



**HAMILTON-WENHAM  
REGIONAL SCHOOL DISTRICT**

**EMPLOYEE ACKNOWLEDGEMENT FORM**

**HWRSD Website posted: POLICIES, PROCEDURES AND DISCLOSURES**

**Hamilton-Wenham Regional School District Link**

**<http://www.hwschools.net/page.cfm?p=1644>**

***Personnel Policies to be reviewed (section G - Personnel):***

- ☐ Anti-Fraternization
- ☐ Domestic Violence
- ☐ Drug Free Workplace
- ☐ Equal Opportunity Employer
- ☐ Evaluation of Professional Staff
- ☐ General (Personnel Goals)
- ☐ Gifts & Contributions to Individual Employees
- ☐ Part-Time Professional Staff Employment
- ☐ Personnel Records
- ☐ Personal Security and Safety
- ☐ Professional Development
- ☐ Recruitment and Selection
- ☐ Resignation of Professional Staff
- ☐ Retirement of Professional Staff
- ☐ Staff Accident Reports
- ☐ Staff Complaints and Grievances
- ☐ Staff Ethics-Conflict of Interest
- ☐ Staff Participation in Political Activities
- ☐ Solicitations by Staff
- ☐ Tutoring for Pay

***Foundation Policies to be reviewed (section A - Foundation):***

- ☐ AIDS/HIV Disclosure
- ☐ Background Checks
- ☐ Conflict between District Policy and Collective Bargaining Agreements or State & Federal Laws
- ☐ CORI Requirements
- ☐ Dissemination
- ☐ Harassment Prevention Response
- ☐ Non-Discrimination
- ☐ Policy Adoption
- ☐ Policy Revision Review
- ☐ Private Tutoring of Students
- ☐ Religious Observances
- ☐ Section 504 Grievance Procedure
- ☐ Tobacco Free School

Print Name: \_\_\_\_\_

Date of Hire: \_\_\_\_\_

Signature: \_\_\_\_\_

Today's Date: \_\_\_\_\_

**\*In addition to reviewing the above mentioned policies, it is suggested that all personnel review all policies/procedures for his/her specific department, directing questions to his/her immediate supervisor.**

**By signing this document, I hereby acknowledge that I will review all of the policies listed above by going to HWRSD's official website and clicking on the appropriate link. I understand that it is my responsibility and obligation to familiarize myself with these policies and to ensure that should I have questions I will contact the Human Resource and Benefits Administrator at 978-626-0915 within ten (10) days of the commencement of my employment.**

**Knowledge**

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**Responsibility**

•

**Respect**

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**Excellence**

**The District does not discriminate in its programs, activities or employment practices based on race, color, national origin, religion, gender, gender identity, sexual orientation, age or disability.**



# HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT

## EMPLOYEE ACKNOWLEDGEMENT FORM POLICIES, PROCEDURES AND DISCLOSURES

- ☐ Harassment Prevention and Response
- ☐ Civil Rights
- ☐ Acceptable Use Policy-Technology
- ☐ Ethics/Conflict of Interest Test ([www.muniprogram.state.ma.us](http://www.muniprogram.state.ma.us)) \*printed completion certificate required
- ☐ The Employee Polygraph Protection Act (EPPA)
- ☐ The Equal Employment Opportunity Poster
- ☐ The Fair Labor Standards Act (FLSA)
- ☐ The Fair Labor Standards Act (FLSA) / Section 14(c)
- ☐ The Family and Medical Leave Act (FMLA)
- ☐ The Occupational Safety and Health (OSH) Act
- ☐ Uniformed Services Employment and Reemployment Rights Act (USERRA)
- ☐ Whistleblower Protections

By signing this document, I hereby acknowledge that I have received copies of all of the policies, procedures and disclosures listed above. I understand that it is my responsibility and obligation to familiarize myself with these policies and procedures and to ensure that this form is signed and returned to the Human Resource and Benefits Administrator within ten (10) days of the commencement of my employment.

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Questions regarding any of the information provided may be directed to  
Human Resource and Benefits Administrator at 978-626-0915.

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## Acceptable Internet Usage Protocol (AUP)

I understand the rules of the HWRSD AUP. I will follow the rules and report unauthorized activity to the district Director of Technology when inappropriate or unauthorized usage or areas of concern are discovered. I understand that all school and district related digital communications will be conducted using resources provided by HWRSD. This user agreement will be renewed each academic year.

*HWRSD RESERVES THE RIGHT TO AMEND OR REVISE THIS PROTOCOL AT ANY TIME*

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Today's Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date of Hire: \_\_\_\_\_

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**HAMILTON-WENHAM**  
REGIONAL SCHOOL DISTRICT

**Adult TB Risk Assessment and Screening Form**  
(For Patient Record)

If you answer YES to any of the questions a Medical Provider Form MUST be completed.

Name:  DOB:  Date:

TB Risk Assessment	Yes	No
1) Were you born in Africa, Asia, Central America, South America, Mexico, Eastern Europe, Caribbean or the Middle East? In what country were you born? <input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) In the past 5 years, have you lived or traveled in Africa, Asia, Central America, South America, Mexico, Eastern Europe, Caribbean or the Middle East for more than one month?	<input type="checkbox"/>	<input type="checkbox"/>
3) In the last 2 years, have you lived with or spent time with someone who has been sick with TB?	<input type="checkbox"/>	<input type="checkbox"/>
4) Do you have (or have you had) any of these medical conditions? Diabetes                      Kidney disease HIV infection                Colitis Cancer                        Stomach or intestine surgery Rheumatoid arthritis	<input type="checkbox"/>	<input type="checkbox"/>
5) Are you taking any medications that your doctor said could weaken your immune system or increase your risk for infections?	<input type="checkbox"/>	<input type="checkbox"/>
6) In the past 1 year, have you injected drugs that your doctor did not prescribe?	<input type="checkbox"/>	<input type="checkbox"/>
7) Have you ever lived or worked in a prison, jail, homeless shelter or long-term care facility? (example: nursing home, substance abuse treatment, rehabilitation facility)	<input type="checkbox"/>	<input type="checkbox"/>

Symptom Screening – At this time, do you have any of these symptoms?	Yes	No
1) Coughing for more than 2-3 weeks?	<input type="checkbox"/>	<input type="checkbox"/>
2) Coughing up blood?	<input type="checkbox"/>	<input type="checkbox"/>
3) Weight loss of more than 10 pounds for no known reason?	<input type="checkbox"/>	<input type="checkbox"/>
4) Fever of 100°F (or 38°C) for over 2 weeks?	<input type="checkbox"/>	<input type="checkbox"/>
5) Unusual or heavy sweating at night?	<input type="checkbox"/>	<input type="checkbox"/>
6) Unusual weakness or extreme fatigue?	<input type="checkbox"/>	<input type="checkbox"/>

If you answer "yes" to any of the questions above, you may be at increased risk for TB infection. Please give this form to your medical provider.



**Office of the Superintendent  
5 School Street, Wenham MA 01984**

**In accordance with Massachusetts General Laws, Chapter 303 of the Acts of 1975, I  
have been furnished a copy of the Conflict of Interest Law.**

Test Link: ([www.muniprog.eth.state.ma.us](http://www.muniprog.eth.state.ma.us)) \*printed completion certificate required

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**Print Name**

**School**

- ☐ Hamilton Wenham High School - 775 Bay Road, S. Hamilton, MA 01982
- ☐ Miles River Middle School - 787 Bay Road, S. Hamilton, MA 01982
- ☐ Buker Elementary School - 1 School Street, Wenham, MA 01984
- ☐ Cutler Elementary School - 237 Asbury Street, S. Hamilton, MA 01982
- ☐ Winthrop Elementary School - 325 Bay Road, S. Hamilton, MA 01982
- ☐ District Central Office- 5 School Street, Wenham, MA 01984

**I am aware that I MUST complete the State Ethics Commission Test within 30 days of  
my start of employment and every two years thereafter. Upon completion provide the  
State Ethics Commission Certificate to the Human Resource Department.**

**Signature:** \_\_\_\_\_

**Please sign and return this form to Human Resources as well as  
the Certificate of Completion as required by law.**

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## Ethics Reform Bill - Training Requirements, Summaries and Online Training

### Mandatory employee educational requirements for municipal (including public school employees) under the Ethics Reform Bill

#### Summary of the Conflict of Interest Law for Municipal Employees

By December 28, 2009, and on an annual basis thereafter, all current municipal employees must be provided with this summary of the conflict of interest law. Municipal employees hired after December 28, 2009, should be provided with the summary within 30 days of the date on which they commence employment, and on an annual basis thereafter. \*Every municipal employee is required to sign a written acknowledgment that he/she has been provided with the summary.

#### Online Training Program "Conflict of Interest"

[www.mass.gov/ethics](http://www.mass.gov/ethics) -Under Education & Training Resources or [www.muniprogram.eth.state.ma.us](http://www.muniprogram.eth.state.ma.us)

By April 2, 2010, and every 2 years thereafter, all current state, county and municipal employees **MUST complete this training**. Public employees hired after 12.28.09 must complete this training **within 30 days of beginning public service, and every 2 years thereafter**. This training is designed primarily for state employees. County and municipal employees should also use this training until it is revised with one tailored to them. *Upon completing the program, employees should print out the completion certificate and keep a copy for themselves and provide one to their principal.*

\* Employees are required to **provide a copy of the completion certificate to HR or Superintendent's Office** for filing. Completing the single program will be considered by the Commission as meeting the Bill's training requirements until a second program is added. When multiple users attempt to complete the current training program using the same computer they may experience a problem accessing the beginning of the program. The user will need to open their internet browser, click on "Tools", then "Internet Options", select "Delete Cookies", and then click "OK". The user will be able to click back on the Online Training module on the Commission's website and start at the beginning.

After you complete the Online Training, print out the "State Ethics Commission Receipt", and return with the receipt on the previous page of this packet "Conflict of Interest Law" to Human Resources.

#### Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal council may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

#### I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts.

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## II. On-the-job restrictions

### *(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)*

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

### *(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)*

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

*Example of violation:* A town administrator accepts reduced rental payments from developers.

*Example of violation:* A developer offers a ski trip to a school employee who oversees the developer's work for the school district.

Regulatory exemptions. There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions, and is considering creating additional exemptions, permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Other exemptions are listed on the Commission's website.

*Example where there is no violation:* A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

### *(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is prohibited. (See Sections 23(b)(2) and 26)*

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

*Example of violation:* A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

*Example of violation:* A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

*Example of violation:* A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

### *(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)*

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in

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any particular matter in which a prospective employer or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

*Example of violation:* A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

*Example of violation:* A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

*Example:* A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

*Example where there is no violation:* An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

*(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)*

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

*Example of violation:* A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

*(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))*

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider

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## HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT

whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

*Example where there is no violation:* A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

***(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))***

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

### **III. After-hours restrictions**

***(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))***

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

*Example:* A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

***(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)***

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

*Example of violation:* A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

*Example of violation:* A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800

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## HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT

hours during the preceding 365 days. It is the position that is designated as “special” and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically “special”; selectman in larger towns cannot be “specials.”

If a municipal position has been designated as “special,” an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

*Example:* A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

*Example:* A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

*(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)*

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an “inside track” to further financial opportunities.

*Example of violation:* Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

*Example of violation:* A selectman buys a surplus truck from the town DPW.

*Example of violation:* A full-time secretary for the board of health wants to have a second job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

*Example of violation:* A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission’s Legal Division for advice about a specific situation.

### IV. After you leave municipal employment. (See Section 18)

*(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.*

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

*Example of violation:* A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

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*(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.*

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

*Example:* An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

*(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.*

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

*Example:* While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

*Example:* A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

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This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. The [www.mass.gov/ethics](http://www.mass.gov/ethics) website, contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter.

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**HAMILTON-WENHAM**  
REGIONAL SCHOOL DISTRICT  
**Harassment Prevention & Response**

**Policy Preamble:** The Hamilton-Wenham Regional School District School Committee is committed to the prevention of harassment based upon sex, race, color, national origin, religion, age, disability, gender identity or sexual orientation. This policy has been developed to ensure that the educational opportunities of all students, and the employment conditions of all employees, are not threatened or limited by such harassment, and to ensure that individuals are free to work, learn, and develop relationships without fear of intimidation, humiliation or degradation.

This policy defines: unlawful and prohibited conduct; reporting and investigation procedures; and disciplinary sanctions.

It shall be a violation of this policy for any employee or student of the Hamilton-Wenham Regional School District to harass another employee, adult member of the school community, student, applicant for employment or other person with business to conduct with the Hamilton-Wenham Regional School District, through conduct and communications as defined below. It shall also be a violation of this policy for students to harass other students or staff through conduct or communications of a harassing nature as defined below.

**II. Unlawful and Prohibited Conduct Defined:** Unlawful and prohibited conduct includes, but is not limited to, actions which are related to a person's sex/gender, race, color, national origin, religion, age, disability, gender identity or sexual orientation when such actions are unwelcome and unsolicited by the recipient.

Harassment based on a person's race, color, national origin, religion, age, disability or sexual orientation consists of conduct that:

1. has the purpose or effect of creating an intimidating, hostile, humiliating, or offensive work or education environment;
2. has the purpose of substantially or unreasonably interfering with a person's work or academic performance;
3. or otherwise adversely affects a person's academic standing or employment opportunities.

**III. Sexual/Gender Harassment:** Unlawful and prohibited conduct, consisting of unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct, or communication of a sexual nature when:

1. submission to, or rejection of, such conduct or communication is made explicitly or implicitly a term or condition of employment, or education or academic achievement;
2. or, submission to, or rejection of, such behavior is used as a basis for employment or academic decisions;
3. or, such behavior unreasonably interferes with an individual's work or academic performance, or creates an intimidating, hostile, humiliating, or offensive work or educational environment.

**Examples of prohibited behaviors regarding sex, gender, gender identity, race, color, national origin, religion, age, disability, or sexual orientation shall include, but not be limited to, the following examples:**

- **Verbal conduct:** name calling, teasing, jokes or other derogatory or dehumanizing remarks, by an individual or group as in verbal bullying;
- **Physical contact:** unwelcome touching of a person or person's clothing or any other act of physical intimidation or bullying;
- **Written conduct:** notes, cartoons, calendars, graffiti, offensive or graphic posters, pictures, book covers, drawings, computer terminal messages or electronic mail (email) of an offensive nature, or designs on clothing meant to offend another on the basis of gender, race, color, national origin, age, disability, sex or sexual orientation or other identifying characteristics;
- **Visual conduct:** suggestive looks, leering, gesturing of a suggestive nature;
- **Blackmail:** as in behavior with the intention to control another individual's scholastic achievement or employment status;

The foregoing list was to provide some concrete examples, but is not meant to be all-inclusive.

**IV. Responsibilities:** All students, teachers, administrators, and other personnel of the Hamilton-Wenham Regional School District are responsible for creating and maintaining an environment that is free of harassment and other offensive behaviors and for conducting themselves in a manner consistent with the spirit and intent of this policy and in cooperating with any investigation of alleged harassment.

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The subject of harassment should report alleged violations of this policy to the appropriate personnel in accordance with the guidelines and procedures that accompany this policy. What one person might consider as acceptable behavior may be viewed by another as harassment. It is, therefore, suggested that a person make clear to the harasser that the behavior is offensive and must cease.

The Hamilton-Wenham Regional School District is responsible for the dissemination of this policy and training. The school district responsibilities will ensure that:

1. this policy shall be conspicuously posted throughout each school building in areas accessible to students and staff;
2. this policy shall appear in staff and student handbooks;
3. the school district will develop a method of discussing this policy with students and employees;
4. the district will appropriately train administrators and others who are assigned and responsible to implement the procedures of this policy;

This policy will be reviewed every two years for compliance with state and federal law.

## **V. Reporting Harassment:**

### **A. Students:**

Students who believe that they are victims of harassment should report such occurrences to a teacher, counselor, or administrator who will in turn notify a complaint manager, or students may report directly to complaint managers. Notice of each school's complaint managers, whose role is defined below, will be posted in a prominent location in each school.

### **B. Employees:**

All Hamilton-Wenham Regional School District employees must respond to a student's complaints of harassment by notifying the building principal or appointed complaint managers. In a case where a student complains of harassment by a teacher or another school department employee, a building administrator and/or his/her designee must investigate the complaint. All student complaints of harassment, including sexual harassment, must always be taken seriously.

Employees who believe that they are victims of harassment should report such occurrences to the most appropriate of the following potential complaint managers: their immediate or system-wide supervisor, the school building principal, a district administrator, or the Superintendent of Schools, or his/her designee.

## **VI. Investigation and Corrective Action:**

The Hamilton-Wenham Regional School District will investigate all complaints of harassment. Such investigation may include discussions with all involved parties, identification and questioning of witnesses, and other appropriate actions. Reports of sexual harassment and related information will be kept confidential to the extent consistent with the school's obligations under law.

Each building principal will appoint two or more complaint managers, at least one of each gender, where possible. The complaint manager shall be responsible for investigating complaints of harassment, communicating the investigatory findings to the Hearing Officer, and recommending discipline as a consequence of harassment.

In a case between a student and an adult, the building principal or another building administrator will act as the complaint manager. In a case involving two or more employees, a building administrator and/or his/her designee will assume the role of the complaint manager. In a case involving a building administrator, a principal, or a district administrator, the Superintendent of Schools, or his/her designee, will act as a complaint manager.

Complaint managers will attend training sessions and workshops as directed. Notice of each school's complaint managers will be posted in a prominent location in each school.

If the Hamilton-Wenham Regional School District determines that harassment has occurred, it will take appropriate action to end the harassment. Steps that may be taken include, among others, an apology, direction to stop the offensive behavior, counseling or training, warnings, suspensions, exclusion from school-related activities, transfer, remediation, expulsion from schools or termination from employment.

Disciplinary action will be consistent with the requirements of applicable collective bargaining agreements, Massachusetts and federal laws, and school district policies. Any staff member or student who is dissatisfied with the results or progress of the school's investigation may discuss his/her dissatisfaction directly with the building principal or the Superintendent of Schools, or his/her designee, at the District Administration Building, 5 School Street, Wenham, MA 01984, (978- 468-5310)

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#### **VII. Retaliation:**

The school administration will discipline or take appropriate action against any student, teacher, administrator, or school personnel who retaliates in any form against a person who makes a complaint or reports or participates in an investigation of a harassment complaint. Acts of retaliation may result in immediate disciplinary action up to and including expulsion or dismissal, even if underlying harassment is not proven. Retaliation is an independent prohibited and unlawful act.

#### **VIII. Investigation of Child Abuse:**

Under certain circumstances, harassment of a student may constitute child abuse under Massachusetts Law, M.G.L. Ch. 119, Section 51A. The Hamilton-Wenham Regional School District will comply with Massachusetts Law in reporting suspected cases of child abuse. The Hamilton-Wenham Regional School District will report suspected criminal activity to the local police.

#### **IX. Right to Alternative Complaint Procedures:**

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Massachusetts Department of Education, 350 Main Street, Malden, MA 02148, (617-388-3300); Massachusetts Commission Against Discrimination, Boston Office, One Ashburton Place, Boston, MA 02188, (617-727-3990); Equal Employment Opportunity Commission, 10 Congress Street, Boston, MA 02114, (617-565-3200); and the Office of Civil Rights of the U.S. Department of Education, J.F.K. Federal Building, Room 1875, Boston, MA 02203, (617-565-1340); initiating civil action or seeking redress under criminal statutes and/or federal law.

#### **X. Policy Review and Revision**

This policy and its procedures will be reviewed every two years for compliance with state and federal law. Review and revision of these policies and procedures shall occur as needed, but at least every two years.

#### **XI. Legal References:**

*Title VII of the Civil Rights Act of 1964*

*Title IX of the Education Amendments of 1972*

*Massachusetts General Laws:*

*c.151B (prohibiting employment discrimination based on gender);*

*c.214 s. 1C (right to be free from sexual harassment);*

*c. 76 s. 5 (prohibiting educational discrimination in public schools);*

*c.265 s.43 (prohibiting stalking);*

*c.269 s. 17 (prohibiting hazing);*

*c. 119, s.51A (reporting of suspected child abuse). Other relevant statutes and case law*

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Harassment Prevention & Response Policy: HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT WENHAM, MA

Originally Adopted: December 19, 2002

Policy Review: November 6, 2008

Approved: November 6, 2008

Vote: 6-0-0

Chairperson, HWRSD School Committee: Laurie Wilson

(Original Signature on file in the Superintendent's Office)

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## Hamilton-Wenham Regional School District

Dear Staff, Parents and Students,

As an educational institution, the Hamilton-Wenham Regional School District is committed to creating and maintaining a school system that prevents discrimination of all types while ensuring the health and safety of all who work and learn here. This booklet has been created to increase awareness and understanding and to ensure the safety of all members of our community. Provided below is a summary of federal and state law which protects individuals from discrimination.

- Title I and Title V of the Americans with Disabilities Act of 1990, as amended (ADA): Prohibit discrimination against qualified individuals with disabilities in all aspects of employment. (Coordinator, Stacy Bucyk, Director of Student Services, 978-468-5303).
- Title II of the Americans with Disabilities Act of 1990: Protects qualified individuals with disabilities from discrimination on the basis of disability in all services, programs, or activities (Coordinator, Stacy Bucyk, Director of Student Services, 978-468-5303)
- Title IX of the Education Amendments of 1972: Prohibits discrimination, exclusion from participation, and denial of benefits in educational program on the basis of gender or gender identity (Coordinator, Stacy Bucyk, Director of Student Services, 978-468-5303).
- Title VI of the Civil Rights Act of 1964: Prohibits discrimination, exclusion from participation, and denial of benefits based on race, color, or national origin. (Coordinator, Stacy Bucyk, Director of Student Services, 978-468-5303).
- Title VII of the Civil Rights Act of 1964: Prohibits discrimination in employment on the basis of race, color, religion, sex or national origin. (Coordinator, Stacy Bucyk, Director of Student Services, 978-468-5303).
- Section 504 of the Rehabilitation Act of 1973: Prohibits discrimination against qualified individuals with disabilities in employment, programs and activities. (Coordinator, Stacy Bucyk, Director of Student Services, 978-468-5303).
- M.G.L. Ch. 76, Section 5: Prohibits exclusion or discrimination 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, religion, national origin, gender identity or sexual orientation.
- M.G.L. Ch. 151B, Section 4: Prohibits discrimination in employment because of race, color, religious creed, national origin, sex, gender identity, sexual orientation, age, genetic information or ancestry.

(SEE ENCLOSED LIST OF BUILDING BASED COORDINATORS)

As a school district, we are committed to creating and maintaining schools that prevent discrimination of all types and ensuring the health and safety of all who work and learn here. Please take time to review this material in depth.

Sincerely,

Julie Kukenberger, Ed.D.,  
Interim Superintendent of Schools

**HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT**  
**Section 504 Coordinators**

**THE SECTION 504 DISTRICT COORDINATOR IS:**

Name: Stacy Bucyk  
Address: 5 School Street  
Wenham, MA 01984  
Telephone: (978) 468-5303

**THE SECTION 504 BUILDING COORDINATORS / CASE MANAGERS ARE:**

**HAMILTON-WENHAM REGIONAL HIGH SCHOOL**

Name: Bryan Menegoni, Coordinator  
Address: 775 Bay Road  
South Hamilton, MA 09182  
Telephone: (978) 468-0400

**MILES RIVER MIDDLE SCHOOL**

Name: Elizabeth Lovell, Coordinator  
Address: 787 Bay Road  
South Hamilton, MA 01982  
Telephone: (978) 468-0362

**BUKER ELEMENTARY SCHOOL**

Name: Ben Schersten, Coordinator  
Address: 1 School Street  
Wenham, MA 01984  
Telephone: (978) 468-5324

**CUTLER ELEMENTARY SCHOOL**

Name: Jennifer Clifford, Coordinator  
Address: 237 Asbury Street  
South Hamilton, MA 09182  
Telephone: 978-468-5330

**WINTHROP ELEMENTARY SCHOOL**

Name: Carolyn Shediak, Coordinator  
Address: 325 Bay Road  
South Hamilton, MA 01982  
Telephone: 978-468-5340



## HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT

### **Section 504 Coordinators**

#### **THE SECTION 504 DISTRICT COORDINATOR IS:**

Name: Stacy Bucyk

Address: 5 School Street

Wenham, MA 01984

Telephone: (978) 468-5348

#### **THE SECTION 504 BUILDING COORDINATORS / CASE MANAGERS ARE:**

##### **BUKER ELEMENTARY SCHOOL**

Brian O'Donoghue, Coordinator

Address: 1 School Street

Wenham, MA 01984

Telephone: (978) 468-5324

##### **CUTLER ELEMENTARY SCHOOL**

Jennifer Clifford, Coordinator

Address: 237 Asbury Street

South Hamilton, MA 09182

Telephone: 978-468-5330

##### **WINTHROP ELEMENTARY SCHOOL**

Christopher Heath, Coordinator

Address: 325 Bay Road

South Hamilton, MA 01982

Telephone 978-468-5340

##### **MILES RIVER MIDDLE SCHOOL**

Elizabeth Lovell, Coordinator

Address: 787 Bay Road

South Hamilton, MA 01982

Telephone: (978) 468-0362

##### **HW REGIONAL HIGH SCHOOL**

Bryan Menegoni, Coordinator

Address: 775 Bay Road

South Hamilton, MA 09182

Telephone: (978) 468-0400

### **NON-DISCRIMINATION, CIVIL RIGHTS, AND SAFETY INFORMATION FOR PERSONNEL, PARENTS AND STUDENTS**

#### **STATEMENT**

The role of the Hamilton-Wenham Regional School District is to provide a safe, secure and supportive environment for all students and staff. No person shall be excluded from or discriminated against in obtaining the advantages, privileges and courses of study on account of race, color, sex, religion, national origin, disability, gender, age or sexual orientation. Discrimination, sexual and bias-motivated harassment, and violations of civil rights disrupt the educational process and will not be tolerated.

It shall be a violation for any pupil, teacher, administrator or other school personnel to engage in sexual or bias-related harassment (referred to as wrongful harassment) or violate the civil rights of any pupil, teacher, administrator, or other school personnel. Conduct, such as a hate crime, is a particularly serious infraction that will result in referral to law enforcement agencies.

The District will investigate all complaints of sexual or bias-related harassment or violations of civil rights, either formal or informal, verbal or written, and take appropriate action against any pupil, teacher, administrator, or other school personnel who is found in violation of the District's policy on non-discrimination.

#### **COMMITMENT TO PREVENTION**

The Hamilton-Wenham Regional School District is committed to prevention, remediation, and accurate reporting of bias incidents and civil rights violations to ensure that all persons can participate in a safe and tolerant learning environment in which individual differences are respected. The District promotes activities and training for all school personnel to foster respect for diversity, civil rights, and non-violence in the school setting.

#### **ZERO TOLERANCE FOR KNOWN CIVIL RIGHTS VIOLATIONS: REQUIRED REPORTING AND INTERVENTION TO STOP HARASSMENT**

- School employees must intervene in civil rights violations and episodes of wrongful harassment whenever witnessed or reported to the extent intervention can be done safely. School employees must report a civil rights violation or episode of wrongful harassment to the school civil rights administrator. Designated administrators must intervene in matters of civil rights violations and episodes of wrongful harassment, summoning assistance as necessary.

**Knowledge**

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**Responsibility**

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**Respect**

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## HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT

- The primary objective of school intervention in a civil rights matter is to put a swift end to, and prevent any recurrence of, any wrongful conduct, so as to ensure the safety of all persons and provide a school environment free of wrongful harassment and civil rights violations. Intervention should be provided immediately, as needed on a short-term basis and more comprehensively once a civil rights violation has been found to have occurred. The school will take all necessary steps within its authority to stop the civil rights violation and wrongful harassment, and restore and preserve an environment free of such conduct.
- When necessary, appropriate measures will be taken by school officials to stop harassment and violence and/or defuse a hostile situation. School officials will follow administrative procedures wherever possible and if immediate action is required, school personnel will separate the victim or complainant and the offender, order the offender to stay away from victim, and/or assign additional security. School disciplinary hearings should begin and proceed on an expedited basis where there is a threat of ongoing civil rights violation. Disciplinary action appropriate to the offender's conduct will be taken when a violation has occurred. Potential criminal conduct will be reported to law enforcement agencies, and legal remedies will be pursued as necessary to protect a person's civil rights.

### DESIGNATION OF CIVIL RIGHTS ADMINISTRATORS

The Principal of each school in the Hamilton-Wenham Regional School District, or his/her designee, will respond to matters of civil rights violations that arise in the school setting. The Principal or his/her designee shall be given a title and prominently identified as available to receive reports and complaints of civil rights violations from students, faculty, or staff. The principal will receive specialized civil rights training and take responsibility for upholding school civil rights and safety policies. The designee will also serve as a liaison with law enforcement agencies and assist the Superintendent in making referrals of possible criminal matters to law enforcement agencies.

### IDENTIFICATION AND DEFINITIONS OF PROHIBITED CONDUCT

- **BIAS INCIDENT** means any conduct or communication motivated by hatred or prejudice that demeans, degrades, or harasses an individual or group based upon membership in a protected category as recognized by law including race, color, religion, religious creed, gender, sexual orientation, national origin, ancestry, veteran, or disability status.<sup>1</sup> A bias incident may or may not be a criminal act.
- **BIAS INDICATORS** are objective facts and circumstances that suggest that an action was motivated in whole or in part by a particular type of bias.
  - **Common Bias Indicators:**
    - bias-related oral comments or epithets
    - bias-related markings, drawings, or graffiti
    - use of bias-related symbols
    - no clear economic motive for an assault and battery
    - crime involving disproportionate cruelty or brutality
    - offender history of crimes with similar behaviors and victims of the same group
- **CIVIL RIGHTS VIOLATIONS** include violence, threats, intimidation or harassment based on race, color, religion, national origin, ethnicity, gender, gender identity, sexual orientation, or disability.. Rights protected against interference include non-discrimination in access to advantages and privileges of a public school education. The term civil rights violation also covers bias-related and sexual harassment and bias crimes, so the term is applied generically to any civil or criminal law infractions.
- **DISCRIMINATION** means unfair treatment or denial of normal privileges to persons because of their race, religion, national origin, disability, sexual orientation, color, age or gender.

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- **HARASSMENT** in school occurs when a student or adult's behavior or inappropriate language creates hostile, offensive or intimidating school environment.
  - **BIASED-RELATED HARASSMENT** includes behaviors such as the following: degrading, demeaning, insulting or abusive verbal statements or writing of a sexual or racial nature or related to a student's race, color, religion, national origin, ethnic background, gender, sexual orientation, age or disability; graffiti, slogans or other visual displays which contain racial, ethnic, religious slurs or insults based on the student's gender, sexual orientation or disability.
  - **SEXUAL HARASSMENT** is described fully in the District policy and handbooks which are given to all personnel at time of employment.
- **HATE CRIMES** The Massachusetts Civil Rights Act ("MCRA"), commonly referred to as the "hate crimes statute," was established to protect the rights of all citizens and visitors to Massachusetts against threats and interference with their civil rights. A hate crime occurs when a person is targeted for physical assault, threat of bodily harm or intimidation, at least in part because of his or her race, color, religion, ethnicity, national origin, gender, gender identity, sexual orientation or because he or she has a disability.

Certain types of language or conduct may indicate that a hate crime may have occurred. Some indicators that a crime was hate-motivated include:

- Use of racial, ethnic, religious, sexual or anti-gay slurs;
- Use of symbols of hate, such as a swastika or a burning cross;
- Similar behavior by the wrongdoer towards other individuals from the same racial, ethnic or religious group, or against students of the same sexual orientation, gender identity or gender; and
- Where the incident occurs while the victim was participating in an activity supporting a particular racial, religious, ethnic/national origin, disability, gender, gender identity, or sexual orientation.

Hate crimes most frequently occur in the following ways:

- A physical attack or a threat of bodily harm, on the basis of a student's race, color, religion, national origin, ethnic background, gender, and sexual orientation or disability;
  - Intimidating or threatening language based on a student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability; or
  - Damage to a student's personal property or belongings because of the student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability.
- **HOSTILE ENVIRONMENT:** exists when unwelcome, discriminatory conduct causes the school environment to be permeated with threats, intimidation, ridicule, coercion or insult by an individual (or individuals) that is sufficiently severe, pervasive or persistent that a reasonable person would consider that the behavior adversely alters the conditions of a student's education and/or alters the conditions of an individual's employment. In determining whether the alleged conduct creates a hostile environment, the surrounding circumstances, the nature of the behavior, the relationships between the parties involved and the context in which the alleged incident(s) occurred will be considered. Whether a particular action or incident constitutes a hostile environment requires a determination based on all of the facts and surrounding circumstances. If sufficiently severe, a single or isolated incident can create a hostile environment.
  - **STALKING**, a felony, occurs when a person (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury.

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## HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT

- **BULLYING**, as defined in M.G.L. Ch. 71, Section 370, 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 target that:
  - i. causes physical or emotional harm to the target or damage to the target's property;
  - ii. places the target in reasonable fear of harm to himself or herself, or of damage to his or her property;
  - iii. creates a hostile environment at school for the target;
  - iv. infringes on the rights of the target at school; or
  - v. materially and substantially disrupts the education process or the orderly operation of a school.

### SECTION 504 OF THE REHABILITATION ACT

The Hamilton-Wenham Regional School District recognizes its responsibilities under the federal statutes of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 to prohibit discrimination against handicapped individuals on the basis of their handicap. The policies of the Regional District are nondiscriminatory in their employment practices for staff and reasonable accommodations are made to provide access to school meetings and functions for handicapped parents. No discrimination against any person with a handicap is knowingly permitted in any of the programs and practices of the school system.

Further, Hamilton-Wenham fully recognizes its obligation to provide a free and appropriate public education to all of its students. As with the adults of the school community, no qualified, handicapped student will be excluded from participation in, or be denied the benefits of, the educational programs or activities of the Regional District on the basis of his/her handicap. The Hamilton-Wenham Regional School District is committed to identifying, evaluating and providing appropriate accommodations to the handicapped students of the school system regardless of the nature or severity of the handicap. A handicap is considered to be a mental or physical impairment that substantially limits one or more of major life activities. A major life activity for students is participation in the activities and the learning opportunities at school.

A complete section 504 policy statement is available upon request from each principal and/or special education chairperson.

If a parent or guardian disagrees with the determination made by the professional staff of the school district, regarding his/her child's disability and/or recommended accommodations, he/she has the right to a hearing with an impartial officer.

The Family Educational Rights and Privacy Act (FERPA) specifies rights related to educational records. This Act gives parents or guardians the right to: (1) inspect and review his/her child's educational records; (2) receive a copy of those records; (3) receive a list of the individuals having access to those records; (4) ask for an explanation of any item in the records (5) ask for an amendment to any report on the grounds it is inaccurate, misleading, or violates the child's rights; and (6) request a hearing on the issue if the school refuses to make the amendment.

### DEFINITIONS

#### Handicapped person/student:

- any individual who has a mental or physical impairment which substantially limits one or more of major life activities; has a record of such an impairment; or is regarded as having such an impairment.

#### Mental or physical impairment:

- any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs, including speech organs; respiratory; cardiovascular; reproduction; digestive; genitourinary; hemic and lymphatic; skin and endocrine, or
- any mental or psychological disorder such as mental retardation (developmental delay), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

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**Major life activity:**

- examples include caring for one's self, performing manual tasks, walking, seeing, hearing, breathing, speaking, working, and learning.

**Record of Impairment:**

- has a documented history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.

**Regarded as having an impairment:**

- has a physical or mental impairment that does not substantially limit major life activities but is recognized by the school district as constituting a limitation.
- has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment.
- has none of the impairments as defined above but is treated as having such an impairment.

**Additional Information:**

The Hamilton-Wenham Regional School District is committed to compliance with the Americans with Disabilities Act (ADA). The district intends to ensure that individuals with disabilities whether they are employed, apply for a position, or visit facilities within the schools are treated fairly and given an equal opportunity to access facilities, programs, activities, and employment.

It is unlawful for the district to discriminate on the basis of disability against a qualified individual with a disability in regard to:

- recruitment, advertising, job application, and employment procedures;
- hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- rates of pay or any other form of compensation and changes in compensation;
- job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- leaves of absence, sick leave, or any other leave;
- fringe benefits available by virtue of employment, whether or not administered by the covered entity;
- selection and financial support for training including apprenticeships, professional meetings, conferences, and other related activities and selection of leaves for absence to pursue training;
- activities sponsored by a covered entity including social and recreational programs; and
- any other term, condition, or privilege of employment.

The ADA requires that the District focus on the ability not the disability of the individual. The Hamilton-Wenham Regional School District will consider reasonable accommodations providing the individual can perform essential functions of the position. It is not required, however, to give preferential treatment to individuals with disabilities or lower the expected standards of performance.

**Civil Rights Violation Grievance Procedure for School Personnel, Students and Their Families**

The Hamilton-Wenham Regional School District does not discriminate on the basis of race, color, gender, gender identity, religion, national origin, age, sexual orientation or disability in admission, access to services, treatment or employment in its programs and activities. Any complaints of discrimination or violation of federal law should be addressed through the following grievance procedure which consists of four steps: *Step 1 – Informal Complaints*; *Step 2 – Formal Complaints*; *Step 3 – Superintendent's Recommendations*; *Step 4 – Appeal*. Each step has its own procedures, as set forth below.

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Time Limits: Complainants are strongly encouraged to follow the time limits set forth below.

***Step 1 – Informal Complaints***

The grievance must be filed at Step 1 within 5 (five) school days of the event(s) that led to the grievance. If all the parties involved within the complaint process agree to extend the informal process, the 5-day process requirement may be waived.

***Step 2 – Formal Complaints***

The grievance must be filed at Step 2 within 10 (ten) school days after receiving the written response to the informal complaint unless there is good cause for delay, which shall be documented.

***Step 3*** – The grievance must be filed with the Superintendent at Step 3 within 15 (fifteen) school days of receipt of the written response if the complainant is dissatisfied with the response at Step 2.

***Step 4*** – The complainant and/or the respondent may appeal the Superintendent's findings and/or recommendations within 10 (ten) school days.

**Step 1: Informal Complaint**

Complainants are encouraged to try to resolve problems promptly through informal dispute resolution with the person immediately involved. If such action is not possible, or the result is unsatisfactory, the complainant shall meet informally with the Principal, Assistant Principal or their Immediate Supervisor for the building. (For a complaint regarding a Principal, the complainant should contact the Assistant Superintendent for Learning.) This administrator/supervisor will investigate, documenting all steps (including dates and nature of meetings, disposition and dates of disposition) and will reply in writing within five business days of the initial meeting.

**Step 2: Formal Complaint**

If the complaint is not satisfactorily resolved through Step 1, the complainant may file a written grievance with the Principal within ten business days of disposition at Step 1. The written complaint must include:

- A clear statement of the alleged violation
- The remedy sought by the complainant
- The complainant's signature and the date
- The name, address and school (or name, address and telephone number, if not a student or employee) of the grievant.
- The name (and address and telephone number, if not a student or employee) of the grievant's representative, if any.
- The name of the person(s) alleged to have caused the discrimination and/or harassment (respondent) and the date the action occurred.
- The name of all persons who have knowledge about the alleged discrimination and/or harassment (witnesses), as can be reasonably determined.

The Principal will conduct a full investigation of the grievance and will prepare a written report of the investigation that will include:

- A clear statement of the allegations of the grievant and remedy sought.
- A statement of the facts as contended by each party.
- A statement of the facts as found by the Principal and evidence to support each fact.
- A list of witnesses interviewed and documents reviewed during the investigation.
- A narrative describing attempts to resolve the grievance if valid.

The Principal will submit said report to the Title IX Coordinator for review. If the Principal and the Title IX Coordinator believe the grievance is valid, they will recommend appropriate action to the Superintendent.

The report will be filed with the Superintendent within fifteen (15) days of receipt of the written grievance. A copy of the report will be provided to the complainant.

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### **Step 3: Superintendent's Recommendations**

The Superintendent will make necessary findings based upon the investigation and report of the Principal and the Title IX Coordinator. If the grievance is valid, the Superintendent may accept the Principal's and Title IX Coordinator's recommendations at his/her discretion. A copy of the Superintendent's findings and/or recommendations will be provided to the complainant and/or the respondent no later than 30 (thirty) days after the grievance was filed. Any and all recommendations of the Superintendent shall immediately be implemented by the District, subject to the Student Handbook, the collective bargaining agreement and state law, unless the complainant and/or the respondent is not satisfied with the Superintendent's recommendations at Step 3 and files an appeal.

### **Step 4: Appeal**

A complainant and/or the respondent who is not satisfied with the Superintendent's findings and/or recommendations at Step 3 can request reconsideration within 10 (ten) school days by filing a written request for a hearing with the Superintendent concerning the grievance. The Superintendent will provide the complainant and/or the respondent with a written decision within 10 (ten) school days after the hearing.

### **Right to Alternative Complaint Procedure**

The grievance procedure does not deny the right of any individual to pursue other avenues of recourse which may include filing a formal complaint with the:

Office for Civil Rights/Boston  
U.S. Department of Education  
5 Post Office Square, 8th Floor  
Boston, MA 02109-3921  
617 289-0111

Students with disabilities and/or their families also have the option of filing a complaint with the:

Commonwealth of Massachusetts Department of Education  
Bureau of Special Education Appeals  
One Congress Street, 11th Floor  
Boston, MA 02114  
617-626-7250

*\*\* Special grievance procedures are also referenced in the District Section 504 and Sexual Harassment Policies*

### **Confidentiality**

Every reasonable effort will be made to protect the privacy and confidentiality of all parties during the investigation, consistent with and subject to the District's need to investigate the complaint and implement decisions made in order to resolve the complaint. It must be understood that in order to permit the District to carry out its obligation to investigate all complaints fairly and to ensure that discrimination is prohibited in the school community, no representative of the District is authorized to promise complete confidentiality to any person who possesses information relevant to the investigation of a complaint, including the complainant.

### **Consequences for Civil Rights Violations and Failures to Act as Required**

#### **a. Non-disciplinary corrective actions:**

Potential civil rights violations can be addressed with steps that are not punitive in character, without the necessity of disciplinary proceedings. These steps generally lie within the ordinary discretion of principals and school officials. Examples of the non-disciplinary actions that may be appropriate in some instances include counseling, assignment to participate in a diversity awareness training program, separating offender and victim, parent conferences, and special work assignments for students, such as writing a composition on a civil rights related subject.

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**b. Disciplinary Proceedings**

Violations of the civil rights of a student or school employee which are found to have occurred after a hearing warrant the imposition of sanctions up to and including suspension and expulsion for students, and suspension or termination for employees, consistent with state and federal law, the student handbook and the collective bargaining agreement. Disciplinary action will be administered to eliminate the offending conduct, prevent its reoccurrence, and reestablish a school environment that is safe and supportive for the victim.

**c. Failure to Act by Administrators and Teachers**

Upon receiving civil rights information, administrators and teachers have a duty to respond, as safely as possible, when they witness sexual or bias harassment or hate crimes, and to report such occurrences to the appropriate civil rights administrators and, if necessary, the police. A clear failure to act, according to the policy set forth herein, shall result in the individual being directed to undergo further training in hate crimes, diversity issues, and the requirements of school policy. The school administration will develop further sanctions and actions to address repeated instances of a failure to act in accordance with this policy.

**Commitment to Non-Retaliation**

To ensure unimpeded reporting of bias activity the Hamilton-Wenham Regional School District will deal seriously with any and all threats or acts of retaliation when a good faith complaint has been filed. Actual or threatened retaliation against an individual who reports a civil rights matter shall result in disciplinary action. If the conduct amounts to stalking, a mandatory referral to law enforcement will be made. Staff will monitor the situations of victims/complainants carefully to ensure that no threats or acts of reprisal are made. Appropriate and immediate non-disciplinary administrative actions may also be taken to mitigate possible or actual retaliation, to the extent to which administrators have the discretion to act.

**APPENDICES TO POLICY**

**Responsibilities of School Personnel and Students in Relation to Witnessed or Reported Bias Incidents**

**1) All Personnel and Students**

- I. **Report bias incidents and civil rights violations** to school civil rights administrators.
- II. **Be familiar with basic facts about hate and hate crimes**, so as to be able to identify bias incidents and have an understanding of the dynamics.
- III. **Challenge biased attitudes and behavior** whenever encountered in school and outside.
- IV. **Report hate crimes to administration**, who will notify the police and summon help in an emergency.
- V. **Uphold school civil rights and safety policies** and remain vigilant and alert for violations.
- VI. **Take responsibility** so as to make a difference in stopping hate, finding and creating individual and group opportunities for action and involvement.

**2) Teachers Only**

- I. **Set guidelines for classroom behavior** to avoid hurt feelings and promote respect.
- II. **Respond to and challenge insensitive behaviors** like name calling and exclusion of children who are different.
- III. **Provide instruction against hate and prejudice**, whenever these topics arise during classroom time or in lessons.
- IV. **Look for and help implement proactive programs and strategies** to promote tolerance and stop hate conduct.

**3) School Staff Specifically**

- I. **Challenge and try to stop bias incidents** when witnessed or encountered in progress, if a safe opportunity is presented.

**4) Civil Rights Designees Specifically**

- I. **Be available to receive reports of civil rights violations** from students, faculty, and other administrators.

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- II. **Respond promptly to a report of a civil rights violation** by intervening if possible, ensuring that students are safe and free from harassment, and by starting an investigation and quickly ascertaining the facts.
- III. **Put a stop to ongoing harassment** immediately and effectively, and refer victims to support services and resources available in the area.
- IV. **Take remedial, corrective, and disciplinary action** as the circumstances established by the investigation, school policies, and the code of conduct warrant.
- V. **Take steps to avert retaliation against students** who report civil rights violations, and act immediately to ensure student safety and freedom from harassment.
- VI. **Communicate and coordinate efforts with** administration and police, if necessary, on a regular, ongoing basis, and develop a working partnership with police officers assigned to schools and civil rights issues.
- VII. **Undergo specialized training** to maintain knowledge of hate crimes and civil rights issues as they affect schools.
- VIII. **Coordinate school prevention programming and activities**, drawing on available resources and tools.

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**Acceptable Use Policy – Technology** THIS 2014 POLICY SUPERSEDES ANY PREVIOUS INTERNET POLICY USED BY HWRSD **A8028**

**Introduction:**

It is the policy of the Hamilton Wenham Regional School District (HWRSD) to maintain a school environment free of harassment based on race, color, religion, national origin, age, gender, sexual orientation, disability, or any other characteristic protected by law. Employees and students shall observe this policy in the use of the Network and employ digital etiquette by using appropriate, non-abusive language. Employees and students will refrain from making defamatory remarks or racial slurs, bullying and using obscene or profane language.

**Purpose:**

HWRSD is pleased to offer its students and staff access to the District-wide school network ("The Network"), which also serves as the District's gateway to the Internet. The Network is used to enhance productivity through increased communication within the District, and assist its employees in upgrading their skills through greater exchange of information with their peers. The Network also assists the District in communicating with parents, social service agencies, government agencies and businesses.

The Network is not a public forum and HWRSD reserves the right to place reasonable limits on materials posted or accessed through this network.

The Network may not be used for personal or commercial purposes, such as, but not limited to, offering, providing, or purchasing goods and/or services for personal use.

The principal purpose of the District's Network/equipment/access is for the education of students and professional use by its staff. It is the vision of the Hamilton Wenham Regional School District to provide equitable, effective, and efficient technology that expands instructional capacity and enables all students to engage in rigorous learning. To that end, we incorporate technologies utilizing the principles of universal design learning and assistive technology\* throughout our system in order to:

- Maximize access to curricula
- Provide authentic and relevant global resources
- Foster learning, collaboration, exploration, and discovery
- Develop critical, creative, and analytical thinking skills
- Collect, assess, and share knowledge
- Synthesize information and demonstrate conceptual understanding
- Streamline organizational tasks

\* The Americans with Disabilities Act (ADA) requires that state, local, educational and public websites be made accessible. In general - The term 'assistive technology' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a

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child with a disability.

### ***Definitions:***

"HWRSD Network" is defined as the technology devices, digital resources and network infrastructure.

"Network infrastructure" is defined as the Internet, Google Apps for Education, email, hardware, software, printers, peripheral devices, individual computer devices and web enabled devices.

"Information technology" is defined as the use of hardware and software services to store, retrieve, transmit and manipulate data including; Internet access, blogging, podcasting, email, published and non-published documents, and various forms of multimedia technology.

"Educational use" is defined as a use that supports curriculum activities, career and professional development activities, communication, research, learning and other district related activities of an educational nature.

"Devices" refer to district owned/leased devices; staff owned devices, and student owned devices.

### ***Privilege:***

For all users, Internet access through HWRSD and the use of district owned or managed computers, services and networks is a privilege; therefore, inappropriate use will result in a cancellation of this privilege. Based on the acceptable use guidelines outlined in this document, the system administrator may revoke, deny or suspend privileges. All activities on the HWRSD network are NOT private. This means someone can read what you write and see the web pages you visit.

### ***Children's Online and Privacy Protection Act***

Congress enacted the Children's Online Privacy Protection Act, 15 U.S.C. §6501, et seq. (COPPA) in 1998. COPPA required the Federal Trade Commission to issue and enforce regulations concerning children's online privacy. The Commission's original COPPA Rule became effective on April 21, 2000. The Commission issued an amended Rule on December 19, 2012 that became effective on July 1, 2013.

HWRSD works diligently to comply with COPPA requirements. HWRSD does not collect student personal information or transmit such information directly to online entities.

### ***Children's Internet Protection Act (Federal Communications Commission Guide Enclosed):***

The District will comply with the Children's Internet Protection Act (CIPA), enacted by Congress in 2000, which requires schools to block or filter Internet access to content that is: (a) obscene, (b) child pornography or, (c) harmful to minors (for computers that are accessed by minors). However, it is recognized that any filter alone is no guarantee that users will be prevented from accessing Internet resources that are profane, offensive, obscene, or otherwise objectionable. All users accessing the internet do so at their own risk. Students should report accidental or inappropriate sites to a teacher or administrator for blocking. An administrator, supervisor or other appointed person may temporarily disable the filtering technology or other content protection measure, during use by an adult, only to enable access for bona fide educational uses and other lawful purposes. Internet usage is logged and monitored for use consistent with the educational mission of HWRSD.

### ***Recording:***

In addition, HWRSD complies with the unauthorized recording laws. Mass. Gen. Laws ch. 272, § 99 prohibits unauthorized recording. HWRSD requires that all parties must be notified prior to being recorded, preferably in written form. This includes other students and/or staff members.

### ***Email and the Public Records Law:***

Email messages concerning official school business are generally considered public record information that is subject to disclosure under the Massachusetts public records law. [G.L. c. 66 section 10; G.L. c. 4, s. 7 (26)]. Documents prepared in anticipation of litigation or to reply to a Freedom of Information Act (FOIA) should not be disclosed without prior approval from the Superintendent.

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### ***Monitoring:***

There is NO expectation of privacy related to information stored and transmitted over the HWRSD network. HWRSD staff routinely performs maintenance and monitoring of the system. The information on the network in general files and email is not private and is subject to review by the network manager at the request of the HWRSD administration to substantiate inappropriate activity and to comply with requests of law enforcement agencies as part of their investigations.

### ***Data Confidentiality:***

Some district employees, as part of their jobs, have access to confidential information such as personal data about identifiable individuals. Employees are expected to use appropriate judgment and caution in communications concerning students and staff to ensure that personally identifiable information remains confidential. Employees are strictly prohibited from acquiring access to and/or disseminating such confidential information unless access to and/or is authorized and required by their job.

### ***Copyright:***

Employees and students should assume that most materials available on the Internet are protected by copyright. Unauthorized copying of copyrighted material is prohibited. Additionally, any material obtained from the Internet and included in one's own work must be properly cited regardless of the copyright status. The HWRSD will cooperate with copyright protection agencies investigating copyright infringement by users of the computer systems and network of the HWRSD. Copying, selling or distributing copyrighted or proprietary material without the written permission of the author or publisher or engaging in plagiarism is illegal.

### ***Criminal Acts/Cyber Crimes:***

These include, but are not limited to, gaining unauthorized access to other systems, arranging for the sale or purchase of drugs or alcohol, participating in gang activity, threatening others, transferring obscene material, cyber-stalking, cyber-bullying, vandalism, using another person's identity and/or identity fraud, or attempting to do any of the above. This also includes libel, defined as: publicly defaming people through publishing material on the Internet, email, etc.

### ***Terms and Conditions***

By signing this Acceptable Usage Policy (AUP), staff, students and guardians acknowledge the following rules and conditions: As an HWRSD member, I understand that access to the school Network is a privilege, and not a right. I understand that my school networks and accounts are owned by HWRSD and are not private. HWRSD has the right to access my information at any time. I understand that the system administrator will deem what conduct is inappropriate use, if such conduct is not specified in this agreement. I will use technology in a manner that complies with federal, state or local law or regulation, including copyright laws and School Committee policy. I understand that I am to notify an adult immediately if I encounter material that violates appropriate use. Staff will notify the system administrator immediately upon encountering a violation of this agreement.

#### **I will respect and protect the privacy of others and myself.**

- It is prohibited to use anyone else's account or share passwords.
- I will not distribute information about self or others.
- I will not impersonate or pretend to be someone else while online. This includes sending out email, creating accounts or posting messages in someone else's name.

#### **I will respect and protect the property of others.**

- I will not infringe copyrights (no making illegal copies of commercial software, music, games or movies).

#### **I will respect the security of all electronic resources.**

- I will not attempt to bypass security settings or Internet filters, or interfere with the operation of the network.

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## HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT

- I will not make any changes to the computer settings nor change or delete any files or directories stored on school computers or device that are not part of my user profile, my allocated file storage or my personal device settings.

**I will be a responsible member of my school and my community when I am on the Internet.**

- I will use the Internet for educational purposes or the business of the school district.
- I will use the Internet responsibly.
- I will always be polite and use appropriate language.
- I will not search, retrieve, circulate or display hate-based or offensive information, information about weapons, or sexually explicit material.
- I will not use the Internet for, or in support of, illegal purposes or activities.
- I will not buy, sell, advertise, or otherwise conduct business, on the Internet.
- I will not use the Internet for political purposes, except for using the Network to communicate with elected officials.

### ***Due Process***

The HWRSD reserves the rights to deny, revoke or suspend, without prior notification, specific user privileges and/or take other disciplinary action for violation of this policy. Additionally, all handbook regulations apply to the use of the Network. In the event that there is a claim that an employee or student has violated any of the guidelines of this policy, he or she will be provided with written notice of the suspected violation and an opportunity to be heard. HWRSD will also cooperate fully with local, state and/or federal officials in any investigation related to any illegal activities conducted through the Network.

### ***HWRSD Limitations of Liability***

HWRSD assumes no responsibility for any loss or corruption of data resulting from the use of the District's information technology resources. Employees and students must take full responsibility for their own actions.

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Acceptable Use Policy: HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT WENHAM, MA

Policy Review: 1st Reading October 16, 2014

2nd Reading October 30, 2014

Originally Adopted: October 30, 2014

Vote: 7-0-0

Chairperson, HWRSD School Committee: William Wilson  
(Original Signature on file in the Superintendent's Office)

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## **United States Department of Labor - Summary of Disclosures**

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### **The Employee Polygraph Protection Act (EPPA)**

The Employee Polygraph Protection Act of 1988 (EPPA) generally prevents private sector employers from using lie detector tests, either for pre-employment screening or during the course of employment, with certain exceptions. Employers generally may not require or request any employee or job applicant to take a lie detector test, or discharge, discipline, or discriminate against an employee or job applicant for refusing to take a test or for exercising other rights under the Act.

EPPA excludes federal, state and local government agencies from the Act's coverage, with respect to public employees. Lie detector tests may also be administered by the Federal Government to employees of Federal contractors engaged in national security intelligence or counterintelligence functions.

EPPA includes limited exemptions that allow for the administration of polygraph tests (but no other lie detector tests) by private sector employers:

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- Subject to restrictions, the Act permits polygraph (a type of lie detector) tests to be administered to certain job applicants of security service firms (armored car, alarm, and guard) and of pharmaceutical manufacturers, distributors, and dispensers.
- Subject to restrictions, the Act also permits polygraph testing of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in specific economic loss or injury to the employer.

Where polygraph examinations are permitted under the Act, they are subject to strict standards concerning the conduct of the test, including the pre-test, testing, and post-test phases of the examination.

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### **Equal Opportunity Commission (EOC)**

The Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA). These laws cover all private employers, state and local governments, and education institutions that employ 15 or more individuals. These laws also cover private and public employment agencies, labor organizations, and joint labor management committees controlling apprenticeship and training.

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### **The Fair Labor Standards Act (FLSA)**

The FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. The FLSA requires employers to pay covered nonexempt employees a minimum wage of not less than \$5.85 per hour effective July 24, 2007; \$6.55 per hour effective July 24, 2008; and \$7.25 per hour effective July 24, 2009. For more information see the Wage and Hour Basic Information Fact Sheet.

An employee may be covered by the FLSA in two ways: "enterprise coverage" and "individual coverage." For more detail on FLSA coverage, see Wage and Hour Division Fact Sheet #14: Coverage Under the Fair Labor Standards Act (FLSA)

Special rules apply to state and local government employment involving fire protection and law enforcement activities, volunteer services, and compensatory time off instead of cash overtime pay.

Some employees are exempt from overtime pay or both the minimum wage and overtime pay. Because exemptions are generally narrowly defined under the FLSA, an employer should carefully check the exact terms and conditions for each. Detailed information is available from the local Wage and Hour Division office.

The Wage and Hour Division of the U.S. Department of Labor administers and enforces the FLSA with respect to private employment, state and local government employment, and federal employees of the Library of Congress, U.S. Postal Service, Postal Rate Commission, and Tennessee Valley Authority. The U.S. Office of Personnel Management administers the provisions of the FLSA with respect to any person employed by a Federal agency.

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### **The Fair Labor Standards Act (FLSA) / Section 14(c)**

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. Special rules apply to State and local government employment involving fire protection and law enforcement activities, volunteer services, and compensatory time off instead of cash overtime pay.

*Section 14 (c) of the FLSA authorizes employers, after receiving a certificate from the Wage and Hour Division, to pay special minimum wages – wages less than the Federal minimum wage – to workers who have disabilities for the work being performed. The certificate also allows the payment of wages that are less than the prevailing wage to workers who have disabilities for the work being performed on contracts subject to the McNamara-O'Hara Service Contract Act (SCA) and the Walsh-Healey Public Contracts Act (PCA).*

The Employment Standards Administration's Wage and Hour Division administers and enforces FLSA with respect to private employment, State and local government employment, and Federal employees of the Library of Congress, U.S. Postal Service, Postal Rate Commission, and the Tennessee Valley Authority.

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### **The Family and Medical Leave Act (FMLA)**

The Family and Medical Leave Act of 1993 (FMLA) provides a means for employees to balance their work and family responsibilities by taking unpaid leave for certain family and medical reasons. The FMLA provides an entitlement of up to 12 weeks of job-protected, unpaid leave during any 12-month period to eligible, covered employees for the following reasons:

- Birth and care of the eligible employee's child, or placement for adoption or foster care of a child with the employee
- Care of an immediate family member (spouse, child, parent) who has a serious health condition
- Care of the employee's own serious health condition.

*The Department of Labor's Wage and Hour Division published a Final Rule under the Family and Medical Leave Act. The final rule becomes effective on January 16, 2009, and updates the FMLA regulations to implement new military family leave entitlements enacted under the National Defense Authorization Act for FY 2008. It also includes revisions in response to public comments received on the proposed rule issued in February 2008. The Federal Register Notice and related documents are available at Wage and Hour's FMLA Final Rule website.*

FMLA also requires that the employee's group health insurance coverage be maintained under the same terms and conditions during the leave as if the employee had not taken leave.

The Employment Standards Administration, Wage and Hour Division administer and enforce FMLA for all private, state and local government employees, and some federal employees. Most Federal and certain congressional employees are also covered by the law and are subject to the jurisdiction of the U.S. Office of Personnel Management or the Congress.

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### **The Occupational Safety and Health (OSH) Act**

The Occupational Safety and Health (OSH) Act was enacted to "assure safe and healthful working conditions for working men and women." The OSH Act created the Occupational Safety and Health Administration (OSHA) at the federal level and provided that states could run their own safety and health programs as long as those programs were at least as effective as the federal program.

Enforcement and administration of the OSH Act in states under federal jurisdiction is handled primarily by OSHA. Safety and health standards related to field sanitation and certain temporary labor camps in the agriculture industry are enforced by the Employment Standards Administration's Wage and Hour Division (WHD) in states under federal jurisdiction.

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### **Uniformed Services Employment and Reemployment Rights Act (USERRA)**

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects service members' reemployment rights when returning from a period of service in the uniformed services, including those called up from the reserves or National Guard, and prohibits employer discrimination based on military service or obligation. The Veterans' Employment and Training Service (VETS) enforces USERRA.

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### **Whistleblower Protection Provisions**

The Occupational Safety and Health Act (OSH Act) and fifteen other statutes with whistleblower provisions protect workers against retaliation for filing certain complaints with their employers, unions, the Occupational Safety and Health Administration (OSHA), or other government agencies. These protections cover complaints about workplace safety and health; the environment; pipeline safety; air carrier safety; nuclear safety; asbestos in schools; corporate fraud; SEC rules or regulations; commercial motor vehicle safety, health, or security; public transportation safety or security; railroad safety or security; or fraud, waste, or abuse of public funds intended to be used for public transportation or railroad safety or security; as well as other related protected activities. Retaliation may include actions such as discharge or layoff, reductions in pay or hours, demotion, discipline, blacklisting, denial of overtime or promotion, failure to hire or rehire, or denial of benefits.

The Occupational Safety and Health Administration administer and enforce the whistleblowing provisions of the OSH Act and the fifteen other statutes.