

SEX-BASED DISCRIMINATION AND HARASSMENT

Sex-based discrimination, sex-based harassment and sexual harassment (collectively, “sex discrimination”) in the education programs, activities and workplace of the North Middlesex Regional School District is unlawful and prohibited in the District’s education program and activity. All persons associated with the North Middlesex Regional School District including, but not necessarily limited to, School Committee members, District employees, volunteers and students are expected to conduct themselves at all times to maintain a workplace, education program and activity free from sex discrimination.

Any person who engages in sex discrimination while participating in the education program or activity or acting as a member of the school community, will be in violation of this policy. Further, any retaliation against an individual who has complained about sex discrimination or retaliation against individuals for cooperating in an investigation of a sex discrimination complaint is similarly unlawful and will not be tolerated.

Because the North Middlesex Regional School Committee takes allegations of sex discrimination seriously, it will respond promptly to complaints of sex discrimination and where it is determined that inappropriate conduct, whether or not such conduct constitutes sex discrimination, has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth the goal of promoting a workplace and school environment that is free of sex discrimination; the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace or school conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sex discrimination. This policy shall be located and accessible within the School Committee policy manual.

Definitions:

Complainant – A student, employee, or other person participating or attempting to participate in the District’s education program or activity at the time of the alleged sex discrimination.

Complaint – An oral or written request to the District that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination.

Confidential Employee – A North Middlesex Regional School District employee: (1) whose communications are privileged or confidential under federal or state law; or (2) who the District has designated as confidential for the purposes of providing services to persons related to sex discrimination.

Day – When used in this policy, “day” shall mean: (1) during the school year, school days; or (2) during the summer, business days except for holidays.

Respondent – A person who is alleged to have violated the North Middlesex Regional School District’s prohibition on sex discrimination.

Retaliation – Intimidation, threats, coercion or discrimination against any person by the North Middlesex Regional School District, a student, an employee or another person authorized to provide an aid, benefit or service to the District’s education program or activity for the purpose of interfering with any right or privilege secured by Title IX or its accompany regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under thus policy¹.

Sex-based Discrimination – Discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sex-based Harassment – A form of sex discrimination, including but not limited to sexual harassment and other harassment on the basis of sex, that is:

(1) *Quid pro quo harassment*. An employee, agent, or other person authorized by the North Middlesex Regional School District to provide an aid, benefit, or service under the District’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;

(2) *Hostile environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the recipient’s education program or activity; or

(3) *Specific offenses*.

(i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

(ii) Dating violence meaning violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

¹ Nothing in this definition precludes the North Middlesex Regional School District from requiring an employee or another person authorized to provide an aid, benefit or service to the North Middlesex Regional School District’s education program or activity to participate as a witness in, or otherwise assist with, an investigation pursuant to this policy.

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (1) The length of the relationship;
- (2) The type of relationship; and
- (3) The frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

- (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
- (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (C) Shares a child in common with the victim; or (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

(iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (A) Fear for the person's safety or the safety of others; or
- (B) Suffer substantial emotional distress.

Supportive Measures – Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to: (1) restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or (2) provide support during the complaint procedure.

The Title IX Coordinators:

For Students

Gary Burboa-Reese
Assistant Superintendent
North Middlesex Regional School District
66 Brookline Street
Townsend, MA 01469
gburboareese@nmrsd.org
(978) 597-8713, ext 1301

For Staff Members

AnneMarie Tucciarone-Mahan
Director of Human Resources
North Middlesex Regional School District
66 Brookline Street
Townsend, MA 01469
hr@nmrsd.org
(978) 597-8713, ext 1600

The Superintendent will annually appoint one or more Title IX Coordinators who will be vested with the authority and responsibility of managing all sex discrimination complaints. The Title IX Coordinator shall be responsible for handling inquiries about the applicability of Title IX, unless a person prefers to contact one of the governing agencies addressed below.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment). Reports may be made at any time including during non-business hours. Reports may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

All employees who are not confidential employees must immediately notify the Title IX Coordinator upon receipt of information of conduct toward another individual/s that may constitute sex discrimination under this policy.

All employees who are confidential employees who are made aware by another individual of conduct toward that individual that may constitute sex discrimination under this policy must inform that individual: (1) of the employee's status as a confidential employee who is not required to notify the Title IX Coordinator of the alleged conduct; (2) how to contact the Title IX Coordinator and make a complaint of sex discrimination; and (3) that the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under this policy.

Reporting Sex Discrimination:

Receipt of Complaint

Upon notice of allegations that reasonably may constitute sex discrimination, and in treating the complainant and respondent equitably the Title IX Coordinator will: (1) treat the complainant and respondent equitably; (2) contact the complainant to discuss the availability of and coordinate supportive measures; and (3) notify the complainant or individual reporting the conduct of the informal resolution and investigation processes under this policy.

If a complaint is made under this policy, the Title IX Coordinator will then: (1) contact the respondent to discuss the availability of and coordinate supportive measures; and (2) notify the respondent of the information resolution and investigation processes under this policy.

The Title IX Coordinator must determine whether to initiate a complaint of sex discrimination pursuant to this policy: (1) in the absence of a complaint but where there is notice of allegations that reasonably may constitute sex discrimination; (2) in the absence or termination of an informal resolution process; or (3) if complaint is withdrawn in whole or in part. In making this determination, the Title IX Coordinator will consider the following factors:

- (1) The complainant's request not to proceed with the initiation of a complaint;
- (2) The complainant's reasonably safety concerns regarding the initiation of a complaint;
- (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;

- (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the District to remove the respondent or impose another disciplinary sanction to end the discrimination and end its recurrence;
- (5) The age and relationship of the parties, including whether the respondent is a District employee;
- (6) The scope of the alleged sex discrimination, including information suggesting a pattern of ongoing sex discrimination or sex discrimination alleged to have impacted multiple individuals;
- (7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- (8) Whether the District could end the alleged sex discrimination and prevent its recurrence without initiating a complaint.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the District from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint. However, if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX or this policy, the District is not obligated to initiate an investigation into the allegations.

The Title IX Coordinator will notify the complainant prior to initiating the complaint and appropriately address any of the complainant's reasonable concerns about their safety or the safety of others, including the provisions of supportive measures. Regardless of whether or not a complaint is initiated, the Title IX Coordinator will take other appropriate prompt or effective steps to effectuate remedies to deter further instances of the alleged sex discrimination.

If a complaint is initiated under this policy, the District will notify the known parties as to:

- (1) Sufficient information available at the time concerning the allegations which may reasonably constitute sex discrimination under this policy;
- (2) The District's procedures for the informal resolution and investigation process;
- (3) The District's prohibition against retaliation;
- (4) The parties' equal opportunity to access relevant and not otherwise impermissible evidence or descriptions of evidence.

If during the course of an investigation additional allegations are uncovered that were not included in the notice or a consolidated complaint, the District will provide a supplemental notice to the known parties.

The District may remove a respondent on an emergency or administrative leave basis after undertaking an individualized safety and risk analysis and determining that an imminent and serious threat to the physical health or safety of any employee, student or other individual arising from the allegations justifies removal. The District will provide the respondent with written notice and an opportunity to challenge the decision immediately following the removal in accordance with any applicable laws, collective bargaining agreements and student handbooks.

Supportive Measures

The District shall offer and coordinate supportive measures through the Title IX Coordinator and other appropriate staff. However, the District is not required to alter the alleged discriminatory conduct for the purpose of providing supportive measures.

Supportive measures vary depending on reasonably available resources and circumstances. These measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; escort services; increased security and monitoring of certain areas within a school building; contact restrictions between one or more parties; leaves of absence; changes in classes, work or other education program or activities; and training and education. Supportive measures cannot unreasonably burden either party and must be designed to protect the safety of the parties of the District's educational environment, or to provide support during an informal resolution or investigation process. These measures will not be imposed for punitive or disciplinary reasons, and may be modified, continued or terminated at the conclusion of the informal resolution or investigation process or at any time upon request of a party if circumstances have materially changed and the Title IX Coordinator grants such request. If the Title IX Coordinator denies a party's requested supportive measures, or if circumstances it will provide the party an opportunity to seek a review of the decision to a Central Office administrator. Information concerning supportive measures will be kept strictly confidential unless necessary to preserve a party's access to the District's education program or activity.

If either party is a student with a disability with an individualized education program (IEP) or 504 plan, the Title IX Coordinator shall consult, confidentially and as appropriate, with one or more members of the student's team to determine how to comply with the student's IEP or 504 plan in implementing supportive measures.

Confidentiality

The District will not disclose personally identifiable information ("PII") obtained in the course of following processes under this policy unless:

- (1) It has obtained prior written consent to disclose such information from a person with such legal right of consent;
- (2) The information is disclosed to a parent, guardian or other legal representative with the legal right to receive disclosures on behalf of the person whose PII is at issue;
- (3) Necessary to carry out the purposes of Title IX or its accompany regulations or to address conduct that reasonably may constitute sex discrimination;
- (4) As required by federal or state law; or
- (5) To the extent such disclosures do not otherwise conflict with Title IX, when required by state/local law or if permitted by FERPA or its accompanying regulations.

During an informal resolution or investigation process, the District will take reasonable steps to protect the privacy of parties and witnesses without restriction to a party's ability to obtain and access evidence, including speaking with witnesses (with witness consent and in a non-retaliatory manner); consulting with family members, confidential resources or advisors; or otherwise preparing for or participating in either process.

Informal Resolution

After a complaint is filed, the District may offer and facilitate an informal resolution process (such as but not limited to mediation or restorative justice) before a determination is made. This process is not available when the complaint alleges sex-based harassment by a Committee member, District employee or volunteer towards a student or if such process would conflict with federal, state or local law. The District retains the right to decline to offer or facilitate an informal resolution at its own discretion, even if one or more parties seeks to pursue this process.

The parties must give voluntary, written consent to participate in this informal process. When both parties consent to an informal process, the District shall facilitate a resolution-based meeting as soon as practicable, subject to the availability of the involved parties and any mediator or facilitator. Prior to initiating the informal resolution process, the District will provide each party a written notice explaining the allegations and requirements of the informal resolution process. The individual facilitating an informal resolution process will not be the same individual that is investigating or deciding the outcome of the complaint.

If informal resolution is unsuccessful, the complainant may choose to continue the investigation process by providing written notice to the Title IX Coordinator within three (3) days of the unsuccessful informal resolution meeting. In this event, the District will commence or resume the investigation.

Consolidation of Complaints

If the allegations are against more than one respondent or by more than one complainant, the District may consolidate multiple formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances.

Investigation

All evidence will be weighed objectively using the preponderance of the evidence standard. Credibility determinations are not based on an individual's status as a complainant, respondent or witness. The investigator will presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation process.

The Title IX Coordinator shall assign an individual to investigate the matter. The investigator shall have no conflicts with or biases against either the complainant or the respondent. If the District has appointed more than one Title IX Coordinator, the individual not assigned to be the Title IX Coordinator in the matter may serve as the investigator. The investigator will collect and review evidence, interview parties and witnesses, and complete an investigative report.

The investigator shall strive to complete investigations within twenty-five (25) school days of the filing of the complaint or resumption of the investigation after an unsuccessful informal resolution meeting, which may be extended for good cause with notice to the parties. The timeline for an investigation may be suspended during any informal resolution procedure or meeting.

During the investigation, the investigator shall take the following steps:

- 1) Interview the complainant and respondent and provide each party with the opportunity to identify fact witnesses and submit relevant, legally permissible evidence to the investigator.
- 2) Interview available witnesses, including those identified by the complainant or respondent provided the witness is available.
- 3) Provide the parties with an equal opportunity to access relevant, legally permissible gathered evidence or an accurate description of such evidence and to respond to the investigator regarding the gathered evidence or accurate description of such evidence. The District will take reasonable steps to ensure that the parties do not engage in authorized disclosure of gathered evidence.

The investigator will draft an investigation report that fairly summarizes the relevant evidence including, but not limited to, interviews with parties and witnesses, written evidence, audio/video recordings, and site visits.

Determinations

The investigator will provide the decision maker with a report including all evidence obtained during the course of the investigation. The decision maker assigned will have no conflicts with or biases against either the complainant or the respondent, and the Title IX Coordinator or investigator may also be the decision maker for the complaint.

The decision maker shall review all of the evidence. If the decision maker is a different person than the investigator and the investigator's report leaves a party or witness's credibility in dispute when it is relevant to evaluating one or more allegations, the decision maker may engage in supplemental interviews in order to adequately assess the party or witness's credibility.

The decision maker shall then issue a written determination within fifteen (15) days of the conclusion of the investigation, absent extenuating circumstances. The decision maker shall thereafter notify the parties in writing of the determination as to whether sex discrimination occurred and the procedures and permissible basis for appeal.

If it is determined that sex discrimination occurred, the Title IX Coordinator shall coordinate and implement any necessary remedies and disciplinary actions. An employee found responsible for engaging in sex discrimination is subject to discipline up to and including termination. A student found responsible for engaging in sex discrimination is subject to discipline consistent with state law and applicable student handbook.

Dismissals of a Complaint

The District may dismiss a complaint if:

- (1) The District is unable to identify the respondent after taking reasonable steps to do so;
- (2) The respondent is not participating in the District's education program or activity and is not a District employee;

- (3) The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator to initiate a complaint, and the District determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX or this policy even if proven; or
- (4) The District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX or this policy.

Upon a dismissal of this section, the District will promptly send written notice of the dismissal and reason(s) to the parties, as well as the procedures for appeal. The District will offer supportive measures to the parties as appropriate and take other necessary and effective measures to ensure that the conduct does not continue to recur.

Withdrawal of a Complaint

While Title IX allegations may be withdrawn, the District may investigate under other state and federal laws and District policies.

Appeals

Either party may appeal the outcome of the investigation for one of the following reasons:

- (1) Procedural irregularity affected the outcome;
- (2) New evidence that was not reasonably available at the time that the determination was made which could affect the outcome;
- (3) The Title IX Coordinator, investigator, and/or decision-maker had a conflict of interest or bias.

Appeals must be submitted to the Title IX Coordinator within three (3) days of the District's understood date of receipt of the written determination and contain a written statement in support or challenge of the outcome.

When an appeal is filed, the District shall notify the other party and ensure that the individual deciding the appeal is not the same person as the decision maker who reached the determination regarding responsibility and that the individual has no conflicts of interests and is free of bias. The non-appealing party shall have three (3) days from the date of receipt of the notice of the appeal to submit a written statement to support or oppose the outcome.

The individual deciding the appeal shall issue a written decision describing the result of the appeal and rationale for the decision and provide the decision to both parties generally within ten (10) days of receipt of the non-appealing party's written statement, or in the event no statement is submitted, the date the statement would have been due.

In addition to the above, if you believe you have been subjected to sex discrimination, you may file a complaint with any of the governing agencies set forth below.

- 1) United States Department of Education Office for Civil Rights – Region 1
J.W. McCormack Post Office and Court House
Post Office Square
Boston, MA 02108
(617) 289 – 0111
- 2) Equal Employment Opportunity Commission
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203
(800) 669 – 4000
- 3) The Massachusetts Commission Against Discrimination (“MCAD”)
One Ashburton Place – Room 601
Boston, MA 02108
(617) 994 – 6000

LEGAL REFS.: Title VII, Section 703, Civil Rights Act of 1964 as amended 45 Federal Regulation 74676 issued by EEO Commission Education Amendments of 1972, 20 U.S.C. 1681 et seq. (Title IX)
Board of Education 603 CMR 26:00

Adopted by the NMRSD School Committee:

Five-Year Review Cycle: 10/20/2021

Informational Review: 12/20/2021

NMRSD First Vote: 01/10/2022

NMRSD Adoption: 01/24/2022

NMRSD Amended Adoption: 08/22/2024
