MINUTEMAN
A REVOLUTION IN LEARNING

Annual Mandatory Training for All Minuteman High School Employees

Right to Know, Civil Rights, and School District Procedures

2018-2019 School Year

Non-Discrimination. Minuteman Regional Vocational Technical School District does not discriminate on the basis of race, color, national origin, sex, disability, religion, sexual orientation, or gender identity in its programs or activities, including its admissions and employment practices. The School District does not tolerate harassment or discrimination. An individual has been designated to coordinate compliance under Title IX and Section 504 and may be contacted through the Superintendent's Office, 758 Marrett Road, Lexington, MA 02421, (781) 861-6500, ext. 7360.

August 2018

Dear members of the Minuteman family,

We live in a world full of laws, rules, and regulations.

This is particularly true for employees of a public school. We are expected to know federal laws, state laws, a host of regulations related to those federal and state laws, District policies, and a host of procedures and protocols related to the policies. It's overwhelming, even for veteran educators.

To make things a bit easier for you, Minuteman annually informs you, reminds you, and updates you on the latest legislation and rulemaking. We do this at the start of each school year (and even during the school year for employees hired after the school year begins).

Enclosed in this packet is some key information that we think you need – and hope you'll benefit from learning about. It runs the gamut – from filing a complaint of suspected child abuse to proper labelling of hazardous chemicals, and from identifying the differences between bullying and harassment to engaging in political activity. It includes many other things as well.

This information has been put together by your colleagues to be helpful and meaningful to you, whether you're a brand new staff member here at Minuteman or whether you're a 25-year veteran. Except where they've had to quote the law or a regulation, they've tried to write the document in plain, straightforward language. And they've included questions to break up long narrative passages.

Please look over the packet, take the Post Tests, and let us know what you think. We'll keep working hard every year to make things better and more enjoyable for you.

Please have a great, productive year at Minuteman High School.

Very truly,

Edward A. Bouquillon, Ph.D.
Superintendent

Annual Mandatory Training

(Please refer questions to the individual listed)

Reporting Suspected Child Abuse and Neglect.....Carey Moffitt-Jenkins

Special Education, IEPs and Section 504 Plans.....Dr. Amy Perreault

Civil Rights, Title II, Title IX, and Other Legal Issues .....John Cammarata

- State Ethics Law
- Political Activity by Public Employees
- Sexual Harassment in the Workplace
- Confidentiality of Student Records
- The Family Educational Rights and Privacy Act (FERPA)
- Tips on the Proper Use of E-Mail
- Pregnant & Parenting Teens Policy

Blood-borne Pathogens & Universal Precautions.....Carol Brown
Blood Spill Clean-up Procedure

Right to Know Law (Chemical Safety).....Carol Brown

Emergency Physical Restraint..... Assistant Principal Brian Tildsley

Bullying, Cyberbullying, Hazing, and Harassment ..... Principal Jack Dillon

Mandatory Post Tests

- #1 – Right to Know/Chemical Safety
- #2 – Special Education, Civil Rights and School Procedures

(Please complete and submit the two online assessments using the links provided in the Introduction.)

Introduction

Purpose

The purpose of this Annual Mandatory Training is to provide important workplace information to Minuteman High School employees in order to ensure a safe and productive environment for both students and staff.

Current staff members are given training at the start of each school year. Newly-hired staff members are provided training throughout the year as they begin work.

Training Materials

Each employee is given a copy of this packet in electronic form. You may print the packet – or store it electronically – for future reference.

The packet, including links to the two mandatory assessments, may also be found on the Minuteman website (www.minuteman.org) under "Departments" and "Business Office/Human Resources."

Employee Responsibility: Reading the Training Packet

All employees are required to know the law and our District's specific protocols and procedures related to them. Employees must review the laws and procedures every year.

As a Minuteman employee, you are expected to read this Training Packet.

It is your responsibility to ask questions if you don't understand something.

Employee Responsibility: Completing the Assessments

As a Minuteman employee, you must also complete and submit two (2) online tests. Completing the tests is mandatory.

To complete the tests, click on these links:

- Post Test #1 – Right to Know/Chemical Safety: https://www.minuteman.org//cms/module/selectsurvey/TakeSurvey.aspx?SurveyID=119

- Post Test #2 – Special Education, Civil Rights, and School Procedures: https://www.minuteman.org//cms/module/selectsurvey/TakeSurvey.aspx?SurveyID=120

By receiving this Training Packet and completing the tests, you are acknowledging that you are aware of the law and the District's procedures.

Documentation

Documentation related to Annual Mandatory Training and testing will be kept in your personnel file.

Topics Covered in this Training Packet

Section 1: Reporting Suspected Child Abuse and Neglect (Section 51A)
Section 2: Special Education, IEPs, and Section 504 Plans
Section 3: Ethics, Civil Rights, and Other Legal Issues
- State Ethics Law
- Political Activity by Public Employees
- Sexual Harassment in the Workplace
- Confidentiality of Student Records
- Family Educational Rights and Privacy Act (FERPA)
- Tips on the Proper Use of E-mail
- Pregnant and Parenting Teens Policy

Section 4: Blood-borne Pathogens and Universal Precautions
Section 5: Right to Know/Chemical Safety
Section 6: Emergency Physical Restraint
Section 7: Bullying, Cyberbullying, Hazing, and Harassment
Section 8: Mandatory Tests
- Post Test #1 – Right to Know/Chemical Safety
- Post Test #2 – Special Education, Civil Rights and School Procedures

Section 9: Additional Training Materials
- OSHA Quick Card - Hazard Communication Safety Data Sheets
- OSHA Quick Card – Hazard Communication Standard Labels
- OSHA Quick Card – Hazard Communication Standard Pictogram
- Right to Know Workplace Notice for Public Employees

Section 1

Your Rights and Responsibilities:

Massachusetts General Laws
Chapter 119, Section 51A

Reporting Suspected
Child Abuse and Neglect

Child Abuse and Neglect Reporting

A Guide for Mandated Reporters
Massachusetts Department of Children and Families

INTRODUCTION

Under Massachusetts law, the Department of Children and Families (DCF) is the state agency that receives all reports of suspected abuse and/or neglect of children under the age of 18. State law requires professionals whose work brings them in contact with children to notify DCF if they suspect that a child is being abused and/or neglected. DCF depends on reports from professionals and other concerned individuals to learn about children who may need protection, more than 75,000 reports are received on behalf of children each year. The Department is responsible for protecting children from abuse and/or neglect. DCF seeks to ensure that each child has a safe, nurturing, permanent home. The Department also provides a range of services to support and strengthen families with children at risk of abuse and/or neglect. Who is a mandated reporter? Massachusetts law defines the following professionals

Who is a mandated reporter?

Massachusetts law defines the following professionals as mandated reporters:

- Physicians, medical interns, hospital personnel engaged in the examination, care or treatment of persons, medical examiners;
- Emergency medical technicians, dentists, nurses, chiropractors, podiatrists, optometrists, osteopaths;
- Public or private school teachers, educational administrators, guidance or family counselors;
- Early education, preschool, child care or after school program staff, including any person paid to care for, or work with, a child in any public or private facility, home or program funded or licensed by the Commonwealth, which provides child care or residential services. This includes child care resource and referral agencies, as well as voucher management agencies, family child care and child care food programs;
- Child care licensors, such as staff from the Department of Early Education and Care;
- Social workers, foster parents, probation officers, clerks magistrate of the district courts, and parole officers;
- Firefighters and police officers;
- School attendance officers, allied mental health and licensed human services professionals;
- Psychiatrists, psychologists and clinical social workers, drug and alcoholism counselors;
- Clergy members, including ordained or licensed leaders of any church or religious body, persons performing official duties on behalf of a church or religious body, or persons employed by a religious body to supervise, educate, coach, train or counsel a child on a regular basis; and,
- The Child Advocate.

As a mandated reporter, what are my responsibilities?

Massachusetts law requires mandated reporters to immediately make an oral report to DCF when, in their professional capacity, they have reasonable cause to believe that a child under the age of 18 years is suffering from abuse and/or neglect. A written report is to be submitted within 48 hours. In addition to filing with the Department a mandated reporter may notify local law enforcement or the Office of the Child Advocate of any suspected abuse and/or neglect. You should report any physical or emotional injury resulting from abuse; any indication of neglect, including malnutrition; any instance in which a child is determined to be physically dependent upon an addictive drug at birth; any suspicion of child

sexual exploitation or human trafficking; or death as a result of abuse and/or neglect. In addition, you must report a death as a result of abuse and/or neglect to the local District Attorney and to the Office of the Chief Medical Examiner. Mandated Reporters who are staff members of medical or other public or private institutions, schools or facilities, must either notify the Department directly or notify the person in charge of the institution, school or facility, or his/her designee, who then becomes responsible for filing the report. Should the person in charge/ designee advise against filing, the staff member retains the right to contact DCF directly and to notify the local police or the Office of the Child Advocate. (Ch. 119, § 51A) Under the law, mandated reporters are protected from liability in any civil or criminal action and from any discriminatory or retaliatory actions by an employer. The written report must be submitted to DCF within 48 hours after the oral report has been made. Any profession defined by law as a mandated reporter, is required to assist in a 51B investigation or initial assessment, even if they are not the filer of the 51A report. Mandated reporters who are licensed by the Commonwealth are required to complete training to recognize and report suspected child abuse and/or neglect.

What if I fail to report?

Any mandated reporter who fails to make required oral and written reports can be punished by a fine of up to $1,000. Any mandated reporter who willfully fails to report child abuse and/or neglect that resulted in serious bodily injury or death can be punished by a fine of up to $5,000 and up to 2½ years in jail, and be reported to the person's professional licensing authority. All mandated reporters who knowingly and willfully file a frivolous report of child abuse and/or neglect can be punished by a fine of up to $2,000 for the first offense, up to 6 months in jail for a second offense, and up to 2½ years in jail for a third offense.

How do I make a report of suspected child abuse and/or neglect? When must I file?

When you suspect that a child is being abused and/or neglected, you should immediately telephone the local DCF Area Office and ask for the Screening Unit. You will find a directory of the DCF Area Offices at the end of this Guide and on the DCF web site. Offices are staffed between 9 am and 5 pm weekdays. To make a report at any other time, including after 5 pm and on weekends and holidays, please call the **Child-At-Risk Hotline at 800-792-5200**.

As a mandated reporter you are also required by law to mail or fax a written report to the Department within 48 hours after making the oral report. The form for filing this report can be obtained from a local DCF Area Office or from the DCF website: **www.mass.gov/dcf** .

Your report should include:

- Your name, address and telephone number;
- All identifying information you have about the child and parent or other caretaker, if known;
- The nature and extent of the suspected abuse and/or neglect, including any evidence or knowledge of prior injury, abuse, maltreatment, or neglect; The identity of the person you believe is responsible for the abuse and/or neglect;
- The circumstances under which you first became aware of the child's injuries, abuse, maltreatment or neglect;
- What action, if any, has been taken thus far to treat, shelter, or otherwise assist the child;
- Any other information you believe might be helpful in establishing the cause of the injury and/or person responsible; Any information that could be helpful to DCF staff in making safe contact with an adult victim in situations of domestic violence (e.g., work schedules, place of employment, daily routines); and
- Any other information you believe would be helpful in ensuring the child's safety and/or supporting the family to address the abuse and/or neglect concerns.

Hospital personnel should take photographs of any trauma that is visible on the child and mail or deliver

the photographs to DCF with the written report.

If you work in a hospital and collect physical evidence of abuse and/or neglect of a child, you must immediately notify the local District Attorney, local law enforcement authorities and the Department. We recommend that you inform the family that you have referred them to DCF for help, but do not do so if you think it would increase the risk to the child.

How does DCF define abuse and neglect?

Under the Department of Children and Families regulations (110 CMR, section 2.00):

Abuse means: The non-accidental commission of any act by a caretaker upon a child under age 18 which causes, or creates a substantial risk of, physical or emotional injury; or an act by a caretaker involving a child that constitutes a sexual offense under the laws of the Commonwealth; or any sexual contact between a caretaker and a child under the care of that individual. This definition is not dependent upon location (i.e., abuse can occur while the child is in an out-of-home or in-home setting).

Neglect means: Failure by a caretaker, either deliberately or through negligence or inability, to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care; provided, however, that such inability is not due solely to inadequate economic resources or solely to the existence of a handicapping condition. This definition is not dependent upon location (i.e., neglect can occur while the child is in an out-of-home or in-home setting).

Physical Injury means: Death; or fracture of a bone, a subdural hematoma, burns, impairment of any organ, and any other such nontrivial injury; or soft tissue swelling or skin bruising, depending upon such factors as the child's age, circumstances under which the injury occurred and the number and location of bruises; or addiction to a drug or drugs at birth; or failure to thrive.

Emotional Injury means: An impairment to or disorder of the intellectual or psychological capacity of a child as evidenced by observable and substantial reduction in the child's ability to function within a normal range of performance and behavior.

Who is a caretaker?

A "caretaker" can be a child's parent, step-parent, guardian, or any household member entrusted with the responsibility for a child's health or welfare. In addition, many other person entrusted with the responsibility for a child's health or welfare, both in and out of the child's home, regardless of age, is considered a caretaker. Examples may include: relatives from outside the home, teachers or staff in a school setting, workers at an early education, child care or afterschool program, a babysitter, foster parents, staff at a group care facility, or persons charged with caring for children in any other comparable setting.

When should a report involving domestic violence be filed?

Domestic violence is defined as a pattern of coercive controlling behaviors that one person exercises over another in an intimate relationship. Not every situation involving domestic violence merits intervention by DCF. Mandated reporters are encouraged to carefully review each family's situation and to identify any specific impact on the child(ren) when considering whether or not to file a 51A report with DCF. In some cases a report may actually create additional risks for the caretaker and the children. If possible, discuss the filing of a report with the caretaker first and address the potential need for safety planning. A report is more likely necessary if the following higher risk circumstances are current concerns:

- The alleged perpetrator threatened to kill the caretaker, children or self and the caretaker fears for their safety;

- The alleged perpetrator physically injured the child in an incident where the caretaker was the target;
- The alleged perpetrator coerced the child to participate in or witness the abuse of a caretaker;
- The alleged perpetrator used or threatened to use a weapon, and the caretaker believes that the perpetrator intended or has the ability to cause harm.

For more information on this topic please refer to the DCF Brochure, Promising Approaches: Working with Families, Child Welfare and Domestic Violence. This brochure is available on the DCF website and from a local DCF Area Office.

What happens when DCF receives a report of child abuse and/or neglect?

When DCF receives a report of abuse and/or neglect, called a "51A report," from either a mandated reporter or another concerned citizen, DCF is required to evaluate the allegations and determine the safety of the children. During DCF's response process, all mandated reporters are required to answer the Department's questions and provide information to assist in determining whether a child is being abused and/or neglected and in assessing the child's safety in the household.

Here are the steps in the Child Protective Services (CPS) process:

1. The report is screened. The purpose of the screening process is to gather sufficient information to determine whether the allegation meets the Department's criteria for suspected abuse and/or neglect, whether there is immediate danger to the safety of a child, whether DCF involvement is warranted and how best to target the Department's initial response. The Department begins its screening process immediately upon receipt of a report. During the screening process DCF obtains information from the person filing the report and also contacts professionals involved with the family, such as doctors or teachers who may be able to provide information about the child's condition. DCF may also contact the family if appropriate.

2. If the report is "Screened-In", it is assigned either for a Child Protective Services (CPS) Investigation or Assessment Response:

- CPS Investigation Response: Generally, cases of sexual or serious physical abuse, or severe neglect will be assigned to the CPS Investigation Response. The severity of the situation will dictate whether it requires an emergency or non-emergency investigation. The primary purpose of the Investigation Response is to determine the current safety and the potential risk to the reported child, the validity of an allegation, identification of person(s) responsible and whether DCF intervention is necessary.
- CPS Assessment Response (Initial Assessment): Generally, moderate or lower risk allegations, are assigned to the CPS Assessment Response. The primary purpose of the Assessment Response is to determine if DCF involvement is necessary and to engage and support families. This response involves a review of the reported allegations, assessing safety and risk of the child, identifying family strengths and determining what, if any, supports and services are needed.

3. A determination is made as to whether there is a basis to the allegation, whether the child can safely remain at home and whether the family would benefit from continued DCF involvement. If DCF involvement continues, a Comprehensive Assessment and Service Plan are developed with the family. Some families come to the attention of the Department outside the 51A process: Children Requiring Assistance (CRA) cases referred by the Juvenile Court, cases referred by the Probate and Family Court, babies surrendered under the Safe Haven Act, and voluntary requests for services by a parent/family. These cases are generally referred directly for a Comprehensive Assessment.

What are the timeframes for completing a Screening, and/or an Investigation or Assessment?

■ **Screening**: Begins immediately for all reports. For an emergency response it is completed within two hours. For a non-emergency response, screening may take up to three business days as appropriate.
■ Emergency Investigation: Must begin within two hours and be completed within five business days of the report.
■ **Non-Emergency Investigation**: Must begin within two business days and be completed within 15 business days of the report.
■ **Assessment (Initia**l): Must begin within two business days and be completed within 15 business days of the report.
■ **Comprehensive Assessment**: May take up to 45 business days.

Will I be informed about the DCF determination?

If you are the mandated reporter who filed the report, you will receive a copy of the decision letter that is sent to the parents or caretaker. In that letter you will be informed of the Department's response, the determination and whether DCF is opening a case for continued DCF involvement.

Does DCF tell the family who made the 51A report?

DCF regulations do not allow the Department to disclose the name of a reporter unless ordered by a court or required by statute such as when the Department is required to provide the 51A report to the District Attorney or other law enforcement (CMR 12.00 etseq.).

Referrals to the District Attorney

If the Department determines that a child has been sexually abused or sexually exploited, has been a victim of human trafficking, has suffered serious physical abuse and/or injury, or has died as a result of abuse and/or neglect, DCF must notify local law enforcement as well as the District Attorney, who have the authority to file criminal charges.

Child Protection Information: For more information about reporting child abuse and/or neglect: www.mass.gov/dcf for general information or to find a DCF Area Office

Child-At-Risk-Hotline 800-792-5200

DCF Ombudsman 617-748-2444 (9 am-5 pm, weekdays) for inquiries about DCF programs, policies or service delivery.

Contact Us

Massachusetts Department of Children and Families
600 Washington Street, 6th Floor
Boston, MA 02111
Phone: 617-748-2000
Fax: 617-261-7435
web: www.mass.gov/dcf

DCF AREA OFFICE DIRECTORY

WESTERN

- Greenfield 413-775-5000
- Holyoke 413-493-2600
- Springfield 413-452-3200
- Van Wart Center, 413-205-0500 East Springfield
- Worcester, East 508-929-2000 Worcester West
- South Central 508-929-1000 Whitinsville
- North Central 978-353-3600 Leominster
- Pittsfield 413-236-1800

NORTHEASTERN

- Lowell 978-275-6800
- Framingham 508-424-0100
- Haverhill 978-469-8800
- Lawrence 978-557-2500
- Cambridge 617-520-8700
- Malden 781-388-7100
- Cape Ann, Salem 978-825-3800
- Lynn 781-477-1600

SOUTHERN

- Arlington 781-641-8500
- Coastal/ 781-682-0800 South Weymouth
- Cape Cod & Islands 508-760-0200
- Plymouth 508-732-6200
- Fall River 508-235-9800
- New Bedford 508-910-1000
- Brockton 508-894-3700
- Taunton/Attleboro 508-821-7000

BOSTON

- Dimock Street, 617-989-2800 Roxbury
- Hyde Park 617-363-5000
- Harbor, Chelsea 617-660-3400
- Park Street, 617-822-4700 Dorchester

Child Abuse and Neglect Reporting Guidelines for Minuteman Staff (including guidelines for addressing other student safety concerns)

As educators, nurses, psychologists, social workers, counselors, administrators, and other school staff who interact regularly with students, often having established relationships with them, we are in an ideal position to identify and support those students who may be struggling with social and/or emotional issues including those who may be coping with potential safety concerns in their lives.

As a reminder, all members of the school staff are mandated reporters. We are obligated by law to inform the Massachusetts Department of Children and Families (DCF) of suspected child abuse or neglect.

It is also our responsibility to refer students who are engaging in, or potentially at-risk of engaging in, self-harming behaviors to a school counselor immediately.

What kind of behavior should I report to a counselor?

The following safety concerns should be reported to school counseling staff/administration immediately during the school day or any administrator if this information is received outside of school hours. The school counselor or administrator will evaluate the level of risk and provide and/or coordinate intervention.

- a student reports that they are being abused and/or neglected
- a student reports that he or she is thinking about suicide, planning for suicide, or engaging in suicidal behavior, or if a student reports such thoughts or behavior in another student
- a student reports that he or she is thinking about or engaging in other self-harming behavior, or if a student reports such thoughts or behavior in another student
- you have observed warning signs of potential abuse, neglect, or self-injury (for a detailed list of warning signs from DCF see the end of this email)

Should I promise confidentiality to a student who might be at-risk?

No. We as staff should never promise a student to treat a safety concern as confidential. It is not a staff person's responsibility or role to counsel potentially at-risk students but to help identify and to refer these students to the appropriate helping resource, the counseling staff.

The identification and referral of students who may be dealing with safety issues and social/emotional struggles to a school counselor for further support and assessment can be the first step in helping these students overcome a possible debilitating and even life-threatening illness and/or issue. If a staff person is concerned at all about an individual student's social/emotional functioning, they are advised and encouraged to discuss these concerns with a school counselor.

How do I make a report of suspected child abuse or neglect?

At Minuteman High School, all suspected cases of abuse or neglect should be reported immediately to one of the following people: the Director of Special Education, a guidance counselor, the social worker, school psychologist, nurse, or school adjustment counselor.

What will that person do?

Depending on the situation, they may recommend that you immediately make a report to the Department of Children and Families. They may recommend against filing it.

They can help walk you through the process of filing or made decide it makes more sense counseling staff to do the filing.

What happens if they recommend against filing?

If they advise against filing, you can still contact DCF. It's up to you.

If I tell one of the people on the list, is that all I need to do?

When you suspect that a child is being abused or neglected, you must immediately contact one of the people listed above. But that is NOT all you need to do.

As a mandated reporter, you must then telephone the DCF Area Office serving the child's residence and ask for the Protective Screening Unit. You must do this on the same day you make the report internally at Minuteman.

DCF offices are staffed between 9 a.m. and 5 p.m. weekdays. To make a report at any other time, including after 5 p.m. and on weekends and holidays, please call the Child-At-Risk Hotline at 1-800-792-5200.

After I call the Department of Children and Families, is my job complete?

No. As a mandated reporter, you are also required by law to mail or fax a written report to the Department within 48 hours after making the oral report. The form for filing this report is included in this Training Packet.

What should be included in my written report?

Your report should include:

- All identifying information you have about the child and parent or other caretaker, if known;
- The nature and extent of the suspected abuse or neglect, including any evidence or knowledge of prior injury, abuse, maltreatment, or neglect;
- The circumstances under which you first became aware of the child's injuries, abuse, maltreatment or neglect;
- What action, if any, has been taken thus far to treat, shelter, or otherwise assist the child;
- Any other information you believe might be helpful in establishing the cause of the injury and/or person responsible.
- Hospital personnel should take photographs of any trauma that is visible on the child and mail or deliver the photographs to DCF with the written report.
- As a mandated reporter, you are required by law to also provide DCF with your name, address and telephone number.
- We recommend that you inform the family that you have referred them to DCF for help, but do not do so if you think it would increase the risk to the child.
- If you have any questions about whether or not to report a situation, please do not hesitate to contact your local DCF area office.

Minuteman school counseling staff

Director of Special Education: Dr. Amy Perreault, ext. 7259
Guidance staff: Lisa Camagna ext. 7212, Diane Dempsey ext. 7223, Dana Farrill ext. 7285
Adjustment Counselors: Carey Moffitt- Jenkins, ext. 7246, Mary Bruno ext. 7398
School Psychologists: Cheryl Kelly ext. 7384, Sarah Wertheim ext. 7283

Report of Child(ren) Alleged to be Suffering from Abuse or Neglect

Massachusetts law requires mandated reporters to immediately make a report to the Department of Children and Families (DCF) when they have reasonable cause to believe that a child under the age of 18 years is suffering from abuse and/or neglect by:

STEP 1: Immediately reporting by oral communication to the local DCF Area Office (see contact information at end of form); and

STEP 2: Completing and sending this written report to the local DCF Area Office within 48 hours of making the oral report.

For more information about requirements for mandated reporters and filing a report of alleged abuse and/or neglect please see A Guide for Mandated Reporters available on the DCF website at www.mass.gov/dcf.

Please complete all sections of this form. If some data is uncertain or unknown, please signify by placing a question mark ("?") after the entry.

CHILDREN REPORTED

Name	Current Location/Address	Language Spoken	Birth Sex		Age or Date of Birth	ICWA/Tribal Affiliation
			Male	Female		

EMERGENCY CONTACT(S) FOR CHILDREN REPORTED: Please list the emergency contact information for all of the reported children, including contact name, relationship, and contact number information.

OTHER CHILDREN: Please include information about other children in the home/family, including name and age/date or birth (if known).

PARENT, GUARDIAN OR CAREGIVER 1

Name:

First Last Middle

Address:

Street & Number City / Town State Zip Code

Phone #: Age/Date of Birth:

Language Spoken: Relationship to Child(ren):

PARENT, GUARDIAN OR CAREGIVER 2

Name:

First Last Middle

Address:

Street & Number City / Town State Zip Code

Phone #: Age/Date of Birth:

Language Spoken: Relationship to Child(ren):

REPORTER / REPORT

Report Date: Mandatory Report Non Mandatory Report

Reporter's Name:

First Last Middle

(If the reporter represents an institution, school or facility, please indicate)

Reporter's Address:

Street & Number City / Town State Zip Code

Phone #:

Has reporter informed caregiver of report ? Yes No

What is the reporter's relationship to the child(ren)?

What is the nature and extent of injury, abuse, maltreatment or neglect? Please list any prior evidence of same and/or other worries regarding danger to the child(ren). (Please cite the source of this information if not observed firsthand.)

RELATED CONCERNS: Please check all that apply.

☐ Substance Use/Misuse
☐ Substance Exposed Newborn
☐ Neonatal Abstinence Syndrome
☐ Domestic Violence
☐ Mental/Behavioral Health Challenges
☐ Acute/Chronic Medical Condition
☐ Housing Instability/Homelessness
☐ Human Trafficking/Labor
☐ Human Trafficking/Sexually Exploited Child
☐ Teen Parenting
☐ Runaway
☐ Gang Involvement
☐ None Applies
☐ Unknown
☐ Other

DESCRIPTION OF RELATED CONCERNS: Please include additional information that will help DCF further understand the concerns checked above. This includes any specific concerns about alcohol/drug use by the parent/guardian/caregiver. If there are concerns related to domestic violence, please also list any information that will help DCF make safe contact with the family (e.g., work schedule, place of employment, daily routines for the adult victim, etc.).

If known, please provide the name(s) and address, phone #, DOB/age, relationship to child, and language spoken of the person(s) responsible for the injury, abuse, maltreatment or neglect and/or any other information that you think might be helpful in establishing the cause of the injury, abuse, maltreatment or neglect.

What are the circumstances under which the reporter became aware of the injury, abuse, maltreatment or neglect? Please include information on dates and timeframes for when the injury, abuse, maltreatment or neglect occurred.

Pedikit# (if applicable): Incident Date (if known):

What action has been taken thus far to treat, shelter or otherwise assist the child(ren) to deal with the situation?

Are there any concerns for social worker safety?

Please provide any information about the family's strengths and capacities that you think will be helpful to DCF in ensuring the child's safety and supporting the family to address the abuse and/or neglect concerns.

Signature of Reporter: _____

To report child abuse and/or neglect: Weekdays from 9:00 am to 5:00 pm call the local DCF Area Office.
Weekdays after 5:00 pm and 24 hours on weekends and holidays call the
Child-At-Risk-Hotline 1-800-792-5200

DCF AREA OFFICES

Boston Region		Central Region		Northern Region	
Dimock Street, Roxbury	617-989-2800	North Central, Leominster	978-353-3600	Cambridge/Somerville	617-520-8700
Harbor, Chelsea	617-660-3400	South Central, Whitinsville	508-929-1000	Cape Ann, Salem	978-825-3800
Hyde Park	617-363-5000	Worcester East	508-793-8000	Framingham	508-424-0100
Park Street, Dorchester	617-822-4700	Worcester West	508-929-2000	Haverhill	978-469-8800
				Lawrence	978-557-2500
				Lowell	978-275-6800
				Lynn	781-477-1600
				Malden	781-388-7100

Southern Region		Western Region	
Arlington	781-641-8500	Greenfield	413-775-5000
Brockton	508-894-3700	Holyoke	413-493-2600
Cape Cod & Islands	508-760-0200	Pittsfield	413-236-1800
Coastal, Braintree	781-794-4400	Robert Van Wart Center, East Springfield	413-205-0500
Fall River	508-235-9800		
Plymouth	508-732-6200	Springfield	413-452-3200
New Bedford	508-910-1000		
Taunton/Attleboro	508-821-7000		

Warning Signs for Child Abuse or Neglect

Source: Massachusetts Department of Children and Families

There are often certain recognizable physical and behavioral indicators of child abuse or neglect. The following signs, by themselves, may not be conclusive evidence of a problem, but serve as indicators of the possibility that a problem exists.

Signs of Physical Abuse...

Bruising, welts, cuts, or burns that cannot be sufficiently explained
Withdrawn, fearful or extreme behavior
Clusters of bruises, welts or burns, indicating repeated contact with a hand or instrument
Injuries on children where children don't usually get injured (e.g., the torso, back neck buttocks, or thighs)

Signs of Sexual Abuse...

Difficulty walking or sitting
Pain or itching in the genital area
Torn, stained or bloody underclothing
Frequent complaints of stomachaches or headache
Venereal disease
Bruises or bleeding in external genitalia
Feeling threatened by physical contact
Inappropriate sex play or premature understanding of sex
Frequent urinary or yeast infections

Signs of Emotional Injury...

Speech disorders
Inability to play as most children do
Sleeping problems
Anti-social behavior or behavioral extremes
Delays in emotional and intellectual growth.

Signs of Neglect...

Lack of supervision
Lack of proper nutrition
Lack of adequate shelter
Alcohol or drug abuse
Self-destructive feelings or behavior
Lack of medical or dental care
Chronically dirty or unbathed
Lack of adequate school attendance

MINUTEMAN
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Section 2

Your Rights and Responsibilities:

Special Education, IEPs, and Section 504 Plans

Special Education, IEPs, and Section 504 Plans

What is Special Education?
One prominent educational commentator describes Special Education as "programs designed to identify and meet the education needs of students with emotional, learning, or physical disabilities." Source: *EdSpeak* by Diane Ravitch

Is Special Education covered by federal or state law?
Both. And since Massachusetts has been considered a leader in Special Education for many years, Massachusetts state law often is more favorable to disabled students and their families than federal law. (In those situations, the Massachusetts state law would apply.)

As an educator at Minuteman High School, what do I need to do to assist my students who have some type of disability?
You have a legal obligation to provide students with the accommodations and/or modifications that they are entitled to under Special Education Law or under Section 504.

How do I find out what kind of accommodations or modifications my students might need?
You need to check all of your rosters in the Aspen (X2) software system. You need to know whether any of your students have an Individualized Education Program (IEP) or Section 504 Plan. If they do, you need to read the Plans carefully and implement them in your classroom.

Please tell me more about Individualized Education Programs (IEPs) and Section 504 Plans.
IEPs and Section 504 Plans are legally binding contracts between the Minuteman School District, the student, and the student's parents. IEPs outline the modifications and accommodations we are legally required to make. Section 504 Plans outline the accommodations we are legally required to make.

What do you mean by "accommodations"?
This term often refers to changes in the way we administer tests. "The term generally refers to changes that do not substantially alter what the test measures. The goal is to give all students equal opportunity to demonstrate their knowledge. Typical accommodations include allowing a student to take more time on a test, to take a test with no time limits, to receive large-print test booklets, to have part or all of a test read aloud, to use a computer to answer test questions, to have access to a scribe to write down the student's answers, to use Braille forms of the assessment, or to have access during the test to an English language dictionary." Source: *EdSpeak* by Diane Ravitch

What do you mean by "modifications"?
This terms refers to changes in direct instruction, changes in content, to assist a student with disabilities.

I teach in a career and technical program, not in an academic area like math, science, English, or social studies. Do IEPs and 504 Plans apply to me, too?
Yes.

Is it really my job to know what my students with disabilities need?

Yes, it is. You have a legal duty to implement all accommodations and all modifications in your classroom. You cannot pick and choose which ones to implement. You must implement all of them.

What happens if I don't?
It's your legal responsibility. If you don't, you could be held personally liable for damages.

But what if I don't know about the IEP or 504 Plan?
It's your duty to know. Ignorance is really no defense.

I've heard other teachers say that Minuteman is a "full inclusion" school. I'm not sure I really know what that means. Can you help me?
Some history might help you understand. Years ago, students with disabilities were taught in completely separate classrooms, sometimes in the basements of their schools, totally away from their peers. This created a real stigma. Over the years, educators and the law moved toward an "inclusion" model of education, where students with disabilities are placed in regular classrooms and provided with modifications and accommodations there, not in some separate location. Minuteman has embraced the idea of a "full inclusion" model, where students with disabilities and students without disabilities are educated in the same classrooms.

What if I don't know how to implement an IEP or a 504 Plan?
Please contact the Special Education office for assistance.

Section 3

Your Rights and Responsibilities:

Ethics, Civil Rights, Sexual Harassment, Title II, Title IX, and Other Legal Issues

Ethics Laws, Civil Rights, Sexual Harassment, Title II, Title IX, Confidentiality, and Other Legal Issues

Laws and District Policy

What laws do I need to be aware of as an employee of Minuteman High School?
There are numerous laws that impact your work at Minuteman. At a minimum, you need to have a basic knowledge of all of the laws mentioned in this training packet. In addition, as an employee at a vocational technical high school, you need to know about Massachusetts General Laws Chapter 74 and its accompanying regulations, 603 CMR 4.00 *et seq*. Chapter 74 is the state law that regulates vocational technical education in Massachusetts.

What does C.M.R. mean?
It's the Code of Massachusetts Regulations. Regulations are rules written by state agencies to further explain and implement state law. At the national level, rules are written by federal agencies such as the U.S. Department of Education or U.S. Department of Justice. They are known as the Code of Federal Regulations or C.F.R.

What does M.G.L. stand for? It is short for Massachusetts General Laws. At the national level, the laws are usually known as the United States Code or U.S.C.

Who makes Minuteman School District policies?
M.G.L. Chapter 71, §37 outlines the roles and responsibilities of Massachusetts school committees. One of those responsibilities is to establish goals and policies for the school consistent with the requirements of law and statewide goals and standards established by the state board of education. At Minuteman, the District School Committee includes members from each of the District's member communities.

Where can I find the official policies?
You can view the Minuteman Regional Vocational Technical School District School Policy Manual and Index in the School Committee section of the school website: http://www.minuteman.org/Page/280.

Ethics Law

What is the Massachusetts State Ethics Commission?
It is a state agency whose mission is "to foster integrity in public service."

What does that have to do with me?
As a Minuteman employee, you are a public employee. You are bound by the provisions of the Massachusetts Conflict of Interest Law, Chapter 268A. The State Ethics Commission oversees that law.

How do I learn more?
Visit the State Ethics Commission's website at www.mass.gov/ethics/.

What if I have a question that isn't answered on the website or in those documents?

Call the Ethics Commission at 617-371-9500 and ask for the "Attorney of the Day." In most cases, the attorney can give you advice, over the phone, on the same day you ask. Often, they can do so immediately.

Can I get an opinion in writing?

Yes. The State Ethics Commission also issues written Advisory Opinions.

As a public employee, do I need to take some kind of ethics test?

Yes. As a Minuteman employee, you are required to take a brief online training program and test.

Which test?

Minuteman employees need to take the Municipal Employees Online Training Program found at http://www.muniprog.eth.state.ma.us. The program includes a 10-question online assessment. Complete the assessment, print out the certificate, and provide it to the Business Office.

Political Activity

Before I was hired by Minuteman, I was active in town politics. I'm now a public employee. Can I still be involved in politics?

Yes, but there are limitations on what you can – and cannot – do.

What limitations?

The Massachusetts Campaign Finance Law (M.G.L. Chapter 55) sets out the limitations. For example, a public employee cannot ask someone to buy tickets to a political fundraiser, serve as treasurer of a political committee, use the school's copy machine to print a political flyer, or send out e-mail from a school computer supporting or opposing a ballot question.

The Office of Campaign and Political Finance has developed a Campaign Finance Guide titled *Public Employees, Public Resources and Political Activity* on this subject. It has also issued Interpretative Bulletins.

How do I get information from the Office of Campaign and Political Finance?

You can visit the Commission's website at www.ocpf.us.

Civil Rights

What federal laws protect a person's civil rights in schools?

There are many. Here are some of the major ones:

- Title VI of the Civil Rights Act of 1964
- The Equal Educational Opportunities Act of 1974
- Title IX of the Education Amendments of 1972
- Section 504 of the Rehabilitation Act of 1973
- Title II of the Americans with Disabilities Act of 1990

How does Massachusetts law protect a person's civil rights in schools?

Massachusetts General Laws Chapter 76, §5 protects civil rights in public schools. Among other things, it reads: "No person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin or sexual orientation."

What is Title IX?

Title IX is part of a federal law known as the Education Amendments of 1972. It is a law passed by Congress and signed by the President. If you want to search the United States Code, you can find it at 20 U.S.C. §1681 *et seq*. "Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. The principal objective of Title IX is to avoid the use of federal money to support sex discrimination in education programs and to provide individual citizens effective protection against those practices. Title IX applies, with a few specific exceptions, to all aspects of federally funded education programs or activities. In addition to traditional educational institutions such as colleges, universities, and elementary and secondary schools, Title IX also applies to any education or training program operated by a recipient of federal financial assistance." *Source: United States Department of Justice website.*

Does Title IX apply to Minuteman High School?

Yes.

Does Minuteman have a Title IX Coordinator? If so, who is it?

Yes, our Civil Rights/Title IX Coordinator is John E Cammarata. He works in the Superintendent's office. His phone number is 781-861-6500, ext. 7637.

What does a Civil Rights/Title IX Coordinator do?

The Coordinator receives and investigates civil rights complaints, including Title IX, sexual harassment, and Title II complaints.

What is Title II?

Title II of the American With Disabilities Act (ADA) is a federal law that applies to state and local government bodies such as Minuteman. It protects against discrimination on the basis of disability in services, programs, and activities provided by state and local government agencies.

What are the rules on sexual harassment?

Sexual harassment at Minuteman is prohibited by law and by our District policy (Policy ACAA). The state law prohibiting sex discrimination and sexual harassment in the workplace is found in Massachusetts General Laws Chapter 151B.

Is it true that a man can sexually harass another man and that a woman can sexually harass another woman?

Yes. The law does not only apply to sexual harassment between people of the opposite sex. The law also prohibits sexual harassment between people of the same sex.

Is it true that the law prohibits all conduct of a sexual nature?

No, but it does prohibit conduct of a sexual nature that is unsolicited and unwelcome. The concept of "welcomeness" is an important one to understand.

If I tell off-color jokes at work and no one complains, does that mean my conduct is "welcome"?

No, not necessarily. Other employees don't need to object to demonstrate that your jokes were unwelcome. Again, you need to learn more about the concept of "welcomeness."

I think I've heard the terms *quid pro quo and "*hostile work environment" when people have talked about sexual harassment, but I'm not really sure I understand what they mean. How can I learn more about what's in the sexual harassment law?

The Massachusetts Commission Against Discrimination (MCAD) has issued "Sexual Harassment in the Workplace Guidelines" to help explain the law to employers and employees. Those Guidelines are printed in this training packet.

Sexual Harassment in the Workplace Guidelines

1. INTRODUCTION

Massachusetts Law prohibits sex discrimination in the workplace. Sexual harassment is a form of sex discrimination. Sexual harassment is also prohibited in places of public accommodation, educational facilities, and housing. These guidelines address sexual harassment in the workplace only.

The standards governing the prohibition of sex discrimination and sexual harassment in the workplace are set forth in Massachusetts General Laws chapter 151B ("chapter 151B"). The Massachusetts Commission Against Discrimination ("MCAD" or the "Commission") issues these guidelines to assist employers, employees, attorneys and the general public in understanding what constitutes sexual harassment, as well as to explain what employees and employers should do to prevent, stop and appropriately respond to sexual harassment. In addition, these guidelines discuss the circumstances under which employers and individuals may be held liable for sexual harassment in the workplace.

2. SEXUAL HARASSMENT

Generally

There are two types of sexual harassment: *"quid pro quo"* harassment and "hostile work environment" harassment. They may occur independently or concurrently.

Quid Pro Quo Harassment

Chapter 151B defines "quid pro quo" sexual harassment as: Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when . . . submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions

To prove a claim for quid pro quo harassment, the employee must establish the following elements:

- That the alleged harasser made sexual advances or sexual
- requests, or otherwise engaged in conduct of a sexual nature;
- the sexual conduct was unwelcome;
- he or she rejected such advances, requests or conduct; and
- the terms or conditions of his or her employment were then adversely affected.

or

- That the alleged harasser made sexual advances or sexual requests, or otherwise engaged in conduct of a sexual nature;
- the sexual conduct was unwelcome;
- he or she submitted to such advances, requests or conduct; and
- when he or she submitted to the unwelcome sexual conduct, he or she did so in reasonable fear of adverse employment action.

Quid pro quo harassment occurs when an employee with authority or control over the terms and conditions of another employee's work offers her a work benefit or advantage in exchange for sexual favors or gratification. Conversely, if an employee is denied a work benefit or advantage due to her refusal to respond to, or rejection of, requests for sexual favors or gratification, she is subjected to *quid pro quo* harassment. Thus, either submission to, or rejection of, unwelcome sexual advances may result in *quid pro quo* harassment if the terms or conditions of one's employment are impacted. Examples of such impact may include but are not limited to: termination; demotion; denial of promotion; transfer; alteration of duties, hours or compensation; or unjustified performance reviews.

Once the complainant establishes a prima facie case, the burden of production, as opposed to the burden of proof, shifts to the respondent to articulate a legitimate, non-discriminatory reason for the adverse employment action taken, supported by credible evidence. If the respondent meets its burden of production, the complainant must prove that the reasons offered by the respondent were not its true reasons, but were a pretext for discrimination. For example, a complainant may meet her initial burden by showing that she was fired soon after she turned down her supervisor's request for a date. The request for a date would constitute the unwelcome advance. If there is sufficient closeness in time between the complainant's rejection of her supervisor's request and her firing, this may create an inference of causation. The employer would then have to articulate a legitimate non- discriminatory reason for its adverse action supported by credible evidence. For example, if the respondent credibly asserts that the complainant was terminated for poor job performance, the burden remains

with the complainant to prove, by a preponderance of the evidence, that the respondent's conduct was motivated by her rejection of her supervisor's advance. This may be done by proving that the respondent's articulated reason is false.

Hostile Work Environment

Chapter 151B defines "hostile work environment" harassment as: sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when . . . such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

In a hostile work environment case, the complainant must prove:

- she was subjected to conduct of a sexual nature;
- the conduct of a sexual nature was unwelcome;
- the conduct of a sexual nature had the purpose or effect of creating an intimidating, hostile, humiliating or sexually offensive work environment; and
- the conduct unreasonably interfered with complainant's work performance or altered the terms and conditions of the complainant's employment.

Conduct of a Sexual Nature

Examples of conduct that might create a hostile work environment include: inappropriate touching; sexual epithets, jokes, gossip, sexual conduct or comments; requests for sex; displaying sexually suggestive pictures and objects; and leering, whistling, or sexual gestures. Harassing conduct need not be motivated by sexual desire in order to constitute sexual harassment.

Welcomeness

The law does not proscribe all conduct of a sexual nature. Only unsolicited and unwelcome conduct may create a hostile work environment. When the employee initiates conduct of a sexual nature or is a willing participant in a sexually charged environment, she may not be the victim of sexual harassment. Whether the conduct was "welcome" does not turn on whether the complainant's behavior was "voluntary." When an employee only submits to harassing behavior to avoid being targeted further, to cope in a hostile environment, or because participation is made an implicit condition of employment, she is not considered to have welcomed the conduct. The employee's rejection of, or failure to respond positively to, suggestive comments or gestures may demonstrate unwelcomeness. The fact that the employee may have infrequently joked with the alleged harasser does not demonstrate that the alleged harasser's entire course of conduct was welcome. An employee need not communicate her objection to harassing conduct to demonstrate its unwelcomeness.

Conduct Creating a Hostile Work Environment

In order to rise to the level of creating a hostile work environment, the conduct must be hostile, intimidating, humiliating or offensive both from an objective and a subjective perspective. An employee who does not subjectively perceive the behavior at issue as hostile, intimidating, humiliating or offensive is not a victim of sexual harassment within the meaning of the law, even if other reasonable individuals would consider such behavior to be so. On the other hand, an employee who subjectively finds behavior to be hostile, intimidating, humiliating or offensive when it is not objectively so, is not a victim of a hostile work environment under chapter 151B. Thus, for example, if a female employee is faced with requests for sexual favors, the question becomes whether a reasonable person in her position would find the conduct offensive and whether she actually found the conduct offensive.

In determining whether conduct is objectively offensive, the Commission looks to whether the conduct is severe or pervasive. In order for conduct to be considered pervasive, a complainant must prove that she was subjected to "a steady barrage of opprobrious [sexual] comment or abusive treatment." Such treatment can involve a combination of physical and verbal conduct, e.g., unwanted groping or touching combined with profanity or sexual innuendo. Sexual harassment experienced by others in the workplace may also be relevant to the assessment of the conduct's pervasiveness.

In some circumstances, a hostile environment may be established based on a single incident, due to its severity, despite the fact that the conduct is not frequent or repetitive. Moreover, purely verbal conduct, without a physical component, may be severe or pervasive enough to create a hostile work environment. However, minor, isolated conduct does not constitute sexual harassment. "A few isolated remarks over a period of time" are generally insufficient to meet the pervasiveness standard. Chapter 151B is not a clean language statute and does not prohibit all use of profane or offensive language.

Conduct that Interferes with an Individual's Ability to Perform Her Job

Proof of a hostile work environment claim requires a showing that the unwelcome sexual conduct created an impediment to an employee's full participation in the workplace, altered the terms and conditions of her employment, or unreasonably interfered with her work performance. While not all offensive or inappropriate conduct will create such an impediment, one's working conditions may be altered without a showing of a tangible job detriment. Thus, an employee may seek recovery for hostile environment sexual harassment even if she has not suffered an adverse job action such as termination, suspension, or demotion.

Whether conduct interferes with an individual's ability to perform her job is essentially a question of fact based on the totality of the circumstances, which include the nature, severity and pervasiveness of the conduct and the psychological harm to the employee.

Conduct that interferes with an employee's ability to do her job need not necessarily cause severe psychological harm or emotional distress to be actionable.

Same-Sex Sexual Harassment

Sexual harassment can occur between individuals of the same gender. The same standards that apply to sexual harassment between individuals of the opposite sex apply to harassment cases involving individuals of the same gender. Under a same-sex sexual harassment claim, the sexual orientations of the parties are irrelevant, as the harassing conduct need not be motivated by sexual desire to be actionable. In addition, there is no requirement under chapter 151B that a complainant prove the conduct was motivated by his or her gender.

Sexual Harassment Outside of the Workplace

Chapter 151B may apply to harassment that occurs between co-workers that takes place outside the workplace. When the conduct complained of occurs outside of the workplace, the Commission may consider the following factors in assessing whether the conduct constitutes sexual harassment:

- whether the event at which the conduct occurred is linked to the workplace in any way, such as at an employer-sponsored function;
- whether the conduct occurred during work hours;
- the severity of the alleged outside-of-work conduct;
- the work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;
- whether the conduct adversely affected the terms and conditions of the complainant's employment or
- impacted the complainant's work environment.

3. EMPLOYER LIABILITY

Generally

Sections 4(1) and 4(16A) of chapter 151B provide the statutory basis for employer liability in cases of sexual harassment. Section 4(1) states in relevant part:

It shall be an unlawful practice:

For an employer, by himself or his agent, because of the ... sex of any individual to ... discriminate against such individual in compensation or in terms, conditions or privileges of employment.

******

Section 4(16A) states:

It shall be an unlawful practice:

16A. For an employer, personally or through its agents, to sexually harass any employee.

******

Employers are Liable for Harassment by Persons with Supervisory Authority

An employer is liable for the sexual harassment of employees by managers and persons with supervisory authority, regardless of whether the employer knows of the conduct. Because Massachusetts courts have determined that the Legislature intended that an employer be liable for discrimination committed by those on whom it confers authority, the courts have adopted the theory of vicarious liability in harassment cases. An employer is liable for the actions of its managers and supervisors because they are conferred with substantial authority over subordinates and are thus considered agents of the employer. In some circumstances, an employer may be liable for the actions of a supervisor, even if that supervisor does not have direct supervisory authority over the Complainant.

Factors the Commission will consider as indications of supervisory authority include, but are not limited to

- Undertaking or recommending tangible employment decisions affecting an employee;
- Directing activities, assigning work and controlling work flow;
- Hiring, firing, promoting, demoting or disciplining;
- Altering or affecting an employee's compensation or benefits;
- Evaluating an employee's work load;
- Distributing necessary supplies and tools;
- Giving directions and verifying and fixing mistakes;
- Assisting employees in assigning tasks; and
- Monitoring and evaluating work performance.

The employer may be vicariously liable for sexual harassment even if the alleged harasser is not formally designated as a supervisor and even if a supervisor lacks actual authority, under the doctrine of apparent authority. Liability under these circumstances exists when the harasser holds himself out to the employee as having supervisory authority over the employee. The employee's belief that the harasser has authority over her, to the extent that it is reasonable, may be a significant factor in determining the existence of apparent authority.

Employer Is Liable for Sexual Harassment in Other Circumstances

An employer may also be liable for sexual harassment committed by persons without actual or apparent supervisory authority, such as co workers. The complainant must show that the employer either knew or should have known about the harassing conduct and failed to take prompt, effective and reasonable remedial action. The respondent's obligation to take remedial action is discussed in greater detail in §VI(F), *infra.*

An employer may also be liable for the sexual harassment of its employees by certain non-employees, such as customers, patients, clients, independent contractors or other acquaintances. An employer may be held liable for the unlawful conduct of such non-employees when the employer knew or should have known about the conduct and failed to take prompt, effective and reasonable remedial action. The primary difference between employer liability for harassment perpetrated by co-workers and harassment committed by non-employees lies in the ability of the employer to control the conduct of the non-employees. The greater the employer's ability to control the non-employee's conduct, the more likely it will be found liable for that person's unlawful harassment.

4. INDIVIDUAL LIABILITY FOR SEXUAL HARASSMENT

An individual may be held liable for sexual harassment as an employer under M.G.L. c. 151B, § 4(1) and § 4(16A), or under M.G.L. c.151B, §§4(4A) and 4(5), which specifically prohibit "any person" from engaging in certain types of discriminatory conduct.

Individuals May Be Liable as the Employer

When an individual is the employer, rather than merely an agent of the employer, the individual may be liable under chapter 151B, §4(1) and §4(16A), which prohibit unlawful sexual harassment on the part of an employer. Depending on the size, nature and form of the business, an individual may be so closely identified with the business entity that the individual is personally liable as the employer. This may apply to principals, owners, presidents or partners in a business.

Individuals May Be Liable Under Chapter 151B, § 4(4A)

Chapter 151B, §4(4A) states that it is an unlawful practice:

for *any person* to coerce, intimidate, threaten or interfere with another person in the exercise or enjoyment of any right granted or protected by this chapter.(emphasis supplied).

Individuals may be subject to liability under §4(4A) for engaging in sexually harassing conduct. Both supervisors and co-workers may be liable under this section for engaging in sexually harassing conduct. Furthermore, the Commission has held that an individual may be liable even in circumstances where the employer is not subject to liability. Section 4(4A) even reaches the conduct of a third party, non-employee who sexually harasses an employee.

Individuals May Be Liable Under Chapter 151B, § 4(5) ("Aiding and Abetting" Liability)

Chapter 151B, §4(5) states that it is an unlawful practice:

for any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter or to attempt to do so.

Under the language of §4(5), any individual - including employees of respondents and third parties - who actively perpetrates or assists another in acts prohibited by chapter 151B can be held separately liable as an aider and abettor. The tripartite standard for determining "aider and abettor" liability is:

- The wrongful act must be separate and distinct from the underlying claim or an act in furtherance of the underlying claim;
- The aider and abettor shared an intent to discriminate not unlike that of the alleged principal offender; and
- The aider and abettor knew of his or her supporting role in an enterprise that deprived an individual of a right guaranteed under M.G.L. c. 151B.

Inaction by an employee may, under certain circumstances, give rise to individual liability under §4(5). For liability to attach in this circumstance, the individual must:

- have knowledge of ongoing sexual harassment;
- have an obligation and the authority to investigate and/or take remedial action;
- intentionally fail to take such action; and
- contribute to the complainant's injury by failing to act.

"[I]n situations where the inaction of the employee results from 'deliberate indifference,' and not mere inattention or negligence, such nonfeasance 'is not mere inaction, but a designed and willful act of forbearance in a situation where action is required.'"

However, if the employee has no duty to intervene to stop the harassment and is not in a position to do so, he will not be subject to liability under §4(5).

An individual may only be liable as an aider or abettor when there is evidence of a joint enterprise between more than one participant. The individual must have specific knowledge of his or her supporting role in the unlawful enterprise. An individual may engage in a joint

enterprise with the "fictional" legal entity of the respondent corporation - which possesses all of the legal attributes of a natural person - if that individual is in a position to subject the employer to vicarious liability.

5. EMPLOYERS' SEXUAL HARASSMENT POLICIES AND COMPLAINT PROCEDURES

Sexual Harassment Policy

In Massachusetts, the law requires employers with six or more employees to adopt a written policy against sexual harassment. The employer's policy must include notice to employees that sexual harassment in the workplace is unlawful and that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment. The policy should also assert the employer's commitment to investigate any complaint of sexual harassment. The Commission has prepared a Model Sexual Harassment Policy and a poster.

The Commission recommends that an employer's policy include, at a minimum, all the requirements enumerated in chapter 151B and all the components of the Model Policy, as follows:

- a statement that sexual harassment in the workplace is unlawful;
- a statement that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment, or for cooperating in an investigation of a complaint of sexual harassment;
- a description and examples of sexual harassment
- a statement of the potential consequences for employees who are found to have committed sexual harassment;
- a description of the process for filing internal complaints about sexual harassment and the work addresses and telephone numbers of the person or persons to whom complaints should be made; and
- the identity of the appropriate state and federal employment discrimination enforcement agencies and instructions as to how to contact such agencies.

Employers should specifically prohibit the dissemination of sexually explicit voice mail, e-mail, graphics, downloaded material or websites in the workplace and include these prohibitions in their workplace policies. An employer must present new employees with a copy of the employer's policy upon commencement of employment and provide all employees with an individual written copy of the policy on a yearly basis. Employers should also post the policy in a conspicuous area in the workplace.

Sexual Harassment Training and Education

While not a requirement, chapter 151B encourages employers to conduct education and training programs on sexual harassment for all employees on a regular basis. Employers are further advised to conduct additional training for supervisory and managerial employees, which should address their specific responsibilities as well as the steps that such employees should take to ensure immediate and appropriate corrective action in addressing harassment complaints. This is significant because employers are vicariously liable for the conduct of those persons that they place in supervisory positions.

Employers should also train employees how to recognize and report incidents of sexual harassment. In claims alleging sexual harassment, an employer's commitment to providing anti-harassment training to its workforce may be a factor in determining liability or the appropriate remedy.

Sexual Harassment Complaint Procedure

The following suggestions regarding how to draft an appropriate complaint procedure and conduct an investigation of a sexual harassment claim are advisory in nature, rather than mandatory.

Employers Should Designate Person(s) to Receive Complaints of Sexual Harassment

In its sexual harassment policy, an employer should designate one or more individuals as the person(s) to whom employees should report any complaints of sexual harassment. The person(s) selected should be knowledgeable and sensitive to the issues. These typically include managers, supervisors, human resource personnel, principals of the employer or in-house counsel. The full names of these individuals, together with their work addresses and telephone numbers, should be included in the policy provided to employees.

The employer's internal complaint procedure should also be calculated to encourage complainants to come forward by:

- designating more than one individual to receive complaints;
- designating individuals of both sexes to receive complaints;
- designating individuals of both sexes to receive complaints;
- allowing complaints to be communicated orally; and
- allowing a complainant to report allegations to someone other than his or her supervisor.

It is also advisable for an employer to identify the person(s) and/or the department within the organization that will be authorized to initiate an internal investigation into a complaint of harassment. Any employee who receives a complaint of sexual harassment, or is made aware of any sexually harassing behavior, should immediately report it to the designated person(s) and/or the designated department.

Under no circumstances should an employer:

- require an employee to complain directly to the person alleged to have engaged in the sexual harassment;

- insist that filing a complaint within the company is a prerequisite to filing or pursuing a complaint of sexual harassment with the MCAD or the United States Equal Employment Opportunity Commission ("EEOC");
- instruct an employee not to file a complaint with the MCAD or EEOC; or
- instruct an employee not to cooperate with the MCAD or EEOC in an investigation.

Duties of Persons Receiving Complaints of Sexual Harassment

The individuals designated to receive complaints of sexual harassment on behalf of the employer should document the receipt of any such complaints. It is advisable for that person to maintain the records in a way that allows for the identification of repeat offenders.

Employers should instruct recipients of sexual harassment complaints to inform complainants and alleged perpetrators that they will:

- keep the complaint confidential to the extent practicable under the circumstances;
- conduct a prompt, neutral investigation into the allegations; and
- not tolerate any form of retaliation against the complainant for having complained of sexual harassment.

6. INVESTIGATING SEXUAL HARASSMENT COMPLAINTS

Preliminary Issues

In general, the employer should always investigate a complaint of sexual harassment as soon as practicable, even if an employee asks that it not investigate his or her claim. Employers should investigate any claim involving physical violence immediately. The nature and duration of the investigation will depend on the circumstances of the complaint, including the type, severity and frequency of the alleged harassment.

Conducting the Investigation

Employers should investigate allegations of sexual harassment in a fair and expeditious manner, in a way that maintains confidentiality to the extent practicable. Employers should inform complainants that they have a legal duty to investigate allegations of sexual harassment, and that, while the matter will be kept as confidential as possible, it may not be possible to withhold the complainant's identity from the alleged harasser. The employer's investigation should generally include interviews of the complainant, the alleged harasser, witnesses, individuals whom any of the foregoing identify as having knowledge of potential relevance to the allegations, and anyone else whom the employer believes may have such knowledge. These interviews should be conducted in a way that protects the privacy of the individuals involved to the extent practicable under the circumstances. They should also be conducted in person where possible.

The investigator should inform each interviewee, as well as any other individual apprised of the investigation, that the investigation is confidential and should not be discussed with co-workers. The investigator should further inform them that the employer will not tolerate any retaliation against the complainant or anyone else who cooperates with the investigation. The investigator should also prohibit interference with or obstruction of any investigation by the MCAD or EEOC into the allegations.

The employer's investigation should also include a review of any documents, journals, recordings, photographs, voice mails, e- mails, telephone records, or other items that may be relevant to the allegations of harassment.

The Investigative File

The investigator should take notes during interviews, or soon thereafter, for the purpose of maintaining accurate records. The investigator should create and maintain a confidential investigative file separate from personnel files. The file should include any materials relevant to the investigation, including but not limited to interview notes, relevant employment documents, journals, recordings, photographs, voice mails, e-mails, telephone records, or other items pertaining to the allegations or the investigation into them.

Special Issues Regarding the Investigation

Confidentiality

The employer should ensure that the investigation is kept as confidential as possible, by communicating information about the investigation only to those that need to know about it. An employer should not promise absolute confidentiality to the complainant, the alleged harasser or other witnesses, because such a promise may obstruct the employer's ability to conduct a fair and thorough investigation. Generally, the complainant and the alleged harasser should be kept informed of the status of the investigation during the process.

Interim Measures Pending the Outcome of the Investigation

During the investigation, it may be necessary or advisable for the employer to take measures to separate the alleged harasser from the complainant. These measures should be carefully crafted to minimize the chance that the alleged harasser will either continue to harass the complainant or will retaliate against her. The employer must also ensure that the measures themselves do not amount to retaliation against the complainant. The employer should consider a number of factors in deciding what interim measures to take, including, but not limited to, the following:

- the expressed wishes of the complainant;
- the nature and extent of the allegations;
- the personal safety of the complainant;
- the number of complainants;
- whether the alleged harassment is of an ongoing nature;
- the behavior of the alleged harasser; and
- whether the alleged harasser has an alleged or actual history of engaging in harassment.

Consideration of these factors may lead the employer to decide that certain interim measures are necessary and/or advisable. Such measures might include, but are not limited to:

- placing the alleged harasser on administrative leave;
- placing the complainant on administrative leave, if the complainant so requests;
- transferring the alleged harasser, or the complainant if she requests, to a different
- area/department or shift so that there is no further business/social contact between the complainant and the alleged harasser;
- instructing the alleged harasser to stop the conduct; and
- eliminating the alleged harasser's supervisory authority over the complainant.

During the investigation, the employer has a duty to take the necessary steps to eliminate from the workplace the harassment about which the complainant has complained. The fact that it may be burdensome for the employer to take such action does not diminish this duty. The employer should monitor any interim measures that it takes throughout the investigation. Monitoring may include assessing whether the interim measures meet the goals of preventing ongoing harassment, protecting the safety of the parties and preventing retaliatory conduct.

Reaching a Determination

After the employer's investigation is complete, the investigator should prepare a final written report documenting his or her findings. Generally, the investigator's report should detail the steps the investigator took in examining the complainant's allegations and should explain any conclusions the investigator has made. The employer should inform the complainant and the alleged harasser of its findings in the matter. If the employer concludes that sexual harassment has occurred, the employer must take prompt and appropriate remedial action designed to end the offending conduct and prevent future harassing conduct. Regardless of the investigator's findings, the employer should make follow-up inquiries to ensure that the conduct has not resumed and that neither the complainant nor any witnesses interviewed during the investigation has suffered any retaliation.

Appropriate Remedial Action

When an employer concludes that sexual harassment has occurred, the employer must take prompt remedial action designed to end the harassment and prevent future harassment. What constitutes appropriate remedial action depends upon the circumstances. Appropriate remedial action should reflect the nature and severity of the harassment, the existence of any prior incidents, and the effectiveness or lack thereof of any prior remedial steps.

Generally, remedial action consists of the following:

- promptly halting any ongoing harassment;
- taking prompt, appropriate disciplinary action against the harasser;
- taking effective actions to prevent the recurrence of harassment, including conducting a sexual
- harassment training where appropriate; and
- making the complainant whole by restoring any lost employment benefits or opportunities.

Whether the employer has taken prompt and appropriate remedial action in a given case depends upon many factors, including the timeliness of the actions and whether, given the circumstances, the actions were reasonably likely to stop the conduct and prevent it from recurring. The inquiry into whether the employer took appropriate action is focused primarily on whether the remedial action ultimately succeeded, taking into consideration whether, under the circumstances, the action was reasonably calculated to succeed. The efficacy of the action is not measured by whether the complainant feels that justice has been achieved, but whether the behavior that gave rise to the complaint has ceased and does not threaten to recur.

7. STATUTE OF LIMITATIONS

Timeframe for Filing a Claim

Currently, chapter 151B, § 5 requires that a charge of discrimination be filed with the Commission within six months of the alleged discriminatory act. However, the statute was amended on August 7, 2002 and, beginning November 5, 2002, the time period will be amended to 300 days.

The filing requirements are to be interpreted broadly to give effect to the law's broad remedial purposes. Pursuant to the Commission's Regulations at 804 CMR §1.10(2), the limitations period will not bar the filing in instances where the facts of a charge allege that the unlawful conduct was of a continuing nature (as discussed below) or "when pursuant to an employment contract, an aggrieved person enters into a

grievance proceeding concerning the alleged discriminatory act(s) within six months (or 300 days depending on the applicable period) of the conduct complained of and subsequently files a complaint within six months (or 300 days) of the outcome of such proceeding(s)." The regulation further provides that the statutory requirement is not a bar where the aggrieved person enters into an agreement to mediate a dispute under M.G.L. c. 151B and files the complaint within twenty-one days after the conclusion of mediation.

In addition, the filing deadline is also subject to equitable tolling. Equitable tolling has been found to apply only in the following narrow circumstances: (1) the complainant is excusably ignorant about the statute of limitations; or (2) the respondent/employer or the Commission affirmatively misleads the complainant. Generally, the time period under chapter 151B is triggered once the complainant knows or should know that he or she is being discriminated against.

The Continuing Violations Doctrine

The applicable filing deadline will not prevent employees from pursuing claims when the conduct complained of is of a *continuing nature*. This situation may occur if the case involves a pattern of conduct, the cumulative effect of which results in a hostile work environment over time, as opposed to a distinct job action that takes place on a specific date. This exception recognizes that some claims of discrimination involve a series of related events that have to be viewed in their totality in order to assess adequately their discriminatory nature and impact. This is because "incidents of sexual harassment serious enough to create a work environment permeated by abuse typically accumulate over time," and any one incident, viewed in isolation, may not be serious enough to constitute harassment. However, viewed cumulatively, "the seemingly disparate incidents may show a prolonged and compelling pattern of mistreatment that have forced a plaintiff to work under intolerable, sexually offensive, conditions."

A continuing violation may be of a serial or a systemic nature.

Serial Violation

A "serial" continuing violation exists when: (a) at least one instance of sexually harassing conduct occurs within the limitations period; (b) the timely and untimely acts are recurrent, related to each other, and stem from a common discriminatory animus; (c) the complainant's delay in filing the charge as to the untimely events was not unreasonable.

If a continuing violation exists, the applicable filing period does not begin to run until the occurrence of the *last* act of discrimination. Under these circumstances, harassing events occurring outside the statute of limitations may be considered timely. Therefore, if the complainant is able to establish the existence of a continuing violation, she may be able to recover damages for otherwise untimely acts *in addition to* damages for the timely conduct. The MCAD will find the complainant's sexual harassment claim timely if the following conditions are satisfied:

At Least One Instance of Sexually Harassing Conduct Within the Applicable Limitations Period
An employee must establish that at least one instance of sexually harassing conduct occurred within the applicable limitations period. The conduct within the limitations period need not, standing alone, have created a hostile work environment. However, the fact that an employee may have ongoing distress within the applicable time period as a result of conduct occurring prior to that period will not suffice.

The Conduct Must Be Substantially Related and Recurrent
In order for an employee to meet this prong, it must be shown that the timely act "substantially relates to earlier incidents of abuse, and substantially contributes to the continuation of a hostile work environment, such that the incident anchors all related incidents, thereby making the entirety of the claim for discriminatory conduct timely." In other words, both the timely and untimely conduct must stem from a common discriminatory animus. Factors the Commission considers are the similarity of the acts, whether certain conduct is repeated, the nature of the timely and untimely conduct, the amount of time between incidents and the time period over which the conduct is alleged to have occurred. If a substantial relationship is found, the Commission may find that the complainant's untimely allegations of sexual harassment are actionable. If the timely and untimely conduct are not linked, the conduct outside the limitations period will not be actionable. For example, hateful looks, without more, may not be found to be sufficiently related to prior, untimely acts of sexual harassment.

The Complainant's Delay in Filing the Charge Must Not Be Unreasonable
The complainant may seek damages for conduct occurring outside the limitations period, unless she "knew or reasonably should have known that her work situation was pervasively hostile and unlikely to improve, and, thus, a reasonable person in her position would have filed a complaint with the MCAD before the statute ran on that conduct." If the delay as to the earlier events is objectively unreasonable, she may still file a claim as to the timely events and use the untimely events as background evidence.

Systemic Violations

A systemic violation occurs when an ongoing discriminatory policy or practice of the employer exists. In order to be rendered timely, the complainant need not establish that the discriminatory act has occurred within the statute of limitations period, rather that the discriminatory policy that affected the complainant continued into the limitations period.

8. CONSTRUCTIVE DISCHARGE

Constructive discharge occurs when a complainant resigns or leaves a job due to working conditions so intolerable that the law treats the resignation as a discharge. Constructive discharge is not a required *element* of a sexual harassment claim, but offers an additional basis for

damages in connection with such a claim. An employee alleging sexual harassment may prove constructive discharge by showing that she left her job under circumstances where a reasonable person in her position would have felt compelled to resign.

Sexual harassment that results in constructive discharge may involve both verbal and physical conduct - *e.g.*, unwanted sexual comments combined with unwelcome touching. However, verbal conduct alone, such as grossly offensive language, can also cause a constructive discharge. An employee who has been subjected to sexual harassment may establish a claim of constructive discharge by demonstrating that it was unlikely that the discriminatory environment would be properly remedied within a reasonable time period. The likelihood of establishing a claim of constructive discharge increases the longer the harassment persists, particularly where the employee has complained of the harassment and no or inadequate remedial action has been taken.

Constructive discharge can occur even if the harasser does not act with the specific intent of forcing the complainant to resign from her job. A claim of constructive discharge under chapter 151B does not arise, however, when the complainant resigns due to general dissatisfaction with the workplace or as a result of other conduct that does not violate chapter 151B.

An employee who is subjected to sexual harassment must pursue reasonable alternatives to quitting, such as filing an internal complaint, in order to establish constructive discharge. Determining whether there are reasonable alternatives to quitting is a fact- specific inquiry. For example, an employee who is sexually harassed by the president of the company may not be required to complain to a Human Resources representative subordinate to the president in order to establish constructive discharge. Moreover, if there is no human resources department or policy regarding how to address a complaint of discrimination, it may not be reasonable to expect an employee who is being harassed by his/her supervisor to file a complaint. It may, however, be reasonable to expect an employee in this situation to make clear to the offending party that the sexually harassing behavior is unwelcome and request that it stop.

As a general matter, where avenues for filing an internal complaint exist, if an employee resigns before the employer has had a reasonable opportunity to investigate and address the allegation of harassment, the resignation is less likely to be determined to be a constructive discharge. Where the complainant makes an internal complaint and the employer fails to respond adequately, constructive discharge may occur. By contrast, responding to allegations of harassment in a prompt, effective, non-retaliatory manner may prevent a finding of constructive discharge.

9. RETALIATION

Neither an employer nor any person may retaliate against an individual who alleges sexual harassment. Chapter 151B, §4(4) prohibits any person or employer from taking adverse action against a person "because he [or she] has opposed any practices forbidden under [chapter 151B] or because he [or she] has filed a complaint, testified or assisted in any proceeding under [chapter 151B]." In order to prove retaliation, a complainant must show that: (A) she engaged in protected activity; (B) her employer knew of this protected activity and acted adversely against her; and (C) a causal nexus exists between the adverse action and the protected activity.

Protected Activity

Protected activity may include, but is not limited to, such actions as:

- speaking to someone at the MCAD, EEOC or other civil rights or law enforcement agency, or to
- an attorney about the possibility of filing a claim of discrimination against the employer;
- filing a complaint at the MCAD or EEOC against the employer;
- filing a complaint in court;
- talking to an MCAD or EEOC investigator about another employee's charge of discrimination against the employer;
- testifying as a witness concerning a claim of harassment against the employer;
- complaining to management or filing an internal complaint of harassment;
- asking a supervisor or co-worker to stop engaging in harassing conduct;
- cooperating with an internal investigation of a sexual harassment complaint; or
- meeting with co-workers to discuss how to stop sexual harassment in the workplace.

In order to prove protected activity, a complainant must demonstrate that she "reasonably and in good faith believed that the [employer] was engaged in wrongful discrimination and that [s]he acted reasonably in response to [her] belief." A complainant need not prevail on her sexual harassment claim to prove a retaliation claim.

In addition, the way in which a complainant expresses her opposition to the harassing conduct must also be reasonable. For instance, physical violence or threats of physical violence may be considered too extreme a response to be considered reasonable. By contrast, conduct such as reporting an incident to a sexual harassment officer, filing a claim at the Commission, providing information in an investigation, or testifying at a proceeding is never considered unreasonable. The Commission's determination as to the reasonableness of a complainant's oppositional conduct will take into consideration the egregiousness of the alleged harassment.

Adverse Action

An employer takes adverse action under §4(4) when it materially disadvantages the complainant with regard to any of the terms or conditions of her employment. The term "adverse action" can encompass actions such as:

- termination;
- denial of promotion;
- demotion in title or duties;
- transfer to a less favorable position or location; involuntary placement on leave;
- hostile or abusive workplace treatment; or
- decreasing compensation or benefits.

In addition to actions that are materially disadvantageous, retaliation claims can be based upon allegations of coercion, threats, intimidation, and interference under chapter 151B, § 4(4A), as discussed below.

A complainant must show that her employer knew of her protected activity when it took adverse action. The MCAD has applied a "knew or should have known" standard to impute knowledge of a complainant's protected activity to her employer. Certain protected activity such as filing a complaint with the MCAD puts an employer on notice by its very nature. However, such notice would only be imputed to the employer in the presence of proof that the employer had received notice of the MCAD filing.

Causation

A complainant proves causation by showing that her participation in protected activity was "a determinative factor" in her employer's decision to act adversely against her. A highly relevant factor in the causation analysis is the proximity in time between the adverse action and the protected activity. The mere fact, however, that adverse action occurred after protected activity does not necessarily show causation.

Coercion, Intimidation, Threats or Interference

A complainant may also bring a retaliation claim under §4(4A) of chapter 151B if she is subjected to threats, intimidation, or coercion, or her employment is otherwise interfered with because she complained of harassment or assisted or encouraged another who complained of harassment. Unlike a §4(4) claim, a §4(4A) claim does not require proof of an adverse employment action. Furthermore, both employees and non-employees can be held liable under this section. For example, an interviewer's threat not to hire an employee may violate §4(4A), even if the interviewer does not have authority to act on the threat.

Frivolous Claims
The employer has the right to take appropriate disciplinary action against an employee who makes a false or bad faith claim of sexual harassment. In addition, to the extent that any willfully false claim constitutes resistance to or interference with the work of the Commission, the person filing such a complaint may be subject to civil and/or criminal penalties.

State and Federal Employment Discrimination Agencies:
Massachusetts Commission Against Discrimination
1 Ashburton Place
Boston, MA 02108
Telephone: 617-727-3990
and/or
U.S. Equal Employment Opportunity Commission
Telephone: 617-565-3200

Making a Civil Rights Complaint, including a Sexual Harassment Complaint, at Minuteman:
John E Cammarata
Civil Rights/Title IX Coordinator
781-861-6500, ext. 7637
Educational Data Specialist in the Superintendent's Office

Confidentiality of Student Records

What advice can you offer me about student records?

As a public employee, perhaps the most important thing to remember about student records is that they are to be kept confidential. They can only be seen by school personnel and others who have a need to see them and who are authorized by law to see them.

Can you give me some more common sense tips?

1. Don't give out information about a student unless you have specific permission to do so.
2. Read the "Student Privacy Policy" in the Student/Parent Handbook.
3. Learn what our district considers "Directory Information" about a student that may be disclosed unless a parent objects.
4. Be cautious in releasing a student record to a non-custodial parent if you suspect there is a court order restricting the parent's access.
5. Read the federal law that covers student records.
6. When in doubt, don't give it out. Instead, defer to your supervisor the decision on whether to release a student record.

What federal law addresses the confidentiality of student records?

It's called the Family Educational Rights and Privacy Act (FERPA).

The Family Educational Rights and Privacy Act (FERPA)

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.

- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions:
    - School officials with legitimate educational interest;
    - Other schools to which a student is transferring;
    - Specified officials for audit or evaluation purposes;
    - Appropriate parties in connection with financial aid to a student;
    - Organizations conducting certain studies for or on behalf of the school;
    - Accrediting organizations;
    - To comply with a judicial order or lawfully issued subpoena;
    - Appropriate officials in cases of health and safety emergencies; and
    - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, *Student Handbook*, or newspaper article) is left to the discretion of each school.

Excerpts taken from the U.S. Department of Education website on March 20, 2017, and slightly edited: https://ed.gov/policy/gen/guid/fpco/ferpa/index.html

Use of School Computers

Tips on the Proper Use of School E-mail

As a school employee, you have access to a computer to conduct school business. There are many good reasons for using electronic communication. You need to contact other staff members, colleagues at other schools, and professional organizations such as the Massachusetts Association of Vocational Administrators (MAVA). You need to stay in regular communication with parents.

As a public employee, you must be especially careful in the way you use the school's computer system. The computer is not your personal property. It is owned by the public. You need to be aware that anything you send in an e-mail – no matter how personal in nature, no matter how humiliating for you or damaging to your career if others were to see or read it – is actually not your personal property at all. In fact, the Massachusetts Secretary of State's Office has determined that e-mails on public computer systems (with very few exceptions) are public records.

Minuteman has developed and approved an "Acceptable Use Policy" governing how you

may legally use the District's computer system. Inherent in the idea of acceptable use is the idea of simple common sense.

Before you click "SEND," imagine reading the contents of your email on the front page of ***The Boston Globe***. Imagine inviting millions of people to see that picture or cartoon or read that tasteless joke. Imagine the potential damage to you, your family, your career.

A few other common sense tips:

1. In an e-mail, never use a student's name or other personally identifiable information if you are discussing the student's grades, conduct or attitude, learning disabilities, or educational accommodations / modifications.

2. Don't direct students to your Facebook page or contact them via other social media. Even if there's officially no rule against it, why would you invite criticism about your motives or fuel questions about your judgment by making "friends" with a minor?

3. Don't send cartoons or jokes or political rants to friends or colleagues. Again, why subject yourself to needless criticism? Keep it professional.

4. Remember that ***forwarding*** an email that contains libelous[1] material about another person is just as bad as personally creating and sending

[1] Definition of "libel": 1) n. to publish in print (including pictures), writing or broadcast through radio, television or film, an untruth about another which will do harm to that person or his/her reputation, by tending to bring the target into ridicule, hatred, scorn or contempt of others. Libel is the written or broadcast form of defamation, distinguished from slander, which is oral defamation. It is a tort (civil wrong) making the person or entity (like a newspaper, magazine or political organization) open to a lawsuit for damages by the person who can prove the statement about him/her was a lie. Publication need only be to one person, but it must be a statement which claims to be fact and is not clearly identified as an opinion. While it is sometimes said that the person making the libelous statement must have been intentional and malicious, actually it need only be obvious that the statement would do harm and is untrue. Proof of malice, however, does allow a party defamed to sue for general damages for damage to reputation, while an inadvertent libel limits the damages to actual harm (such as loss of business) called special damages. Libel per se involves statements so vicious that malice is assumed and does not require a proof of intent to get an award of general damages. Libel against the reputation of a person who has died will allow surviving members of the family to bring an action for damages. Most states provide for a party defamed by a periodical to demand a published retraction. If the correction is made, then there is no right to file a lawsuit. Governmental bodies are supposedly immune to actions for libel on the basis that there could be no intent by a non-personal entity, and further, public records are exempt from claims of libel. However, there is at least one known case in which there was a financial settlement as well as a published correction when a state government newsletter incorrectly stated that a dentist had been disciplined for illegal conduct. The rules covering libel against a "public figure" (particularly a political or governmental person) are special, based on U.S. Supreme Court decisions. The key is that to uphold the right to express opinions or fair comment on public figures, the libel must be malicious to constitute grounds for a lawsuit for damages. Minor errors in reporting are not libel, such as saying Mrs. Jones was 55 when she was only 48, or getting an address or title incorrect. 2) v. to broadcast or publish a written defamatory statement. Source: www.Law.com

that libelous email in the first place. And saying "I sent it but I didn't really believe it" is no defense when you are sued for defamation by the person whose reputation you helped destroy.

5. Remember that you are a public employee, privileged to work on a public computer system in your public job. Treasure what you have. Keep it professional.

Acceptable Use of Technology

The District's "Technology Resources-Acceptable Use Policy" (Policy IJND) can be found on the School Committee section of the website.

The "Minuteman Agreement for Internet Use and Social Media" is found in the *Student Handbook.* It applies to all students and all staff. Students sign it when they receive their *Student Handbook* each year. District employees sign it at the time they are hired.

This Agreement, approved by the School Committee on May 19, 2015, follows.

MINUTEMAN AGREEMENT FOR INTERNET USE AND SOCIAL MEDIA

This document defines Minuteman Regional Vocational Technical School District's role and policy as it relates to the acceptable use of by those who use these resources. This policy applies to all staff, volunteers and students, including high school, postgraduate, afterschool, career exploratory, summer school, continuing education, and visiting groups from outside our school district.

Technology resources that can be available to users include, but are not limited to: computers, networks, data storage areas, electronic mail (email), instant messaging, voice and video services, and Internet-ready devices. Access to the computer systems and networks owned and operated by Minuteman impose certain responsibilities upon users in accordance with existing policies and local, state and federal laws. Users accept the responsibility for utilizing services in ways that are ethical and that demonstrate academic integrity and respect for others who share this resource.

As a user:

- I understand that the use of the Internet, school computers, and technology resources is for educationally relevant purposes and the ongoing operations of the district and its mission.

- I understand that all files stored on the district's technology resources including email and voice mail messages are governed by the "public record" statute and therefore can be requested at any time.

- I understand that these guidelines apply whether I am using a school computer or my own computer on the district's network or a school computer off site. All non-Minuteman computers used on Minuteman's network must be cleared with the Educational Technology Department.

- I understand that the Educational Technology Director, his/her designee, or the Superintendent and his/her designee, in order to maintain system integrity, may view content of any electronic file or communication at any time.

- I understand that any illegal activities, including, but not limited to: violation of copyright laws and any unauthorized access, attempted access or use of any district's or other computing and/or network system is strictly prohibited.

- I agree not to exceed any disk quota on digital storage space provided to me on the district's technology resources including school email system.

- I will not intentionally interfere with the normal operation of a District computer or network, including the propagation of computer viruses or sustained high volume network traffic.

- I will not add or remove system components or alter the configuration of the district systems to avoid or circumvent the district's content filtering, monitoring or security systems.

- I will not alter or change the functionality of the district's computer systems by installing unauthorized or unlicensed software.

- I will not visit Internet sites/Social Media, send, forward, post or publish any material that is likely to be offensive, obscene, hateful, harassing, defamatory, threatening or compromising to the confidentiality of a student or staff member or any other person.

- I will not upload, download, or otherwise transmit any software, copyrighted materials without approval of the district.

- I understand that I am only to use email, instant messaging (chat) and social networking services that are sanctioned or provided by the district.

In addition, users are expected to exercise reasonable judgment in interpreting these guidelines and in making decisions about the appropriate use of Minuteman's technology resources. Any person with questions regarding the application or meaning of these guidelines should seek clarification from the district's Educational Technology Director, as appropriate.

Violation of the tenets of the above agreement may result in disciplinary action, including written warnings, revocation of access privileges, suspension for students, termination for staff, and including legal action by the authorities in accordance with the collective bargaining agreement, district policies, the *Student Handbook* and the protections of legal statues.

The Minuteman Vocational Technical School District is CIPA (Child Internet Protection Act) compliant.

I understand the policy and agree to abide by it.

Name (print): _____ Date: _____

Signature: _____

Pregnant and Parenting Students

Can pregnant students attend school and take part in after-school activities at Minuteman High School?
Yes, pregnant students are protected by Title IX. They can attend school and take part in extracurricular activities just like everyone else.

A portion of the District's policy is printed below.

Are students still protected by federal law after they give birth?
Yes, they are.

What services does Minuteman make available to pregnant and parenting teens?
Services provided by the School Nurse's office, Guidance Counselors, and the Social Worker are outlined in the *Student Handbook*.

MINUTEMAN REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT
PREGNANT & PARENTING TEENS POLICY

Pregnant Students:

Pregnant students are protected under Title IX of federal law and are permitted to remain in regular classes and participate in extracurricular activities with non-pregnant students throughout their pregnancy, and after giving birth are permitted to return to the same academic, vocational and extracurricular program(s) as before the leave.

It is the expectation and the understanding of administrators and faculty that pregnant student will stay in school and fully participate in academic and vocational classes and extracurricular activities, unless deemed inappropriate and unsafe by a physician. Students are only allowed to be out of school and tutored at home at the express direction of their physician. Vocational program environments and/or specific tasks, if considered inadvisable for a pregnant student, may be waived for the period of time necessary, and alternative assignment given.

Pregnant students are entitled to accommodations necessary to allow them to progress in the educational curriculum while providing for a safe, secure and healthy pregnancy. Accommodations, if recommended by a doctor and approved by the principal, may include, among others:

- Door-to-door transportation to and from school,
- Change in schedule to start later in the morning or leave earlier in the day,
- Permanent bathroom pass,
- Supplemental, at-home or hospitalized tutoring

Parenting Students:

After the birth of the child, should any extended leave of absence from school be needed for either a new mother or father, a doctor's letter of advisement and support would be required. Homebound and hospitalized instruction may then be provided where a student has given birth and where a physician has certified that homebound or hospitalized instruction is in the new mother's best interest, and should continue for a specified, but limited period of time.

Such specified, but limited instruction is allowed for either the new mother or father and can be at the youth's home or another mutually convenient place (Minuteman itself, local library, community center, etc.) and must address the following criteria.

- Absence must be at least three weeks' duration.
- Such instruction shall begin no later than two weeks from the first day of absence.
- Such instruction shall be provided at least at least two hours per day or ten hours per week for children in grades nine through twelve (this amount may be decreased or adjusted by Guidance and/or Special Education Director).
- Students unable or unwilling to fulfill the criteria for outside instruction may seek to temporarily withdraw from school to attend to their new parental duties and return to Minuteman the following September to repeat the grade level.

Section 4

Your Rights and Responsibilities:

Blood-borne Pathogens and Universal Precautions

Blood Spill Clean-up Procedure

Standard Precautions

Standard precautions are based upon the latest recommendations from the Centers for Disease Control and the Occupational Safety and Health Administration (OSHA), as well as the Massachusetts Department of Public Health.

Once they are trained, it is expected that employees will protect themselves from the risks of infectious disease by using standard precautions while at work.

Standard precautions refer to the usual and ordinary steps all school staff need to take in order to reduce their risk of infection with HIV, as well as all other blood-borne organisms such as the Hepatitis B virus.

They are standard because they refer to steps that need to be taken in all cases, not only when a staff member or student is known to be a carrier. They are precautions because they require foresight and planning and should be integrated into existing safety guidelines.

Procedures

1. Handle all body fluids, especially blood, with caution.
2. Wear gloves for all contact with body fluid spills.
3. Call the custodian to help clean up body fluid spills promptly.

Blood Spills

Treat Human Blood Spills with CAUTION!
Isolate the area. Notify your immediate supervisor.

- Blood spills must be cleaned up promptly.
- Call the Maintenance Department at ext. 7306 to do the cleanup.
- Always use gloves when dealing with blood spills.

If You Cannot Reach Maintenance:

- Clean up blood spills with a solution of one part household bleach to ten parts water, pouring the solution around the periphery of the spill. Disinfect mops, buckets and other cleaning equipment with a fresh bleach solution. Wear gloves at all times.
- Always wash hands after any contact with body fluids. This should be done immediately in order to avoid contaminating other surfaces or parts of the body. (Be especially careful not to touch your eyes before washing up.) Soap and water will kill HIV.
- Always apply a covering of some sort (gauze, paper towels, etc.) before sending injured student to the Nurse to prevent further blood spill.

All career and technical program areas (shops) are equipped with First Aid kits.

Section 5

Your Rights and Responsibilities:

Right to Know Law
(Chemical Safety)

The Massachusetts Right to Know Law
(Chemical Safety)

Overview

The goal of the Massachusetts Right to Know law is to reduce or eliminate the incidence of injuries and illnesses caused by chemical exposure in the workplace. The law, officially known as "Hazardous Substances Disclosure by Employers," is found in Massachusetts General Laws Chapter 111F. Regulations related to the law are found at 454 CMR 21.00.

To accomplish the goal of the law, all of us need to know about the chemicals used in our school, know the hazards that they pose, and take active steps to minimize exposure and risk. This information must be communicated to Minuteman staff and, in turn, to our students.

Safety Coordinator

Carol Brown is Minuteman's Safety Coordinator. One of her jobs is to make sure that all employees at the school receive annual training about chemicals in the workplace. As a technical school, we take this safety training very seriously and urge you to do likewise. Please contact Ms. Brown if you have any questions about this training program, concerns about chemical safety in the school, or want to make recommendations about Personal Protective Equipment (PPE) or changes in safety procedures.

New System for Labeling of Chemicals

In the past few years, there have been changes in the way that chemicals are labeled. Both the Massachusetts Right to Know Law and the OSHA Hazard Communication Standard (HCS) were updated to align with the United Nation's "Globally Harmonized System of Classification and Labeling of Chemicals" (GHS).

Signal Words

In the new labeling system, there are only two signal words: "Danger" and "Warning." "Danger" is used for the more severe hazards and "Warning" is used for the less severe hazards. The label will only have **one** signal word no matter how many hazards a chemical may have.

Your Responsibility

As a Minuteman employee, you need to know about these changes in the chemical labeling system. You also need to take other active steps to protect yourself and to protect your students.

Here are some of things we all must do:

Overview of Minuteman's Workplace Requirements

1. Maintain a list of chemicals used in your area and update annually.
2. Obtain a Safety Data Sheet (SDS) for each chemical on the list.
3. Date the SDS when use is discontinued and keep on file for a minimum of 30 years.
4. Ensure all containers are labeled correctly.

5. Ensure all chemicals are stored correctly.
6. Annually train students and new staff in all departments using chemicals. This includes career and technical education programs, art programs, science classes, and the Maintenance Department. Documentation of the training conducted shall be retained by the departments.

Training Overview – Questions to Consider

1. What hazardous chemicals are used in your area?
2. Where should you correctly store those chemicals?
3. How should you correctly store them?
4. How can these chemicals hurt you?
5. How do you protect yourself?
6. What is the correct way to use and store Personal Protective Equipment (PPE)?

Chemical Safety Training Material

1. Read the written materials in this section.
2. Review the documents at the back of this training packet:
    - OSHA Quick Card - Hazard Communication Safety Data Sheets
    - OSHA Quick Card – Hazard Communication Standard Labels
    - OSHA Quick Card – Hazard Communication Standard Pictogram
    - Right to Know Workplace Notice for Public Employees

After you review the Right to Know Chemical Safety Training Material, please print and complete the two Post Tests at the back of this training packet.

All employees must submit the two (2) completed tests to Lynne Belmer, Coordinator of Human Resources, located in the Business Office.

Section 6

Your Rights and Responsibilities:

Emergency Physical Restraint

Emergency Physical Restraint of Students

What to do first…

- Always use your voice first. Be **clear and loud**. Try to diffuse the situation verbally.
- Immediately send a nearby staff member or student to find the **Assistant Principal**.
- Only use physical restraint when there's **imminent physical danger**.

Once imminent physical danger has been established…

- Choose the best route to **engage the person** from behind.
- Attempt a safe, non-harmful, clutch-and-flee transport technique.
- Immediately terminate the technique when the situation becomes dangerous to you or when the person no longer is at risk of causing imminent danger.
- Use of verbal techniques should NEVER stop throughout incident.

NEVER ● NEVER ● NEVER

- Strike, Slap, Hit, or Punch
- Deliberately take student to the ground.
- Restrict breathing in any way.

Questions?
Contact Assistant Principal Brian Tildsley, ext. 7405.

MINUTEMAN
A REVOLUTION IN LEARNING

Section 7

Your Rights and Responsibilities:

Bullying, Cyberbullying, Hazing, and Harassment

Hazing

"Hazing" means any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. It includes whipping, beating, branding, forced calisthenics exposure to the weather, forced consumption of food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extreme isolation.

Hazing is a crime. It's prohibited. Report any instances of hazing to the Dean of Students/Assistant Principal or to the police.

Bullying, Cyberbullying, and Harassment

PURPOSE: It is the goal of the Minuteman District School Committee and Minuteman to promote a learning atmosphere for students free from all forms of bullying. Because bullying affects not only students who are targets but also those who participate and witness such behavior, it is detrimental to student learning and achievement and will not be tolerated by Minuteman. Minuteman prohibits all forms of harassment, discrimination and hate crimes based on race, color, religion, national origin, ethnicity, sex, sexual orientation, age or disability. The civil rights of all school community members are guaranteed by law. The protection of those rights is of utmost importance and priority to our school District. Minuteman also prohibits bullying of school community members for reasons unrelated to their race, color, religion, national origin, ethnicity, sex, sexual orientation, age or disability. Further, Minuteman will also not tolerate retaliation against persons who take action consistent with this policy.

DEFINITION OF BULLYING: Bullying is the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that:

a. causes physical or emotional harm to the victim or damage to the victim's property;
b. places the victim in reasonable fear of harm to himself or herself or of damage to his/her property;
c. creates a hostile environment at school for the victim;
d. infringes on the rights of the victim at school; or
e. materially and substantially disrupts the education process or the orderly operation of a school.

For the purposes of this policy and related procedures, bullying shall include cyberbullying.

DEFINITION OF CYBERBULLYING: Cyberbullying is bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not

limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyberbullying shall also include:

a. the creation of a web page or blog in which the creator assumes the identity of another person or
b. the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses (a) to (e), inclusive, of the definition of bullying. Cyberbullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in clauses (a) to (e), inclusive, of the definition of bullying.

SCOPE: Bullying actions will include, when appropriate, referral to law enforcement agencies or other state agencies. Minuteman will support this policy in all aspects of its activities, including its curricula, instructional programs, staff development, extracurricular activities and parental involvement.

This policy applies to all sites and activities under the supervision and control of the District, or where it has jurisdiction under the law, including school grounds, property immediately adjacent to school grounds, at a school-sponsored or school related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased, or used by a school district or school, or through the use of technology or an electronic device owned, leased, or used by a school district or school. The policy applies to all students, school committee members, school employees, independent contractors, school volunteers, visitors, parents and legal guardians of students, whose conduct occurs on school premises or in school related activities, including school-related transportation.

Bullying is also prohibited at a location, activity, function or program that is not school-related or through the use of technology or an electronic device that is not owned, leased or used by the District, if the act or acts in question create a hostile environment at school for the victim, infringe on the rights of the victim at school or materially and substantially disrupt the education process or the orderly operation of the school.

The School Committee expects administrators to make clear to students and staff that bullying will not be tolerated and will be grounds for disciplinary action up to and including suspension and expulsion for students, and termination for employees.

All staff members are required to report any bullying or harassment they see or learn about. The District will promptly and reasonably investigate allegations of harassment, including bullying. The Principal or his/her designee will be responsible for handling all complaints by students alleging harassment or bullying. Retaliation against a person who reports bullying, who provides information during an investigation of bullying, or who is a witness to or has reliable information about bullying, is prohibited.

Nothing in this policy is designed or intended to limit the District's authority to discipline or take remedial action under General Laws Chapter 71, §37H or other statutes or regulations, or in response to violent, harmful, or disruptive behavior, regardless of whether this policy covers the conduct. Reports of cyberbullying by electronic or other means, occurring in or out of school will be reviewed and, when a nexus to work or school exists, will prompt disciplinary action.

Distinctions between Bullying and Harassment

What is Bullying?

Bullying is defined as the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that:

1. causes physical or emotional harm to the victim or damage to the victim's property;
2. places the victim in reasonable fear of harm to himself or of damage to his property;
3. creates a hostile environment at school for the victim;
4. infringes on the rights of the victim at school; or
5. materially and substantially disrupts the education process or the orderly operation of a school.

In our school policy, bullying includes cyberbullying. There is no difference.

What is Harassment?

Non-lawyers might describe harassment as "bias-based bullying." It's bullying behavior motivated by bias or prejudice, based on real or perceived characteristics including one of more of the following:

- ✓ Race
- ✓ Color
- ✓ Religion
- ✓ Ethnicity or National Origin
- ✓ Disability
- ✓ Gender
- ✓ Sexual Orientation
- ✓ Gender Identity

Bullying and Harassment Procedure

- Same complaint form used by all members of the school community, including staff
- The Principal's Office receives complaints
- Administrator contacts the alleged victim and the subject of the complaint
- An investigation is conducted and both sides are notified at its conclusion
- Due to privacy laws, the complainant and his/her family cannot be informed of the actual consequences but may be informed if the complaint was validated

Reporting Criminal Acts

The Principal and Assistant Principals are responsible for reporting criminal activity to the police. School officials retain their sole prerogative to impose any disciplinary sanctions for infractions of school rules.

Acts that must be reported:

- Any serious incident of assaultive behavior
- Destruction or attempted destruction of property
- Theft of school or personal property
- Violations of restraining orders
- Threats against person(s) or property
- Repeated incidents of criminal harassment
- Any sexual assault or inappropriate sexual behavior
- Civil rights incidents: Criminal acts committed with intent to intimidate because of race, color, religion, national origin, sexual orientation or disability
- Possession of a dangerous weapon
- Possession of alcohol or controlled substances as defined by state law
- Having a reasonable belief that a student has sold or offered to sell or otherwise distributed a drug which is believed to be a controlled substance

Section 8

Mandatory Tests

After reading the Training Packet, each Minuteman employee is required to complete and submit two online assessments. Completing these tests is mandatory.

To access the tests, use the following links or visit "Business Office/Human Resources" on the Minuteman website:

- *Post Test #1 – Right to Know/Chemical Safety:* *https://www.minuteman.org//cms/module/selectsurvey/TakeSurvey.aspx?SurveyID=119*

- *Post Test #2 – Special Education, Civil Rights, and School Procedures:* *https://www.minuteman.org//cms/module/selectsurvey/TakeSurvey.aspx?SurveyID=120*

The tests included in this Training Packet are earlier draft versions of the online assessments. They are provided for your information only. The actual assessments must be completed online.

MINUTEMAN
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Employee Name _____ **Date** _____

Post Test #1 - Right to Know/Chemical Safety

1. Public employers in Massachusetts must provide annual training to employees who work with chemical products.
   TRUE _____ FALSE _____

2. Under the new Globally Harmonized System of Classification and labeling of Chemicals (GHS) system, Material Data Safety Sheets (MSDS) have a new name. What is the new name?
   a. Chemical Safety Sheet
   b. Environmental Safety Sheet
   c. Safety Data Sheet
   d. Chemical Data Sheet

3. What's new about the new sheets?
   a. Nothing really
   b. New name only
   c. New name and new labeling
   d. New colors

4. Public employers must make these sheets available in an accessible location for employees.
   TRUE _____ FALSE _____

5. What does PPE stand for?
   a. Personal Protective Equipment
   b. Pre-Paid Equivalent
   c. Prime Personal Education
   d. Presidential Proxy Equivalent

6. Who is Minuteman's Safety Officer?
   a. Kellyanne Conway
   b. Matt MacLean
   c. H.R. McMaster
   d. Carol Brown

7. As of June 1, 2015, the OSHA Hazard Communication Standard require new Safety Data Sheets (SDSs) to be in a uniform format. List the new 16 sections and headings. **(Helpful Hint: See OSHA QuickCard Safety Data Sheets)**

1. _____ 9. _____

2. _____ 10. _____

3. _____ 11. _____

4. _____ 12. _____

5. _____ 13. _____

6. _____ 14. _____

7. _____ 15. _____

8. _____ 16. _____

8. List the seven (7) elements (headings) that must be included on a hazardous chemical label under OSHA's revised Hazard Communication Standard. **(Helpful Hint: See OSHA QuickCard Labels)**

1. _____ 4. _____

2. _____ 5. _____

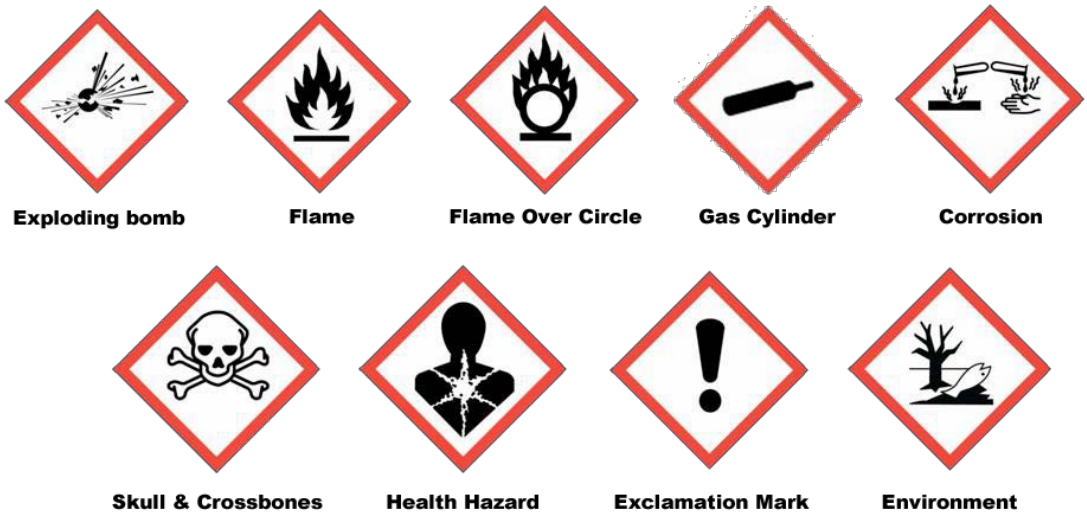
3. _____ 6. _____

7. _____

9. One of two signal words is required on labels to emphasize hazard. Which word communicates the greater hazard?

a. Danger
b. Warning

10. There are nine (9) symbols called pictograms.



Match the pictograms with their meanings. Write the appropriate letter for the pictogram that corresponds to each chemical category on the following page.

Physical hazards are on the top row, with health hazards on the bottom row, except for the final environmental pictogram enforced by the Environmental Protection Agency (EPA).

Match pictograms with their meanings (Helpful Hint: See OSHA QuickCard Pictogram)

Write the appropriate letter for the pictogram that corresponds to each chemical category.

_____ Flammables

_____ Narcotic effects

_____ Oxidizers

_____ Self-Reactives

_____ Self-heating

_____ Irritant

_____ Organic peroxides

_____ Explosives

_____ Gases under pressure

_____ Carcinogen

_____ Skin sensitizer

_____ Acute toxicity (Fatal or Toxic)

_____ Respiratory tract irritation

_____ Self Reactives

_____ Corrosives

_____ Respiratory Sensitizer

_____ Reproductive toxicity

_____ Target organ toxicity

_____ Mutagen

MINUTEMAN
A REVOLUTION IN LEARNING

Employee Name _____ **Date** _____

Post Test #2 – Special Education, Civil Rights, and School Procedures

After you review the training material and complete this 25-question post-test, please submit it to Lynne Belmer, Coordinator of Human Resources, in the Business Office. Keep a copy for your files.

1. All Minuteman employees are considered mandated reporters of suspected child abuse and neglect.
   TRUE _____ FALSE _____

2. If you follow the correct school procedures, who should you contact at Minuteman if you suspect child abuse or neglect?
   a. Superintendent
   b. Principal
   c. Assistant Principal
   d. Director of Special Education, a guidance counselor, the social worker, school psychologist, school nurse, or school adjustment counselor

3. Who else must you contact if you suspect child abuse or neglect?

   a. Department of Elementary and Secondary Education
   b. Attorney General's Office
   c. Department of Children and Families
   d. Governor's Workforce Skills Cabinet

4. In public schools, "Section 504" refers to the part of state law governing vocational-technical education.
   TRUE _____ FALSE _____

5. Teachers may choose to implement only part of a student's Section 504 Plan.
   TRUE _____ FALSE _____

6. Teachers may choose to implement only part of a student's IEP.
   TRUE _____ FALSE _____

7. Minuteman High School uses a “full inclusion” model in which it fully integrates students with disabilities into regular classrooms with their peers who do not have disabilities.
   TRUE _____ FALSE _____

8. An IEP is a legally binding contract.
   TRUE _____ FALSE _____

9. Which department should you contact in the event of a blood spill?
   a. Department of Public Safety
   b. Minuteman Maintenance Department
   c. Occupational Safety and Health Administration (OSHA)
   d. Department of Elementary and Secondary Education

10. “Hostile work environment” is a phrase most commonly heard in connection with major chemical spills.
    TRUE _____ FALSE _____

11. If you have good intentions in what you say and do, your behavior cannot be deemed to be sexual harassment even if it is occurs multiple times and is offensive to the person hearing it or witnessing it.
    TRUE _____ FALSE _____

12. Under the law, it is not theoretically possible for a man to sexually harass another man or for a woman to sexually harass another woman.
    TRUE _____ FALSE _____

13. If you believe you have experienced or witnessed sexual harassment at Minuteman, who should you report this to?
    a. Title IX Coordinator
    b. Safety Coordinator
    c. Director of Guidance
    d. Director of Special Education

14. Unwelcome/uninvited sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitutes
    a. Sexual harassment
    b. Bullying
    c. Hazing
    d. Cyberbullying

15. The non-discrimination statement found in many Minuteman publications says the District does not discriminate on the basis of race, color, national origin, sex, disability, religion, sexual orientation, or gender identity in its programs or activities, including its admissions and employment practices.
    TRUE _____ FALSE _____

16. The non-discrimination statement appears on the school's website: www.minuteman.org.
    TRUE _____ FALSE _____

17. Who is Minuteman's Civil Rights (Title IX) Coordinator?
    a. John Cammarata
    b. Jack Dillon
    c. Dr. Edward Bouquillon
    d. Amy Perreault

18. Pregnant students are protected by federal law and can remain in regular classes and take part in after-school activities like all other students.
    TRUE _____ FALSE _____

19. The Minuteman School Committee has adopted an Acceptable Use Policy that governs how Minuteman staff members and students may legally use District computers.
    TRUE _____ FALSE _____

20. The Family Educational Rights and Privacy Act (FERPA) is a federal law covering student records.
    TRUE _____ FALSE _____

21. The Occupational Safety and Health Administration (OSHA) is a state agency.
    TRUE _____ FALSE _____

22. Minuteman employees can physically restrain students at any time for any reason.
    TRUE _____ FALSE _____

23. The Principal and Assistant Principals are responsible for reporting criminal activity to the police.
    TRUE _____ FALSE _____

24. The school must report possession of an illegal weapon to the police.
    TRUE _____ FALSE _____

25. According to the law, bullying done on a computer (cyberbullying) is not treated as seriously as bullying that is done in person.
    TRUE _____ FALSE _____

MINUTEMAN
A REVOLUTION IN LEARNING

Section 9

Additional Training Materials

Right to Know Training Materials
Occupational Safety and Health Administration (OSHA)
United States Department of Labor

- OSHA Quick Card - Hazard Communication Safety Data Sheets
- OSHA Quick Card – Hazard Communication Standard Labels
- OSHA Quick Card – Hazard Communication Standard Pictogram
- Right to Know Workplace Notice for Public Employees

OSHA® QUICK CARD™

Hazard Communication Safety Data Sheets

The Hazard Communication Standard (HCS) requires chemical manufacturers, distributors, or importers to provide Safety Data Sheets (SDSs) (formerly known as Material Safety Data Sheets or MSDSs) to communicate the hazards of hazardous chemical products. The HCS requires new SDSs to be in a uniform format, and include the section numbers, the headings, and associated information under the headings below:

Section 1, Identification includes product identifier; manufacturer or distributor name, address, phone number; emergency phone number; recommended use; restrictions on use.

Section 2, Hazard(s) identification includes all hazards regarding the chemical; required label elements.

Section 3, Composition/information on ingredients includes information on chemical ingredients; trade secret claims.

Section 4, First-aid measures includes important symptoms/effects, acute, delayed; required treatment.

Section 5, Fire-fighting measures lists suitable extinguishing techniques, equipment; chemical hazards from fire.

Section 6, Accidental release measures lists emergency procedures; protective equipment; proper methods of containment and cleanup.

Section 7, Handling and storage lists precautions for safe handling and storage, including incompatibilities.

(Continued on other side)

U.S. Department of Labor

For more information:

OSHA® Occupational Safety and Health Administration

www.osha.gov (800) 321-OSHA (6742)

OSHA 3493-01R 2016

OSHA® QUICK CARD™

Hazard Communication Safety Data Sheets

Section 8, Exposure controls/personal protection lists OSHA's Permissible Exposure Limits (PELs); ACGIH Threshold Limit Values (TLVs); and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the SDS where available as well as appropriate engineering controls; personal protective equipment (PPE).

Section 9, Physical and chemical properties lists the chemical's characteristics.

Section 10, Stability and reactivity lists chemical stability and possibility of hazardous reactions.

Section 11, Toxicological information includes routes of exposure; related symptoms, acute and chronic effects; numerical measures of toxicity.

Section 12, Ecological information*
Section 13, Disposal considerations*
Section 14, Transport information*
Section 15, Regulatory information*

Section 16, Other information, includes the date of preparation or last revision.

*Note: Since other Agencies regulate this information, OSHA will not be enforcing Sections 12 through 15 (29 CFR 1910.1200(g)(2)).

Employers must ensure that SDSs are readily accessible to employees.
See Appendix D of 29 CFR 1910.1200 for a detailed description of SDS contents.

OSHA® QUICK CARD™

Hazard Communication Standard Labels

OSHA has updated the requirements for labeling of hazardous chemicals under its Hazard Communication Standard (HCS). All labels are required to have pictograms, a signal word, hazard and precautionary statements, the product identifier, and supplier identification. A sample revised HCS label, identifying the required label elements, is shown on the right. Supplemental information can also be provided on the label as needed.

For more information:

U.S. Department of Labor

OSHA® Occupational Safety and Health Administration

www.osha.gov (800) 321-OSHA (6742)

SAMPLE LABEL

CODE _____
Product Name _____

Product Identifier

Company Name _____
Street Address _____
City _____ State ____
Postal Code _____ Country ____
Emergency Phone Number _____

Supplier Identification

Hazard Pictograms

Signal Word
Danger

Keep container tightly closed. Store in a cool, well-ventilated place that is locked.
Keep away from heat/sparks/open flame. No smoking.
Only use non-sparking tools.
Use explosion-proof electrical equipment.
Take precautionary measures against static discharge.
Ground and bond container and receiving equipment.
Do not breathe vapors.
Wear protective gloves.
Do not eat, drink or smoke when using this product.
Wash hands thoroughly after handling.
Dispose of in accordance with local, regional, national, international regulations as specified.

In Case of Fire: use dry chemical (BC) or Carbon Dioxide (CO_2) fire extinguisher to extinguish.

First Aid
If exposed call Poison Center.
If on skin (or hair): Take off immediately any contaminated clothing. Rinse skin with water.

Precautionary Statements

Highly flammable liquid and vapor.
May cause liver and kidney damage.

Hazard Statements

Supplemental Information

Directions for Use

_____
_____
_____

Fill weight: _____ Lot Number: _____
Gross weight: _____ Fill Date: _____
Expiration Date: _____

OSHA 3492-01R 2016

OSHA® QUICK CARD™

Hazard Communication Standard Pictogram

As of June 1, 2015, the Hazard Communication Standard (HCS) will require pictograms on labels to alert users of the chemical hazards to which they may be exposed. Each pictogram consists of a symbol on a white background framed within a red border and represents a distinct hazard(s). The pictogram on the label is determined by the chemical hazard classification.

HCS Pictograms and Hazards

Health Hazard  • Carcinogen • Mutagenicity • Reproductive Toxicity • Respiratory Sensitizer • Target Organ Toxicity • Aspiration Toxicity	**Flame**  • Flammables • Pyrophorics • Self-Heating • Emits Flammable Gas • Self-Reactives • Organic Peroxides	**Exclamation Mark**  • Irritant (skin and eye) • Skin Sensitizer • Acute Toxicity (harmful) • Narcotic Effects • Respiratory Tract Irritant • Hazardous to Ozone Layer (Non-
Gas Cylinder  • Gases Under Pressure	**Corrosion**  • Skin Corrosion / Burns • Eye Damage • Corrosive to Metals	**Exploding Bomb**  • Explosives • Self-Reactives • Organic Peroxides
Flame Over Circle  • Oxidizers	**Environment** (Non-Mandatory)  • Aquatic Toxicity	**Skull and Crossbones**  • Acute Toxicity (fatal or toxic)

For more information:

OSHA® Occupational Safety and Health Administration

U.S. Department of Labor

www.osha.gov (800) 321-OSHA (6742)

OSHA 3491-02 2012

THE COMMONWEALTH OF MASSACHUSETTS
Executive Office of Labor and Workforce Development
Department of Labor Standards

RIGHT TO KNOW WORKPLACE NOTICE for Public Employees

The **RIGHT TO KNOW LAW, Chapter 111F** of the Massachusetts General Laws, provides rights to Public Sector employees regarding the communication of information on toxic and hazardous substances. These rights include:

LABELING - All containers in the workplace containing toxic or hazardous substances must be labeled. Labels must be clear, prominent, in English and weather resistant. When a chemical product is transferred to a smaller container, the smaller container must also be labeled. In 2014, manufacturer labels will begin to include pictograms. Products purchased before 2014 do not need pictograms. Tips for understanding pictograms are available at www.osha.gov.

MATERIAL SAFETY DATA SHEET (MSDS) - Public Employers must maintain Material Safety Data Sheets in an accessible location for employees. In 2014, manufacturers will begin calling the MSDS a "Safety Data Sheet" to comply with changes in the OSHA Hazard Communication Standard. Public Employers must update their MSDS / SDS files when a manufacturer updates the sheets.

TRAINING - Public Employers must provide annual training to employees who work with chemical products. New employees must receive training within thirty days from date of hire. The training must be conducted by a competent person. At a minimum, training must include an explanation of employee rights, information on how to read a chemical Safety Data Sheet, the specific hazards of the chemicals used or stored in the workplace, the type of personal protective equipment to be worn, and information on labeling of hazardous substances. This training must be done with pay during the employee's normal work hours. A record of this training must be maintained by the employer. A sample training outline is available at www.mass.gov/dols/wshp.

WORKPLACE NOTICE - Public Employers must post this Right-to-Know notice in a central location in the workplace informing employees of their rights under the law. This notice is not required for private companies covered by the OSHA Hazard Communication standard.

NON-DISCRIMINATION - An employee who believes he or she has been discharged or disciplined by an employer for exercising rights granted under the Law, may file a complaint with the Director of the Department of Labor Standards. A copy of the complaint must be sent to the employer at the same time by certified mail.

All Right-to Know inquiries should be addressed to:
Department of Labor Standards
167 Lyman Street, Westboro, MA 01581
Tel: 508-616-0461 or Email: safepublicworkplace@state.ma.us

More safety and health information for public sector workplaces is available at www.mass.gov/dols/wshp.

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