabilities who have not yet turned 22 years of age and who have not received a regular high school diploma, remain eligible for special education services under the Individuals with Disabilities Education Act (IDEA) up until their 22nd birthday or until they graduate from high school with a regular high school diploma, whichever occurs first.

Districts must contact all adult students and parents impacted by this court decision and advise them that they remain eligible for special education services under the IDEA until their 22nd birthday, as outlined in their IEP until they turn 22 years of age or they graduate with a regular high school diploma, whichever occurs first. This includes continued eligibility for students who were already exited under IDEA because of turning 21 during the 2019-2020 school year, in accordance with then effective state law.

The ruling found that because Connecticut provides public education to non-disabled individuals over the age of 21 in the form of adult education and GED programs, it must offer something similar for special education students.

Policy Implications: Policy #6159, “Individualized Education Program/Special Education Program,” and policy #6171, “Special Education,” are impacted by this decision. They have been revised to be in compliance with this court ruling and directives from the State Department of Education. They are available upon request. It is mandated to have a policy pertaining to special education. Either one of these policies fulfills that obligation.

Required Title-I Notifications: Schools are implementing fundamentally different ways of educating students during the COVID-19 pandemic. However, Title I schools must still ensure that they provide parent notifications required by the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, Pub. Law No. 114-95, in a timely manner as the new school year has started.

Listed below are the notifications to be sent to parents and their families at the beginning of the school year:

1. Notice 1 – Parent and family engagement policies

Districts must distribute their respective parent and family engagement policy to parents. (ESEA Section 1116(a)(2) and Section 1116(b)(1))

2. Notice 2 – Complaint procedures

Districts must disseminate to parents the state educational agency's written procedures for filing complaints about violations of the Title I statute. (ESEA Section 1112(e)(1)(A) and Section 1112(e)(1)(B)(ii))

3. Notice 3 – Teacher and paraprofessional qualifications

Districts must inform parents of each child in a Title I school at the beginning of every school year of their right to request information on the professional qualifications of their children's classroom teachers and paraprofessionals providing instructional support. Schools must notify parents if a child is taught for four consecutive weeks by a teacher who does not meet state certification. (ESEA Section 1112(e)(1)(A) and Section 1112(e)(1)(B)(ii))

4. Notice 4 – Annual meeting

Title I schools must notify parents of the required annual meeting and their right to request additional meetings. (ESEA Section 1116(c)(1) and Section 1116(c)(2))

5. Notice 5 – Title I Information

Title I schools must provide information to parents about the Title I, Part A program. – (ESEA Section 1116(c)(4))

6. Notice 6- English learner students

Districts are required to notify parents within 30 days if a child is placed in a Title I-funded program for limited-English-proficient students. Specifically, they must be told the reasons for the identification, including the child's level of English proficiency, how it was assessed, and the status of the child's academic achievement.

Schools must tell parents of alternative programs that they can opt out of entirely. This notice must be provided in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand. (ESEA Section 1112(e)(3)(A))

Source: "6 notifications to send to parents and families now," by Charles Hendrix, *District Administration*, September 4, 2020.

Policy Implications: Policy #6172.4, “Parent and Family Engagement Policy for Title I Students,” pertains to this topic and provides information pertaining to most of the above stated requirements. This is considered a mandated policy for inclusion in a district’s policy manual. Several versions of this policy are available. Policy #4222.1, “Title I Paraprofessionals,” pertains to the issue of paraprofessional qualifications. Policy #4111/4211, “Recruitment and Selection,” also pertains to the issue of teacher qualifications. Policy #6141.311, “Program for Limited English Proficient Students,” speaks to the issue of English learner students.

Busing Realities to Recognize:

“You take the nation’s largest system of mass transit and shut it down overnight – that’s going to have a ripple effect,” says Mike Martin, executive director of the National Association for Pupil Transportation. Martin was a co-administrator on a project that pulled the school bus transportation industry together in an effort to help school district leaders plan for fall reopenings.

Formed in mid-May, the Student Transportation Aligned for Return to School (STARTS) Task Force released a 70-page report, featuring 27 guidelines and more than 250 individual tasks for consideration when determining how or whether to implement the guidelines for a district’s operation. Charlie Hood, executive director of the National Association of State Directors of Pupil Transportation Services, as well as another STARTS co-administrator, suggested that superintendents become familiar with the report.

With the primary assumption that transportation is integral to education, administrators leading districts, believes Hood, must know the following nine realities about bus transportation as decisions about this area, and others, are made.

1. An initial reopening plan is simply that, initial. Changes will need to be made as school district reopening plans evolve.
2. Nearly all policy decisions have a trickle-down impact on busing.
3. Transportation pivots can’t happen overnight, especially as school plans are subject to change based on health data. Re-establishing bus routes and stops, even with routing software in use, requires a constant eye for safety, and last-minute information often requires modifications, while ensuing health protocols are in place.
4. Pivots requiring extra buses would likely take even longer. Transportation companies don’t have a large number of extra buses. The procurement process is sure to take time. Staffing is also an issue. “It takes time to train and license a driver.”
5. Transportation staffing levels could fall to a point where busing can’t operate. The STARTS Task Force kept staff safety top-of-mind when doing its work. At some point operations would halt if too many staff got sick or didn’t feel comfortable continuing in their work.
6. Managing transportation, especially now, requires a lot of collaboration. With any aspect of school operations, including busing, the pandemic has made it more critical to listen to employees and stakeholders at all levels.
7. Delayed reopenings may kill transportation funding. There are massive implications from an operational and financial standpoint.

8. COVID-related data reporting requirements are approaching. It would probably be beneficial for a superintendent or business official to forecast their administrative requirements and then work to set up the data collection infrastructure.
9. Transportation officials and drivers are ready to step up. They are well-trained professionals.

Source: "Bus stops: 9 school busing realities to recognize," by Melissa Ezarik, *District Administration*, September 8, 2020.

Policy Implications: Policies in the series 3541 pertain to the many aspects of school transportation. I am confident that school superintendents and business managers are well aware of these realities.

Food for Thought:

"Children will need a trusted adult with whom to share their troubles. Research on previous disasters shows that a teacher is most likely that trusted adult, but whether that teacher's response is supportive determines whether students' well-being improves."

Source: Micere Keels in "Preparing Educators for the Challenge Ahead." *Education Update*, August 2020 (Vol. 62, #8, pp. 1, 4)



Connecticut Association of Boards of Education

Vincent A. Mustaro, Senior Staff Associate for Policy Services

PRESENTS POLICY HIGHLIGHTS

October 2, 2020

Volume 20 – Issue #7

COVID-19 Travel Advisory Policy Modified: Governor Lamont recently issued Executive Order 9C which made some changes to the required 14-day self-quarantine for travelers coming to or returning to Connecticut from certain designated states or countries with a high positive case rate. The Executive Order provides travelers the option of producing proof of a negative COVID-19 test as an alternate to the self-quarantine requirement. The test must be completed within 72 hours prior to arrival in the state or at any time following entry into Connecticut, subject to some conditions.

Policy Implications: Dual codified policy #4118.238/4218.238, 5141.81, “Self-Quarantine Policy/Regional Travel Advisory,” applicable to personnel and students, has been revised to comply with the new Executive Order. It is available upon request. It is also posted under “Hot Topics in Policy” in the member section of the CABE website.

Deadline for Sexual Harassment Prevention Training Extended: The Connecticut Commission on Human Rights and Opportunities (CHRO) has extended the deadline by which all district employees are required to complete sexual harassment prevention training. Previously, the training was to have been completed by October 1, 2020.

P.A. 19-16, “An Act Combatting Sexual Assault and Sexual Harassment,” made several changes concerning sexual harassment, sexual assault, discrimination complaints filed with the Commission on Human Rights and Opportunities and related matters. The Act specified the sexual harassment training and information requirement includes anyone employed by an employer, including someone employed by his or her parent, spouse, or child.

This legislation expanded requirements for employers to train employees on sexual harassment laws and required CHRO to make related training materials available. Previously, employers with at least 50 employees were required to provide supervisory employees with two hours of training on federal and state sexual harassment laws and remedies available to victims. This legislation expanded this requirement to cover employers of any size and also non-supervisory employees for employers with at least three employees. The new statute indicated the training to be completed by October 1, 2020, one year after the effective date of the legislation.

CHRO was required to develop and make available a free, online training and education video or other interactive method that fulfills the Act’s training requirements. In addition, employers required to provide this training must provide supplemental training at least every 10 years to update employees on the content of the training and education.

By virtue of the Governor extending the pandemic state of emergency through February 2021, the deadline for the training has been extended to January 1, 2021.

Employers with three or more employees are also required to post in a prominent and accessible place a notice stating that sexual harassment is illegal and the remedies available to victims. This statute also requires employers to send a copy of this information to employees by email within three months of their hire if the employer has provided an email account to the employee or the employee has provided the employer with an email address. If an employer has not provided email accounts to employees, it must post the information on its website, if it has one.

A financial penalty can be imposed if an employer fails to provide the training and education as required.

Policy Implications: Policy #4118.112/4218.112, “Sexual Harassment” and its accompanying administrative regulation and forms pertain to this topic. This is a recommended policy for placement in a district’s policy manual. Versions are available upon request or can be found in the CORE Manual posted on the CABE website.

Livestreaming Classes and Privacy Issues: Many school districts have started the new school year with a hybrid approach to school scheduling. In some cases, teachers are simultaneously instructing students physically present in their classrooms with students who are at home, via livestream. Therefore, in such an arrangement, everyone, whether in class or remote, listen to the same lesson, ask questions, and receive feedback on independent work. Students engaged in remote learning see their classmates and feel part of the same community.

However, concern has been voiced about the privacy implications of broadcasting a classroom. Some voice a concern that live streaming violates FERPA, which protects personally-identifiable information from student educational records from disclosure to third parties. Attorney Thomas Mooney, addressing this issue stated “Live streaming per se, however, does not implicate FERPA because it is simply instruction, not disclosure of student records.”

The U.S. Department of Education, through its Student Privacy Policy Office (SPPO) provided guidance on this issue. It advised that third party visitors, such as parents or caregivers, can be present and observe a virtual lesson without violating FERPA provided personally-identifiable student information from educational records is not disclosed during the virtual lesson. The Agency recommends that school districts discourage visitors/non-students from observing virtual classes. A student’s face merely appearing in a video doesn’t necessarily mean that video would be considered part of his/her education record. FERPA is not violated when parents/guardians observe a live-streamed lesson.

Schools that want to livestream classrooms should provide professional development around FERPA to ensure student privacy is not compromised.

Source: “As Teachers Livestream Classes, Privacy Issues Arise,” by Sarah Schwartz, *Education Week*, September 9, 2020.

Source: “CAS Legal Mailbox Question of the Week,” by Thomas B. Mooney, September 11, 2020.

Policy Implications: Policy #5125, “Student Educational Records/Annual Notification of Parent/Student Rights,” pertains to this topic. This is a mandatory policy for inclusion in a district’s manual.

Study Considers the Role of Disciplinary Policies on School Shootings: Following the two horrific school shootings in 2018 in Parkland, Florida and Santa Fe, Texas questions have been raised as to whether discipline policies are linked to school shootings and/or whether alternative practices to suspension and expulsion make it more likely that a school could be targeted by an assailant or an angry student.

The Government Accountability Office (GAO) examined K-12 school shooting data over a 10-year period. The office focused its research on 318 school shootings that occurred between 2009-2019 and resulted in 166 fatalities.

Education and Labor Committee Chairman Robert C. “Bobby” Scott, D-Va., and Judiciary Committee Chairman Jerrold Nadler, D-N.Y., requested the report and asked the GAO to examine the relationship between school shootings and student discipline. Scott said the report is the first government-mandated collection of data on school shootings.

The GAO analyzed data on school shootings and school characteristics from 2009-2019, conducted a literature review to identify empirical research from 2009 to 2019 that examined discipline approaches in school and their impact on school gun violence, school violence, or school safety and interviewed researchers about the challenges and limitations of conducting research on school discipline and school shootings.

The comprehensive report indicated that school-related shootings that are the result of a dispute or grievance occur more often in schools in poor, urban settings that have a greater percentage of minority students. Wealthier schools in suburban and rural settings with fewer minority students saw more gun-related suicides and shootings that targeted staff and students, which led to higher fatalities per incident during that same time period, according to the report.

The GAO found the majority of school shootings result from disputes or grievances, such as conflicts between students or staff, or between gangs. The next most common type of shooting at school is accidental. Additionally, GAO staff did not find empirical research in the last 10 years that directly examines the link between approaches to school discipline, whether exclusionary or nonexclusionary, and school shootings specifically.

Previously, the GAO reported that exclusionary discipline, such as suspensions and expulsions, disproportionately affects boys, black students, and students with disabilities. “It is difficult to isolate the effect of any one variable in a school shooting, such as the role of school discipline, because multiple and complex factors affect an individual’s propensity toward violence, shootings have many types of shooters and many possible causes, and researchers have so few comparable cases to study,” the report states.

The GAO indicated research promotes the use of nonexclusionary approaches, which include positive behavior supports, trauma-informed practices, social and emotional learning, and restorative justice, to address problematic behavior. Such approaches do not eliminate the need for suspensions and expulsions, but may help reduce districts’ reliance on them, voiced the GAO.

Professor Jessica Dirsmith of Duquesne University believes schoolwide positive behavioral interventions and supports provide effective schoolwide school violence prevention practices as well as evidence-based interventions that are responsive to student needs.

She stated “Grounded in decades of research, and shown to impact a number of important student-level and systems-level outcomes, including creating and maintaining safe and supportive schools, these practices aim to create safe environments by promoting positive change in student behavior.”

The GAO report does not offer any recommendations but thoroughly examined school shooting data by type, location, time of day, school year, and relationship of the shooter to the school community. GAO researchers defined a school shooting as “Any time a gun is fired on school grounds, on a bus, during a school event, during school hours, or right before or after school.”

Takeaways from GAO report

The research focused on 318 school shooting incidents from 2009-2019. Listed below are the key takeaways from the research:

- **Region.** School shootings occurred nationwide in every state except West Virginia and Wyoming. Half of all school shootings over the past 10 years occurred in the South and the greatest number of school shootings occurred in Florida (24), Texas (24), and Georgia (23).
- **School level.** Most school shootings occurred in high schools, where incidents were most often related to disputes and grievances, school-targeted shootings, and suicides. In middle schools, accidental shootings and shootings related to disputes and grievances were the most prevalent. In elementary schools, most shootings were accidental.
- **Location.** Most (61 percent) of school shootings occurred outside the school building. When shootings occurred outside a school building, disputes and grievances were the most prevalent reasons. When shootings occurred inside school buildings, they were most commonly accidental. Shootings that occurred inside a school building were, on average, three times deadlier per incident than shootings that occurred outside the school building.
- **Shooter.** Half of the school shootings were committed by a student or former student. The other half were committed by individuals with no relationship to the school or whose relationship was unknown. With school shootings that were accidental, a suicide, or school-targeted, the shooter was more often a student or former student. However, when the shooting was the result of a dispute or grievance, the shooter was a non-student in most cases.

Source: “Exclusionary school discipline approaches not effective at preventing school violence,” by Kara Arundel, *District Administration*, July 21, 2020.

Policy Implications: The trust of this GAO study is impacted by many policies. Policies which relate to this topic include, but not limited to, the following:

- #’s 5114, 5131, 5144 pertaining to Suspension/Expulsion, Conduct, Discipline
- #5131.7 – Weapons and Dangerous Instruments
- #5131.9 – Gang Activity or Association
- #5141.5 – Suicide Prevention/Intervention
- #5144.12 – Restorative Justice Approach

- #5144.5 – Progressive Discipline and Discipline of Students
- #6114.7 – Safe Schools
- #6142.102 – Social and Emotional Learning
- #6142.103 – Trauma Informed Schools

Food for Thought:

“In ordinary times, teaching is a never-ending struggle to decide what to say and what not to say, when to push and when to back off, when to continue a lesson and when to move on. But how, in our present world, does one make such judgments? How does one read the body language, facial expressions, and social cues of children wearing masks and sitting six feet apart, or peering through laptop computers? There’s no guidebook for teaching in a pandemic. This will be a year of dizzying uncertainties, and teachers will need all the resources and supports we can give them.”

Source: Rafael Heller in “How Will Teachers Manage to Teach This Year?” in Phi Delta Kappan, September 2020 (Vol.102, #102, P.4



Connecticut Association of Boards of Education

Vincent A. Mustaro, Senior Staff Associate for Policy Services

PRESENTS POLICY HIGHLIGHTS

October 16, 2020

Volume 20 – Issue #8

Virtual Learning May Impact Snow Days: Schools, forced to cancel in-person classes because of the pandemic, have become more comfortable with remote teaching. That might mean the end of the “snow day.” For generations, snow days meant sleeping in, loafing in front of the TV with hot cocoa, and hours of sledding and snowball fights. Now, they are likely to mean logging into a laptop for a Zoom lesson on long division.

As the weather cools and winter looms, many school leaders in snow-prone states, are preparing teachers, parents and students to say goodbye to snow days. New York City, has canceled them for the year, because of the pandemic. The conversation has also started in Connecticut on this issue.

New York’s decision followed moves that districts have been making, when schools transitioned to online learning and officials realized they could do the same during hazardous weather. Many people believe virtual learning could be used during hazardous weather also. Some educators believe the end of the snow day looks inevitable.

However, nostalgia remains strong for some. Snow days growing up were like a “pause on real life and a chance to let kids be kids,” said Lauren Higgins, the mother of a 5-year-old boy and 3-year-old girl in Hingham, Mass. “I can imagine a situation where kids no longer cross their fingers watching the weather late at night,” she said. “And it’s a bummer.”

The cancellation of school due to bad weather has always been a thorny issue for school administrators. Virtual learning poses a potential alternative to snow days.

The Shakopee Public Schools in Minnesota in 2018 initiated “connected learning days” using virtual instruction when the weather forced school closures. Prior to the decision to implement the program the district had been cancelling classes eight to ten times a year.

The district believed, as many do, that taking away snow days seemed like a better solution than tacking on days at the end of the school year, placing students into hot classrooms and causing the disruption of summer plans.

States such as Pennsylvania, Ohio and West Virginia have also redefined snow days as virtual learning days to avoid delaying the end of the school year, said Daniel A. Domanech, Executive Director of the American Association of School Administrators (AASA).

Some also state that since the pandemic has forced many employers to embrace working from home, schools should follow suit. Current snow day cancellations provide difficulties for working parents. However, the pandemic has caused every day to be a snow day. The tradition of snow days has led us to forget what could be done with technology. The pandemic has caused us to embrace what we do in a work environment and a school environment.

Jessica Tang, President of the Boston Teachers Union in Massachusetts, said that any changes to teachers' working conditions would have to be negotiated. But she agreed that the pandemic had shown that virtual learning could be a practical solution to a variety of problems. "It would be a huge mistake if we tried to just go back to what we were doing before," she said.

However, Ms. Tang indicated that there are unintended consequences to cancelling snow days that must be considered by school districts. It is essential to make sure that every student has access to a computer and internet. Further, it needs to be considered if the storm necessitating the closure has not caused a loss of power impacting online access ability.

In addition, online teaching could be extremely stressful for faculty members with older parents whose home health aide could not come to work because of a storm, Ms. Tang said.

Marci J. Swede, dean of the School of Education and Health Sciences at North Central College in Naperville, Ill., said many students in college were parents themselves. A snow day that disrupts day care could put those students behind if they have to skip online class to care for their children "We have to have some compassion for the complexity of the students' and the teachers' lives," Ms. Swede said.

Students may consider it as a "birthright" to experience the unexpected treat of snow days. Many people have fond and fun memories of their snow days. Those days became a respite from the stress of schoolwork, providing a break at a time when more and more work is being placed on students.

Ms. Swede, said that snow days were the rare time when everyone — students, faculty and their supervisors — felt comfortable taking a sudden break. "It's kind of nice sometimes, when we all kind of have that pause button and we all can just take a moment and breathe a little bit and not feel guilty about it," she said. "There are very few times in our lives when we have enforced downtime."

Mr. Redmond, a Minnesota superintendent, said that after he did away with snow days, it was parents, not teachers, who mourned the loss. "My kid might never have a snow day" was a common refrain, he said.

Source: "Sorry, Kids. Snow Days Are Probably Over," by Maria Cramer, *New York Times*, September 25, 2020.

Policy Implications: The topic of remote learning in lieu of "snow days" or days school needs to be cancelled due to inclement weather has been a topic of thought and discussion among Connecticut superintendents. This issue was also discussed at a recent meeting of the State Board of Education (SBE).

There are some legal issues which must be addressed if this concept if to come to fruition. The SBE directed the staff of the State Department of Education to develop guidelines for the SBE to consider regarding this concept. It will likely be discussed soon at an upcoming SBE meeting. We will continue to monitor this topic.

The district's policy pertaining to the school calendar would be impacted if a change is permitted regarding school cancellation days. Policy #6111, "School Calendar" pertains to this topic.

Schools Targets of Cyberattacks: Since late July, many school districts in the United States, from California to New Jersey, have been victims of cyberattacks. Such attacks have caused school districts to shut down virtual instruction. Cyberattacks on school districts are not new. The K-12 Cybersecurity Research Center indicated there have been nearly a thousand such incidents since January 2016.

The Hartford Public Schools had to postpone the first day of school on September 8, both virtually and in person, after the city was hit by an attack that affected multiple school district systems, including one used to communicate transportation routes for buses.

Alyson Klein in *Education Week* stated, "But as schools nationwide are engaged in full-time remote instruction or a hybrid of in-person and virtual learning, such attacks are arguably even more disruptive, both to students' educational as well as social and emotional needs." A cyberattack can have an outsized impact on schooling. A cyber incident that occurs in times of remote learning causes the loss of online access for staff and students and stops teaching and learning in its tracks. In addition, it adds to what is already a tense and difficult time for school districts.

Regretfully, such attacks appear to be increasing this school year. Doug Levin, the founder and president of the K-12 Cybersecurity Resource Center, reported that "this school year there have been, on average, two hacks a day." Levin stated, "Cybercriminals have been getting more savvy about how to target school districts."

The attacks have placed a heavy burden on school administrators as they grapple with whether it's safe for students and teachers to return in person and whether schools are prepared to handle social distancing and other requirements.

School information technology staffs, meanwhile, have been consumed with the transition to virtual learning, making districts even more vulnerable to hackers, experts say.

For years, cybercriminals who launched ransomware attacks typically encrypted data and demanded ransom, usually in bitcoin, a cryptocurrency, in exchange for a decryption key. They didn't access the data or make it public. Experts now believe that has been changing. A growing number of cybercriminals are getting ahold of the data and threatening to make public sensitive information if they don't get their money. "They're using data as additional leverage to extort payments," said Brett Callow, a threat analyst for global cybersecurity company Emsisoft.

Ransom demands also have skyrocketed, cybersecurity experts say. Criminals who used to demand a few thousand dollars now are asking for an average of \$150,000 to \$250,000, according to Callow.

Attention must be given to the prevention of such attacks. Levin suggests that school districts should advocate for resources to help build up their IT capacity and team up with nonprofits for cyber security monitoring and partner with other school systems. Having a cybersecurity firm on retainer that can help with recovery and forensics is also suggested.

Source: "Cyberattacks Disrupt Learning Even More During COVID-19," by Alyson Klein, *Education Week*, September 30, 2020.

Source: "Cybercriminals Strike Schools Amid Pandemic," by Jenni Bergal, *Stateline Article, PEW Charitable Trusts*, September 22, 2020.

Policy Implications: Schools and school districts, which face a myriad of challenging hazards and threats, must also prepare for cyber threats. Such incidents disrupt education and critical operations, expose sensitive personally identifiable information of students, teachers and staff, and can lead to high recovery costs.

Cybersecurity is a significant and growing issue as cyber-attacks continue to escalate and succeed. Technology has enhanced record keeping, communication and teaching, but a cyber-attack on a vulnerable technology system can cripple public school operations and result in the theft of student, parent and other sensitive information, and in this pandemic situation, cripple the teaching process.

The threat is many faceted. Often overlooked is the fact that students and staff can be and are frequent sources of cybersecurity problems. School districts have spent heavily on digital devices, software and bandwidth, but little in cybersecurity.

In recognition of this growing problem, the National School Boards Association (NSBA) introduced an initiative aimed at providing community leaders, including school board members, with resources on cybersecurity. NSBA created Cyber Secure Schools, an initiative that provides information in key areas and resources. Two timely publications pertaining to this issue published by NSBA are "Data Security for Schools - A Legal and Policy Guide for School Boards," and "School Board Communication at Risk." These can be downloaded from the NSBA website.

Another source of information and assistance is CoSN, who in conjunction with Mass Networks Education Partnership in Allston, Mass. has produced the "Cyber Security for a Digital District" program. (<http://www.cosn.org/sites/default/files/8QuestionsCS.pdf>). This source contains a list of questions for administrators to ask about cybersecurity, a security self-assessment checklist and eight questions the superintendent should direct toward his/her chief technology officer.

Several policies pertain to this topic. They include the following:

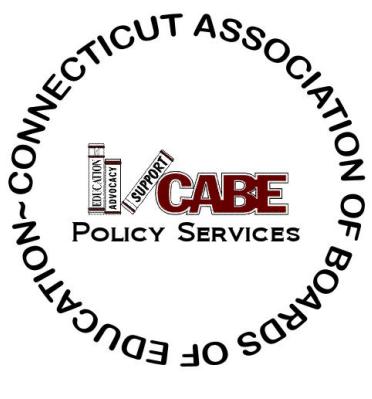
- P3520.14- Cybersecurity (with an accompanying administrative regulation)
- P3520 - Data Processing Services
- P3520.1 - Information Security Breach and Notification
- P3520.11 - Electronic Information Security
- P3520.12 – Data-Based Information Management System
- P3520.13 - Student Data Protection and Privacy/Cloud-Based Issues

USDA Extends Free Meal Program: On October 9, 2020, The U.S. Department of Agriculture (USDA) announced that it would extend flexibilities to allow free meals to continue to be available to all children throughout the entire 2020-2021 school year. Specifically, USDA's move will enable school districts to continue to leverage the Summer Food Service Program (SFSP) and the Seamless Summer Option (SSO) to provide no-cost meals to all children, through June 30, 2021. Additionally, the move will permit districts to serve meals outside of the typically required group settings and meal times; waive meal pattern requirements, as necessary; and allow parents and guardians to pick-up meals for their children through June 30, 2021.

More details on this extension are accessible by clicking [here](#).

Policy Implications: Policies pertaining to food services are found in the 3542 codification series.

Source: "USDA Extends Free Meals for Kids for 2020-21 School Year," by Chris Rogers, *AASA's The Legislative Corps*, October 12, 2020.



Connecticut Association of Boards of Education

Vincent A. Mustaro, Senior Staff Associate for Policy Services

PRESENTS POLICY HIGHLIGHTS

November 13, 2020

Volume 20 – Issue #10

Weather Related Closures Permitted as Remote Learning Days: The October 16, 2020 issue of *Policy Highlights* discussed the possibility of using remote learning when weather would cause the need to cancel school and call a “snow day.” It was indicated that schools, forced to cancel in-person classes because of the pandemic, had become more comfortable with remote teaching. That might mean the end of the “snow day.”

The topic of remote learning in lieu of “snow days” or days school needs to be cancelled due to inclement weather has been a topic of thought and discussion among Connecticut superintendents. This issue was discussed at a recent meeting of the State Board of Education (SBE).

The SBE meeting held on October 7th, 2020, approved for the duration of the 2020-2021 school year the ability of superintendents to choose to treat “snow days” as a Remote Learning Day (RLD) or as a day to be made up later in the school year as was the previous practice. Commissioner Cardona, in a memorandum to superintendents, dated October 27, 2020, on this issue, stated, “When necessary, districts can decide to provide all students with remote learning on those days in a manner that is consistent with the regulatory requirements outlined in *Adapt, Advance, Achieve* and *Addendum 12*. This decision will be made at the local level led by the superintendent in consultation with local officials.”

The Commissioner also indicated that a “snow day” is intended to limit student movement to and from school due to unsafe conditions. A RLD snow day remains a work day for all faculty and staff. It is recognized that consideration needs to be given to the number of students and faculty experiencing power or internet outage circumstances before declaring a remote learning day when closed for inclement weather.

The State Department of Education (SDE) in collaboration with Connecticut superintendents, CAPSS and other educators developed a guidance to assist superintendents and districts in this decision-making process.

Policy Implications: Policy #6114.6, “Emergency Closings,” has been revised to include this new option for the duration of the 2020-2021 school year. The SDE promulgated “*Guidance for Consideration when Implementing Remote Learning Days due to Inclement Weather*,” has been added to the policy as an appendix providing much useful information to consider. The revised policy and appendix are available upon request. It has also been posted on the CABE Website in the Policy Section for members under “Hot Topics in Policy.”

Update Provided regarding “Snow Days” and Food Service: On October 27, 2020, the State Department of Education (SDE) released the memo “Weather Related Closures as Remote Learning Days.” The following was included in that memo: *Districts are required to align with the guidance outlined in Addendum 13 to provide meals to students on Remote Learning Days in place of a called “snow day.”* Addendum 13 includes a number of strategies for districts to consider in order to increase student access to and participation in school meals.

Districts determining how to provide meals to children during weather related closures (weather/snow days) should be aware of the following:

1. While the SDE strongly encourages districts to make nutritious meals available to students to support their academic achievement and emotional well-being, districts **are not required** to provide meals on weather/snow days regardless of how the district is considering the day (as a school day with remote learning or as a cancellation).
2. **If the weather/snow day is counted as a school day**, meals can be made available that day or provided day(s) before, with the intent to be consumed on the weather/snow day, and be reimbursed.
3. **If the weather/snow day is not counted as a school day**, meals can be made available and reimbursed **only** if the district has opted into the Summer Food Service Program (SFSP) or Seamless Summer Option (SSO) under the federal Child Nutrition Program waivers (instead of the traditional National School Lunch Program and School Breakfast Program models).
4. **If the weather related cancellation is called off** and school is actually in session and the district has provided meals the day(s) before in anticipation of the weather/snow day, the district cannot also be reimbursed for meals served to in-person learning students for whom meals were provided (i.e., the district cannot serve and be reimbursed for double meals for the same day.)
5. Districts should clearly communicate their policies for providing meals during weather/snow days to families.

The updated Addendum 5 has been added to CABE’s online COVID-19 Resource webpage at <https://www.cabe.org/page.cfm?p=1512>.

Policy Implications: Policies in the #3542ff codifications pertain to the many and various aspects of the food service operation. The above described issues are operational, not requiring policy revision.

Update Provided Regarding African American/Black & Puerto Rican/Latino Curriculum: The 2019 session of the General Assembly passed Public Act 19-12, “An Act Concerning the Inclusion of Black and Latino Studies in the Public School Curriculum.”

This Act added African-American and black and Puerto Rican and Latino studies to the required programs of study for public schools and requires all boards of education to include these topics in their curriculum beginning with the 2021-22 school year. As with other courses required under law, the State Board of Education (SBE) must make curriculum materials available to help boards develop their instructional programs.

The Act also requires SBE to review and approve, by January 1, 2021, a black and Latino studies high school course. Under this legislation:

1. the State Education Resource Center (SERC) must develop the course,
2. SBE must make course curriculum material available,
3. boards **may** offer the course beginning with the 2021-22 school year, and
4. boards **must** offer the course beginning with the 2022-23 school year.

For the school years 2022-23 to 2024-25, SDE must conduct an annual audit to ensure that the black and Latino studies course approved under the Act is being offered by each board of education. SDE must annually submit a report on the audit to the Legislature's Education Committee.

On November 2nd, 2020, the SDE and SERC provided an update regarding the African American/Black and Puerto Rican/Latino course in a memorandum from Education Commissioner Cardona and SERC Executive Director Canady. They indicated the following:

1. SDE and SERC have been developing the mandated one-credit, year-long high school elective course and curriculum in collaboration with many groups and individuals.
2. SERC has created the [Public Act 19-12: An Act Concerning the Inclusion of Black and Latino Studies in the Public School Curriculum Website](#). The website includes a draft course description and draft learning objectives.
3. The draft African American/Black and Puerto Rican/Latino curriculum will be presented to the State Board of Education on December 2, 2020, for review and approval.
4. Webinars to provide schools and districts an overview of the curriculum were also provided.

Policy Implications: Policy #6142, "Basic Instructional Program" was revised to reflect this new legislation at the time of passage. It is available upon request. It can also be found in the CORE Policy manual on the CABE website. This policy is considered a recommended policy for inclusion in a district's policy manual.

Teachers Crowdsource to Fund Covid-19 Safety Measures: Teachers in New York City are raising funds for air purifiers via online crowdsourcing sites to help prevent the spread of the coronavirus in classrooms. The efforts stem from concerns about classroom air quality and circulation along with worries that city officials are not doing enough to make classrooms safe.

New York City Education Department officials say they've purchased 30,000 HEPA purifiers and have already distributed half of those to school buildings. However, hundreds of school staffers are filling in the gaps on their own. In New York City, crowdfunding efforts through DonorsChoose have brought in \$159,000 for air purifiers, according to a spokesperson for the platform that connects teachers in high needs areas to donors.

Ventilation worries are increasing again as the weather turns colder, with many educators wondering if they'll be able to withstand keeping their windows open, which the city has touted as a way to keep classrooms safer. Certain kinds of portable HEPA air purifiers could potentially help catch coronavirus particles and curb the spread of COVID-19 along with other precautionary measures like wearing masks and social distancing, experts say.

“It is very important to understand that portable air cleaners, improved filtration in HVAC systems, and increased outdoor air supply can significantly reduce inhaled dose of aerosol particle concentrations in classrooms for those away from an infector,” stated Richard Corsi, Portland State University’s Dean of Engineering and an expert on indoor air quality. “They do not appreciably reduce the dose of aerosol particles for someone standing near an infector who is speaking or coughing. For this close contact case physical distancing and required mask wearing by everyone is critical.”

“Increasing the outdoor air supply rate will help to reduce indoor aerosol particles that came out of an infector’s respiratory system,” Corsi explained. “I know that this is ‘trickier’ in a colder climate like New York City compared to warmer climates. A good portable HEPA air cleaner in the right sized classroom can give you results equivalent to three to five air changes per hour of clean outdoor air, in terms of aerosol particle reduction.”

Source: “Seeking safer classrooms, NYC teachers are crowdfunding for air purifiers,” by Amy Zimmerman and Christina Veiga, *Chalkbeat/New York*, November 4, 2020.

Policy Implications: Policy #3281, “Crowdfunding” and accompanying administrative regulations, pertain to this topic. Many versions are available. This topic was recently updated in the November edition of the quarterly *Policy Update Service* publication.

Food for Thought:

“To have a job without a workplace, you must build an office of the mind. Structure, routine, focus, socialization, networking, stress release—their creation is almost entirely up to you, alone in a spare bedroom or on your couch, where your laptop might vie for attention at any given moment with your pets or kids. If the coffee pot runs dry, there is no one to blame but yourself.”

Source: Amanda Mull in “A Cubicle Never Looked So Good,” in *The Atlantic*, October 2020 (Vol. 326, #3, pp. 30-32)



Connecticut Association of Boards of Education

Vincent A. Mustaro, Senior Staff Associate for Policy Services

PRESENTS POLICY HIGHLIGHTS

November 27, 2020

Volume 20 – Issue #11

Student Privacy Protections in the Online Classroom: The pandemic has resulted in an entirely new way of going to school. As a result of the near-ubiquitous use of cameras to deliver two-way online instruction, legal considerations, especially the issue of student privacy, have emerged.

FERPA, the Federal Family Educational Rights and Privacy Act, governs the extent to which personally identifiable student information (PII) contained in student records is private and confidential and the manner in which such information can be disclosed.

FERPA provides that personally identifiable information from a student's educational records cannot be disclosed to a third party, including other students, without parental consent or that of an "eligible" student over the age of 18. However, the law provides specific exceptions to this consent requirement.

Personally identifiable information includes student names and images. An educational record is not created, covered by FERPA, if an online session is not recorded. A recorded session's video would contain images of individual students and raises the question regarding FERPA required consent. FERPA permits school districts to disclose a student's name, identifier or institutional email in the course of conducting a class in which the student is enrolled. This allows the names of students to appear underneath their images in the screen of an online class.

The Student Privacy Policy Office (SPPO) of the U.S. Department of Education has provided several examples in which a video of a student would be considered directly related to that student and would be considered an educational record. The examples provided include the following:

- When the student is intended to be the focus of the video (e.g. a student presentation).
- When the video will be used for a disciplinary or other "official" purpose.
- When the video records a student getting injured, becoming ill, or suffering a health emergency.
- When the student's personally identifiable information from his/her educational records are visible or discussed.

A recording of a classroom session showing the teacher providing instruction is unlikely to be considered an educational record of the students in the class. However, it is uncertain as to under what conditions a recording of a class showing student participation in discussion s or answering questions becomes an educational record. The SPPO guidance is that unless the recording included an activity or event focused solely on an individual student, the video should not be considered an education record pursuant to FERPA.

Questions also arise because an online classroom encompasses both an educational environment and a home environment. The SPPO has provided some guidance. The SPPO has drawn parallels between virtual learning, where students appear on a screen in a virtual classroom, to appearing in a physical classroom. The SPPO recommends that districts consider similar precautions as done when permitting a visitor in the classroom. The federal guidance is that the determination of who can observe a virtual classroom, similar to an in person classroom, is a local school decision because teachers generally do not disclose personally identifiable information from a student's education record during classroom instruction. FERPA does not prohibit individuals observing a classroom.

FERPA, according to SPPO, does not prohibit teachers from recording online classes and sharing the recording with students unable to attend the class, provided the teacher does not disclose personally identifiable information from specific student education records during the virtual lesson. The recording of a whole class lesson would generally not be considered an education record for a specific student.

Ajit Gopalakrishnan, Chief Performance Officer of the Connecticut State Department of Education, in a memorandum to school superintendents, recommended a number of considerations that districts consider regarding student privacy issues. They include the following:

- Follow the same practices that you would for parents observing their child in the classroom setting;
- Ensure that everyone utilizing platforms, including staff, parents, and guardians, and to the extent appropriate, students, are aware of the unique privacy issues that might arise with virtual learning, and suggest families consider risks with online communications;
- Avoid use of private, individually identifiable information in group virtual settings;
- Limit the use of individually identifiable information in one-on-one virtual settings to absolutely necessary situations, and only within district-approved, secure communication channels;
- Encourage that parents provide a quiet space with reasonable adult supervision as necessary (not adult participation);
- To respect the privacy rights of all students, instruct parents to refrain from recording the virtual class session, unless necessary related to access or special education, in which case the district may wish to request a case-by-case conversation with the family;
- Allow each user/student to prevent their picture from being broadcast to the entire group;
- Consider whether parents should be permitted to opt-out of synchronous educational opportunities; however, conditioning a students' access to continued educational opportunities on the parent signing certain legal waivers is inappropriate;

- If the district has declared name and video/photographs to be directory information, identify those families who have opted out of having their directory information shared and discuss with the parents the possibility of allowing their child to participate in this activity and that such participation shall not waive their “opt-out” with respect to other instances of sharing directory information.
- The Commissioner has waived certain requirements of Connecticut’s data privacy statutes with respect to individual district contracting with providers of online services. Therefore, if a district seeks to use a provider who would be subject to these data privacy statutes, but with whom the district does not have a contract, it can do so only if that provider has digitally pledged to comply with state statutory requirements through the Connecticut Educational Software Hub at <https://connecticut.learnplatform.com/>. Additional information about the Hub and privacy considerations is available from the Connecticut Commission for Educational Technology at <http://www.ct.gov/edtech>.

Source: “Protecting Student Privacy in an Online Classroom,” by Gregory A. Gillen, Esq., *On Board*, New York State Schools Boards Association, October 12, 2020.

Source: “Federal Family Educational Rights and Privacy Act (FERPA) and other Student Privacy Considerations during the COVID-19 Pandemic,” by Ajit Gopalakrishnan, Chief Performance Officer, Connecticut Department of Education, April 7, 2020.

Policy Implications: A number of policies pertain to this topic. They include the following:

- #3516.6 – Operations of Schools During COVID-19 Pandemic
- #3520.1 – Information Security Breach and Notification
- #3520.11 – Electronic Information Security
- #3520.12 – Data-Based Information Management System Confidentiality Policy
- #3520.13 – Student Data Privacy
- #5125 – Student Records; Confidentiality
- #5131.42 – Virtual/Remote Learning Code of Conduct
- #5145.15 – Directory Information
- #6162.51 – Surveys of Students/Student Privacy

Clearly, this is an area in which local districts need to contact their legal counsel.

Deadline for Sexual Harassment Prevention Training Again Extended: As a result of Executive Order No. 9L, the Connecticut Commission on Human Rights and Opportunities (CHRO) has extended to February 9, 2021 the sexual harassment prevention training requirement. The new deadline pertains only to school districts that have not already satisfied the sexual harassment training requirement.

P.A. 19-16, “An Act Combatting Sexual Assault and Sexual Harassment,” made several changes concerning sexual harassment, sexual assault, discrimination complaints filed with the Commission on Human Rights and Opportunities and related matters. The Act specified the sexual harassment training and information requirement includes anyone employed by an employer, including someone employed by his or her parent, spouse, or child.

This legislation expanded requirements for employers to train employees on sexual harassment laws and required CHRO to make related training materials available. The new statute originally indicated the training to be completed by October 1, 2020. This was then changed to January 1, 2021 because of the pandemic. CHRO has developed a free, online training and education video that fulfills the Act's training requirements.

Employers with three or more employees are also required to post in a prominent and accessible place a notice stating that sexual harassment is illegal and the remedies available to victims. This statute also requires employers to send a copy of this information to employees by email within three months of their hire if the employer has provided an email account to the employee or the employee has provided the employer with an email address. If an employer has not provided email accounts to employees, it must post the information on its website, if it has one.

Policy Implications: Policy #4118.112/4218.112, “Sexual Harassment” and its accompanying administrative regulation and forms pertain to this topic. This is a recommended policy for placement in a district’s policy manual. Versions are available upon request or can be found in the CORE Manual posted on the CABE website.

Food for Thought:

“We must find time to stop and thank the people who make a difference in our lives.”

John F. Kennedy



Connecticut Association of Boards of Education

Vincent A. Mustaro, Senior Staff Associate for Policy Services

PRESENTS POLICY HIGHLIGHTS

December 11, 2020

Volume 20 – Issue #12

Key Roles Identified for Board Chairpersons: At this time of year many boards of education are holding their organizational meeting and electing the officers of the board. The most important of the officers is the position of chairperson. The chairperson's role involves more than just presiding at all board of education meetings. The person elected to this important position has many opportunities to assist the board fulfill its roles and responsibilities effectively.

This position is extremely vital and conducive to the achievement of a smoothly functioning board of education. Listed below are some of the traits and crucial responsibilities of effective board chairpersons.

1. Manage the public comment portion of meetings.

Skill and tact are required to ensure that the public comment portion of the board meeting goes well. The chairperson needs to ensure that all individuals are informed of the board's policy concerning public comment. Further, he/she must, as presiding officer of the board, follow the board's procedures and maintain proper decorum. It is essential, especially if things become unruly, to ensure that the integrity of the meeting is maintained.

2. Act as the voice of the board.

It is recommended that the board chairperson serve as the official spokesperson with the media and various stakeholder groups regarding the actions of the board. In the response to questions pertaining to the official actions taken by the board, the chairperson should be the individual to clearly convey the message of the board majority.

3. Mediate conflict.

Disagreements and conflict are inevitable on a school board. The chairperson is the appropriate person to handle such difficult discussions, making sure that the concerns and views of all parties are addressed. The necessary steps to preserve board unity and the appropriate relationship of those involved require tact, skill, patience and understanding.

4. Assist in the creation of the agenda for board meetings.

In consultation with the superintendent of schools, the board chairperson should assist in establishing the agenda for each meeting of the board. He/she needs to confirm that each agenda item is appropriate for board consideration and within the board's role. The agenda items should reflect sufficient background work to help board members sufficiently understand the issue and any available options. The agenda items should also be supportive of the board's vision and mission.

5. Facilitate the superintendent's evaluation.

The chairperson should lead the annual evaluation process of the superintendent. Board members should clearly understand and be trained in the process and the instrument, mutually agreed upon by the board and superintendent, that the district uses to conduct this important evaluation.

6. Promote continuous professional development for the board.

Professional development for board members is just as critical as it is for teachers and administrators. Better-informed decisions and clearer goals can result from board members participating in board retreats, board self-evaluations, webinars and conferences. CABE provides a continuous and varied program of professional development programs for board members. Further, the involvement and discussion of participation in professional development activities can build camaraderie and more productive board member relationships.

7. Provide for the orientation of new board members.

In order to become valuable and contributing members of the board, newly elected or appointed members to the board need guidance, direction and training. It is critical that the chairperson ensure that the district has a planned process to assist new board members get properly oriented to their roles as board members in a manner that encourages understanding of how a board functions, cooperation and collaboration.

The important roles described above do not entail all that the role of the board chair entails. It is recommended the board chairs participate in CABE's biweekly online board chairs forum which will assist individuals in these positions understand key and critical issues, especially during the COVID-19 crisis. Much can be learned from the manner in which the many challenges of this position are being met in other districts around the state.

Mark Snyder, Leadership Development Manager, for the New York School Boards Association correctly stated, "Effective governance begins with effective leadership, and the more time that board presidents (chairpersons) spend honing their skills, the greater their contributions will be to their districts and their communities."

Source: "7 key roles of every board president," by Mark Snyder, *On Board*, New York Schools Boards Association, July 20, 2020.

Policy Implications: Many bylaws of boards of education speak to the issues described above. They include, but are not limited to, the following:

- Bylaw #9012 – Legal Responsibilities of Boards of Education
- Bylaw #9121 – Chairperson
- Bylaw 9230 – New Board Member Orientation
- Bylaw #9249 –Board Member Development
- Bylaw #9270 – Conflict of Interest
- Bylaw #9271 – Code of Ethics
- Bylaw #9273 – Civility
- Bylaw #9325 – Meeting Conduct
- Bylaw 9325.2 – Order of Business
- Bylaw #9325.3 – Parliamentary Procedure
- Bylaw #9321 – Time, Place, Notification of Meetings
- Bylaw #9321.2 – Electronic Board of Education Meetings
- Bylaw #9322 – Public and Executive Sessions

- Bylaw #9400 – Board Self-Evaluation
- Policy #1205 – Agenda Format/Preparation/ Dissemination
- Policy #200.1 – Board-Superintendent Relationship
- Policy #2400 – Evaluation Process of Superintendent

Samples of the above are available upon request from the CABE Policy Department. Many may also be found on CABE's website in the sample "Core Manual."

Anniversary of Special Education Landmark Legislation Noted: Nov. 29, 2020, marked the 45th anniversary of President Gerald Ford signing the Education for All Handicapped Children Act (Public Law 94-142), now known as the Individuals with Disabilities Education Act (IDEA). In adopting this landmark civil rights measure, Congress noted that the law would accomplish two important goals:

1. It would guarantee a free appropriate public education to every child, regardless of disability, on an equal basis with all other children; and
2. It would advance all Americans' understanding of disability by bringing children with disability out of the shadows and into American schools where their gifts and strengths could be recognized.

Progress has been made over the years, but work remains to address the challenges that still exist. Many children with disabilities have been helped to achieve their goals. Work must continue to ensure that all children have the supports they need and to find ways for all disabled children to achieve meaningful results and outcomes. However, the fact remains that much, worthy of celebration, has been accomplished.

Policy Implications: Most operational aspects of implementing the many factors of this legislation are found in the district's special education procedural manual, not in the board's policy manual. However, districts should consider having the following policies in their board policy manual:

- Policy #6159 – Individualized Education Program/Special Education Program
- Policy #6171 – Special Education
- Policy #6171.1 – Inclusion
- Policy #6171.2 – Preschool Special Education
- Policy #6181 – Evaluation of Special Education Program
- Policy #3231 – Medicaid Reimbursement for Special Education Students
- Policy #5145.71 – Surrogate Parent Program
- Policy #5118.1 – Homeless Students

Samples of the above are available upon request from the CABE Policy Department. Many may also be found on CABE's website in the sample "Core Manual."

Food for Thought:

"We are not here to curse the darkness, but to light the candle that can guide us through that darkness to a safe and sane future." ***John F. Kennedy***

"Fight for the things that you care about, but do it in a way that will lead others to join you." ***Ruth Bader Ginsburg***



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Students/Use of Private Technology Devices – BOE Updated 8/31/20
Temporary Policies and Regulations – BOE Updated 8/13/20
NEW - Use of Face Coverings in School – BOE Updated 11/16/20