

Public Schools of Brookline

Student Civil Rights & Non-Discrimination Protocols & Procedures



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Student Civil Rights Protocols & Procedures

Table of Contents

1. Notice of Rights: Student Civil Rights & Anti-Discrimination	p. 2
2. Parent Quick Guide: Reporting Bias & Discrimination	p. 4
3. Civil Rights Grievance Procedure	p. 6
4. Title IX Sexual Harassment Grievance Procedure	p. 16
5. Definitions	p. 31
6. Forms	p. 36
7. Resources	p. 36

1. Notice of Rights: Student Civil Rights & Anti-Discrimination

The Public Schools of Brookline (PSB) is dedicated to providing a safe, inclusive environment for every student. We are committed to providing an educational environment free from discrimination, harassment and bias.

Under Federal and State law (including **Title VI**, **Title IX**, and **Section 504/Title II**), students have the following rights and protections:

1.A The Right to a Safe Learning Environment

The Public Schools of Brookline is committed to maintaining an educational environment where students of all backgrounds and experiences are physically and psychologically safe, connected, encouraged, and can flourish. We strive to eliminate all forms of bias and bigotry, including discrimination based on race, color, sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy or pregnancy-related conditions, homelessness, ancestry, ethnic background, national origin, natural or protective hairstyle or any other category protected by state or federal law. Conduct that is "severe, pervasive, and persistent" enough to interfere with a student's education is a violation of these rights.

1B. The Right to a Prompt and Effective Response

When the District has knowledge" of potential discrimination or harassment, it has a duty to respond immediately: This means:

- **Immediate Support:** The District must offer "supportive measures" (such as counseling, schedule changes, or increased supervision) even before an investigation is complete.
- **Reasonable Action:** The District must take reasonable action in light of the known circumstances.

1.C. Protection from Retaliation

Students and families have the right to report concerns or participate in investigations without fear of consequences. The District strictly prohibits retaliation against any individual who makes a good-faith report of discrimination.

1.D. The Right to Due Process

In formal grievance procedures, all parties have the right to a fair, objective, and impartial investigation. This includes:

- The right to be heard and to present evidence.
- The right to be notified of the outcome of a formal complaint.
- The right to appeal decisions in accordance with District procedures.

1.E. Understanding the Limits of Policy

While the District strives to address all "bias-based conduct" (including microaggressions), not every inappropriate behavior constitutes a legal violation of Title VI, Title IX or 504/Title II. Behavior that does not meet the legal threshold for "harassment" may still be addressed through the District Code of Conduct, coaching, or restorative practices to ensure a respectful school culture.

To Report a Concern: Please contact your school leader or the Office of Student Services immediately. Reports should ideally be made within the same school day of the incident. [Incident Report Form](#)

Title VI, Title IX

Karen Shmukler, Interim Deputy Superintendent of Student Services, Public Schools of Brookline, 333 Washington Street, Brookline, MA, 02445,
karen_shmukler@psbma.org

Phone: 617-730-2447 Fax: 617-730-2066

Section 504/Title II Coordinator

Matt DuBois, Senior Director of Clinical Services and Social Emotional Learning, 333 Washington Street, 5th Floor Brookline, MA 02445,
matthew_dubois@psbma.org

Phone: 617-730-2447, Fax: 617-730-2066

2. Parent/Guardian Quick Guide: Reporting Discrimination, Harassment & Bias

Public Schools of Brookline

The Public Schools of Brookline (PSB) is dedicated to providing a safe, inclusive environment for every student. We are committed to providing an educational environment free from discrimination, harassment and bias.

We take every report of discrimination, harassment and bias seriously and respond promptly to ensure the physical and psychological safety of our students and community.

2.A. How to Report an Incident

We encourage parents and students to report concerns as soon as they arise. Retaliation for reporting is strictly prohibited.

- Contact School Leadership: Reach out to your School Principal or any district administrator.
- District Coordinators: You may also contact the Director of HR or the Deputy Superintendent for Student Services.
- Online Reporting: You may report all instances via our Community [Incident Report Form](#).

2.B. What Happens Next?

Once a report is made, PSB follows a standard investigative protocol:

1. **Incident Review & Information Gathering:** The reporter will be acknowledged within 48 hours and supportive and safety measures will be taken immediately based on the information known.
2. **Investigation:** A school official will interview involved parties and witnesses.
Notification: Families of all students involved will be notified promptly.
3. **Timeline:** Most investigations are concluded within 10 school days. More complex situations may take longer (up to 20 school days). A formal written response will be provided in no more than 25 school days from receipt of the complaint.

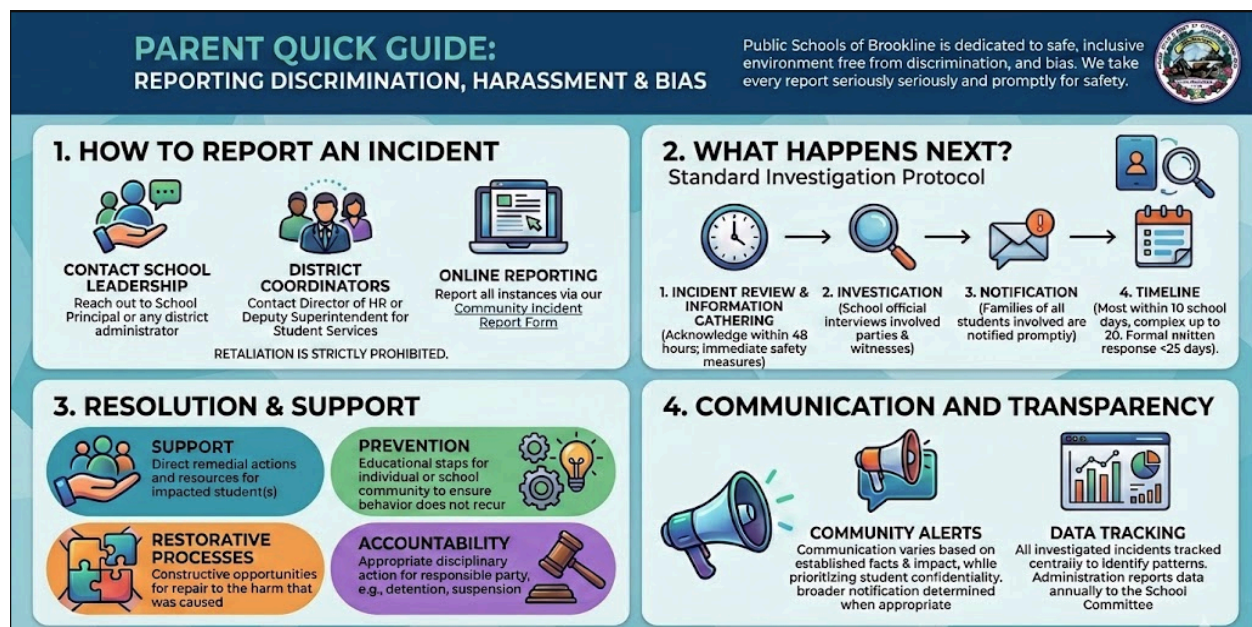
2.C. Resolution & Support

Our response focuses on four areas:

- **Support:** Direct remedial actions and resources to assist the impacted student(s).
- **Prevention:** Educational steps for the individual or school community to ensure the behavior does not recur.
- **Restorative Processes:** Constructive opportunities for repair to the harm that was caused.
- **Accountability:** Appropriate disciplinary action for the responsible party (e.g., detention, suspension, or personnel actions).

2.D. Communication and Transparency

- **Community Alerts:** Communication varies based on the established facts of the incident and the incident's impact. While we prioritize student confidentiality, we work carefully and closely to determine when a broader community notification is appropriate and necessary.
- **Data Tracking:** All investigated incidents are tracked by the central office to identify patterns. The administration reports this data annually to the School Committee.



3. Civil Rights Grievance Procedure

The Public Schools of Brookline is committed to maintaining school environments free of discrimination, harassment or retaliation based on race, color, sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy or pregnancy-related conditions, homelessness, ancestry, ethnic background, national origin, natural or protective hairstyle or any other category protected by state or federal law

Harassment, discrimination, and retaliation in any form or for any reason is prohibited. This includes harassment or discrimination by administrators, personnel, students, vendors and other individuals in school or at school related events. Retaliation against any individual who has brought harassment or discrimination to the attention of school officials or who has cooperated in an investigation of a complaint under this Procedure is unlawful and will not be tolerated by the Public Schools of Brookline.

Persons who engage in harassment, discrimination or retaliation may be subject to disciplinary action, including, but not limited to reprimand, suspension, or other sanctions as determined by the school district administration, subject to applicable procedural requirements.

Non-Applicability of This Procedure to Title IX Sexual Harassment Allegations

The *Civil Rights Grievance Procedure* shall not apply to reports of sexual harassment as defined under Title IX of the Education Amendment of 1972 and its implementing regulations ("Title IX") effective August of 2020.

Allegations of conduct that could, if proven, meet the definition of sexual harassment under Title IX shall be addressed through the District's *Title IX Sexual Harassment Grievance Procedure*. Similarly, allegations of conduct that meet the definition of sexual harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the *Title IX Sexual Harassment Grievance Procedure* [See Page 14].

Allegations of conduct that do not meet the definition of sexual harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII

(employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the *Civil Rights Grievance Procedure*.

Definitions

For the purposes of this Procedure:

- A. "Discrimination" means discrimination or harassment on the basis of race, age, color, national origin, sex, sexual orientation, gender identity, disability or religion by which an individual is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity of the school district.
- B. "Harassment" means unwelcome conduct on the basis of race, color, sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy or pregnancy-related conditions, homelessness, ancestry, ethnic background, national origin, natural or protective hairstyle or any other category protected by state or federal law that is sufficiently severe, persistent or pervasive to create or contribute to a hostile environment for the individual at school. Harassment may include insults, name-calling, off color jokes, threats, comments, innuendoes, notes, display of pictures or symbols, gestures or other conduct which rises to the level of a hostile environment. A hostile environment is one which unreasonably interferes with an individual's participation in, denied the individual the benefits of, or otherwise subjected the individual to discrimination under any program or activity of the District.

When based on shared ancestry or ethnic characteristics, discrimination and harassment includes racial, ethnic, or ancestral slurs, xenophobic remarks and stereotyping and encompasses antisemitism (ex. drawing swastikas, making Nazi salutes, using "Jew" in a derogatory fashion), islamophobia (ex. mocking the wearing of hijab (headscarves), targeting as 'terrorists'), racism (ex. using the N' word, burning cross symbols) and other forms of discrimination when based on shared ancestry or ethnic characteristics.

This includes when the discrimination is based on a student's skin color, physical features, or style of dress that reflects both ethnic and religious traditions; and when the discrimination is based on where a student came from or is perceived to have come from, including discrimination based on a student's foreign

accent; a student's foreign name, including names commonly associated with particular shared ancestry or ethnic characteristics; or a student speaking a foreign language.

When it is based on sexual orientation or gender identity, harassment can include homophobia (ex. use of the word 'gay' in a negative or derogatory fashion, name-calling, or making "jokes" that demean people who identify as LGBTQ+). Biphobia is fear, hatred, discomfort, or mistrust, specifically of people who are bisexual. Similarly, transphobia is fear, hatred, discomfort with, or mistrust of people who are transgender, genderqueer, or don't follow traditional gender norms.

a. Non-Title IX Sexual Harassment

M.G.L. c. 151B, § 1 - the term "sexual harassment" is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

M.G.L. c. 151C, § 1 - the term "sexual harassment" is defined as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a)) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.

When determining whether an environment is hostile, the District shall consider the context, nature, frequency, and location of the incidents as well as the credibility of witnesses and the identity, number and relationships of the persons involved. The District must consider whether the alleged harassment was sufficient to have created such an environment for a reasonable person of the same age, gender, and experience as the Complainant, and under similar circumstances. Off-campus conduct may constitute harassment if it creates a hostile environment at school for the victim; however, conduct does not constitute harassment where the incident occurs off-campus at a non-school sponsored activity and does not create a hostile environment at school for the victim.

- C. Retaliation: Retaliatory acts against any individual who exercises his or her rights under the civil rights statutes covered by this Procedure or the Title IX Sexual Harassment Grievance Procedure are considered to be discrimination and are unlawful. Individuals are prohibited from coercing, intimidating, threatening, or interfering with an individual because the individual exercised any right granted or protected under these procedures and/or the Title IX Sexual Harassment Grievance Procedure.
- D. Complainant: An individual who is alleged to be the victim of conduct that could constitute discrimination, harassment, or retaliation under this Procedure. Parents and/or legal guardians of a complainant are not considered a complainant but may file formal complaints on behalf of a minor child and act on behalf of the minor child in any civil rights matter.
- E. Party or Parties: The complainant and/or respondent.
- F. Principal/Head of School: The Principal/Head of School or Principal/Head of School's designee.
- G. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute discrimination, harassment, or retaliation under this Procedure.

How to make a complaint

Any student or employee who believes that he/she has been discriminated against or harassed should report their concern promptly to the Principal/Head of School or Civil Rights Coordinator. Students may also report incidents of harassing conduct to a teacher, administrator, or school counselor. Any complaint received by a school personnel shall be promptly reported to the Principal/Head of School or Civil Rights Coordinator. A complaint will not be dismissed because it was reported to the incorrect school personnel. Students or employees who are unsure whether discrimination, harassment, or retaliation has occurred are encouraged to discuss the situation with the Principal/Head of School. There may be instances where another third-party, who has not experienced but is aware of the occurrence of prohibited conduct, may bring a complaint under this Procedure. In such circumstances, that person is referred to as the "reporter."

- A. Any District employee who observes or receives a report of discrimination, harassment or retaliation shall promptly notify the Principal/Head of School or Civil Rights Coordinator, identified below. Any District employee who observes discrimination, harassment or retaliation against a student should intervene to stop the conduct and promptly report it to the Principal/Head of School. Upon receipt of a report of discrimination, harassment or retaliation, the Principal/Head of School shall promptly inform the relevant Civil Rights Coordinator of the report, and the District will respond in a manner consistent with this Procedure. If the report involves an accusation against the Principal/Head of School or Civil Rights Coordinator, the employee shall report the incident to the Superintendent or designee.
- B. Informal Reports: Individuals may wish to file a formal complaint of discrimination, harassment or retaliation, or to report informally (i.e., without initiating a formal complaint). Such informal reports may be made to the Principal/Head of School or Civil Rights Coordinator. The District shall inform anyone making an informal report that he or she may initiate a formal complaint at any time, regardless of what steps are being or have been taken in response to an informal report.

- C. **Anonymous Reports:** Complainants and reporters should be aware that although the District will often be able to maintain confidentiality of reporting persons, the District may sometimes be required to take actions to protect the safety of the school community that may result in the identity of the reporting person being disclosed (to the police, for example). When reporters or Complainants seek to remain anonymous or have their identities kept confidential, they will be informed that honoring such a request may limit the ability of the District to respond fully to any reported event, including limitations on the ability to take disciplinary action against an Respondent.
- D. **Informal Process:** If the District concludes that it is possible to resolve a matter, whether after formal complaint or an informal report, in a prompt, fair and adequate manner through an informal process involving, and with the consent of, the Complainant and Respondent, the District may seek to do so. The informal process is voluntary, and the Complainant and/or Respondent may terminate or decline any informal process at any time, without penalty.
- E. **Formal Process:** A formal complaint shall state (if known to the reporter or Complainant) the name(s) of the persons involved and witnesses to the conduct, describe the conduct, and identify, to the extent possible, the dates and locations of the conduct. The complaint shall be signed and dated by the reporter and/or Complainant. Complaints will be investigated promptly and equitably by the Civil Rights Coordinator or Principal/Head of School or designee. Investigations may be initiated whenever warranted, in the absence of a formal complaint, or after a formal complaint has been withdrawn.
- F. **Initial Assessments:** The Civil Rights Coordinator or Principal/Head of School or designee will make an initial assessment following a complaint. Based on that assessment, the Civil Rights Coordinator or Principal/Head of School or designee may: (a) if the conduct, even if substantiated, would not constitute harassment, discrimination or retaliation, dismiss the complaint; (b) if the alleged conduct (or complaint) could not, even if true, constitute discrimination, harassment or retaliation, but is within the scope of another procedure, the Civil Rights Coordinator shall refer the matter to the appropriate personnel; (c) if the Civil Rights Coordinator or Principal/Head of School or designee concludes that it is

possible to resolve the complaint in a prompt, fair and adequate manner through an informal process involving and with the consent of both parties, the Civil Rights Coordinator or Principal/Head of School or designee may seek to do so in accordance with Section D, above; or (d) if the alleged conduct, if substantiated, would constitute discrimination, harassment or retaliation, the Civil Rights Coordinator or Principal/Head of School or designee will initiate an investigation. The Civil Rights Coordinator or Principal/Head of School or designee may also identify and initiate any interim measures. See Section G.

- G. Interim Measures: The District will provide prompt and reasonable interim measures during the pendency of the investigation, if appropriate, to support and protect the safety of the parties, the educational environment, and the District and/or school community; to deter retaliation; and to preserve the integrity of the investigation and resolution process. Any interim measures will be monitored to ensure they are effective based on the evolving needs of the parties. Violations of the restrictions imposed by interim measures could be considered a violation of school rules and may be considered in determining whether discrimination, harassment or retaliation has occurred.
- H. Timeframes: Most investigations are concluded within 10 school days with a formal written response thereafter. More complex situations may take longer (up to 20 school days). A formal written response will be provided in no more than 25 school days from receipt of the complaint. The investigator may impose reasonable timeframes on all parties to facilitate the timely completion of the investigation. The investigator may extend the investigation period beyond the time period identified due to extenuating circumstances, including but not limited to availability and cooperation of witnesses, complexity of the investigation, school vacation periods, and the involvement of law enforcement and other outside agency investigations. If a complaint or report of discrimination, harassment or retaliation is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the above-referenced time frame, but may extend the investigation period to account for the availability of witnesses during

the summer vacation period. If the investigator extends the investigation, he or she will notify the Complainant and Respondent of the extension. A report to the law enforcement will not automatically delay an investigation; however, a request from law enforcement to delay the investigation may require a temporary suspension of an investigation, and the District will promptly resume its investigation upon being advised that law enforcement's evidence gathering is completed. Any interim measures provided to the parties may continue during the period of postponement. See Section G.

- I. Under the formal resolution procedure, the complaint will be investigated by the Principal/Head of School, Civil Rights Coordinator or other individual designated by the Principal/Head of School or Civil Rights Coordinator who has responsibility for seeking and gathering evidence relative to the investigation. A formal complaint against an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. During the formal resolution procedure:
 1. The Complainant shall be provided with an opportunity to be heard and have the opportunity to identify witnesses and other relevant evidence to the investigator.
 2. The Respondent will be provided with an opportunity to be heard as part of the investigation including the opportunity to provide relevant information and identify witnesses for the investigator's consideration.
 3. The privacy rights of the parties shall be maintained in accordance with applicable state and federal laws.
 4. The investigator will keep a written record of the investigation process.
 5. The investigation will be completed within twenty (20) school days of the date of receipt of the complaint.
 6. The notification of the outcome of the investigation, including, if appropriate, a description of the remedies taken, will be provided to the parties within twenty-five (25) school days of the receipt of the complaint, unless extended for good cause.
 7. Nothing in this Procedure will preclude the investigator, in his or her discretion, from completing the investigation sooner than the time period described above.

- J. Standard of Proof: The investigation shall make factual findings based on a preponderance of the evidence standard.
- K. If the investigator determines that discrimination, harassment or retaliation has occurred, the District shall take steps to eliminate the discriminatory or harassing environment, which shall include but not be limited to:
 - 1. Identifying what steps are necessary to prevent recurrence of any discriminatory behavior, including but not limited to harassment or retaliation, and to correct its discriminatory effects if appropriate; and
 - 2. Informing the Complainant and Respondent or, in the case of minor children, the parties' parent(s)/legal guardian(s) of the results of the investigation (in accordance with applicable state and federal privacy laws) in accordance with the above timelines. The notification will include the notice of the opportunity for appeal; however, failure to provide notice of appeal shall not constitute a violation of this policy.

The school district administration may also refer the offender for disciplinary procedures to be conducted in accordance with federal and state law. Nothing in the Civil Rights Grievance Procedure shall be interpreted as limiting or prohibiting the District's ability to take appropriate disciplinary action against the offender in accordance with the applicable code(s) of conduct or employment contracts or policies, where appropriate, prior to completion of the investigation, in accordance with the due process rights of employees and students, as applicable. When informing the parties' parent(s)/legal guardian(s) about the results of the investigation, the school district may consider appropriate notification processes when special circumstances may apply (e.g., disclosure of sexual orientation or gender identity/expression).

- L. Identification of Civil Rights Coordinator/s for complaints of discrimination, harassment, and retaliation under this Procedure is:

Title VI and Title IX Coordinator

Karen Shmukler, Interim Deputy Superintendent of Student Services,
Public Schools of Brookline, 333 Washington Street, Brookline, MA, 02445,
karen_shmukler@psbma.org

Phone: 617-730-2447 Fax: 617-730-2066

Section 504/Title II Coordinator

Matt DuBois, Senior Director of Clinical Services and Social Emotional Learning,
333 Washington Street, 5th Floor Brookline, MA 02445,
matthew_dubois@psbma.org

Phone: 617-730-2447, Fax: 617-730-2066

Legal Ref: Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; the Age Act; M.G.L. c. 151B and c. 151C; M.G.L. c. 76, § 5; SC Policy, Bullying Prevention; SC Policy, Nondiscrimination, SC Policy, Student Civil Rights.

4. Title IX Sexual Harassment Grievance Procedure

OVERVIEW

The Public Schools of Brookline Schools is committed to maintaining school environments free of sexual harassment.

Sexual harassment in any form or for any reason is prohibited. This includes sexual harassment by administrators, personnel, students, vendors, and other individuals in school or at school related events.

The District does not discriminate on the basis of sex in its educational programs or activities and is required by Title IX of the Education Amendments of 1972 not to discriminate on the basis of sex. Such non-discrimination also extends to admissions and the employment application process. Retaliation against any individual who has brought sexual harassment to the attention of school officials, or against an individual who has participated, or refused to participate, in the investigation thereof is unlawful and will not be tolerated by the Public Schools of Brookline Schools.

SCOPE

The Title IX Sexual Harassment Grievance Procedure has been developed in accordance with the revised Title IX regulations, 34 CFR Part 106, effective August 14, 2020, which established a new definition of sexual harassment under Title IX and which mandate specific procedures for responding to and investigating allegations of sexual harassment under Title IX.

The Title IX Sexual Harassment Grievance Procedure applies only to allegations of sexual harassment under Title IX, which includes harassment based on sex, sexual orientation, and/or gender identity, and is defined in the Definitions section below.

The Title IX Sexual Harassment Grievance Procedure applies to conduct that occurs within the United States in an education program or activity of the District, regardless of whether such District program or activity is conducted on or off school grounds. A District education program or activity includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurred.

The [Public Schools of Brookline](#) continue to follow strict anti-discrimination protocols required by Massachusetts. This means that even if a behavior doesn't meet the high

federal "severe and pervasive" threshold for a Title IX case, it may still be investigated and disciplined as a violation of state law or district code of conduct.

Allegations of conduct that meet the definition of sexual harassment under Title IX will be addressed through the Title IX Sexual Harassment Grievance Procedure. Allegations of conduct that meet the definition of sexual harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual Harassment Grievance Procedure.

Allegations of conduct that do not meet the definition of sexual harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the District's Civil Rights Grievance Procedure. (See exception under Section II, Part 4, Step 4 below). The definitions of sexual harassment under Title VII, M.G.L. c. 151B, and M.G.L. c. 151C are set out in the Civil Rights Grievance Procedure.

CONFIDENTIALITY

The District will keep the identity of complainants, respondents, and witnesses confidential, except as permitted by the Family Educational Rights and Privacy Act (FERPA), as otherwise required by law, and/or as necessary to carry out this Procedure.

DEFINITIONS

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX. Parents and/or legal guardians of a complainant are not considered a complainant but may file a Formal Complaint on behalf of a minor child and act on behalf of the minor child in any Title IX matter. For the purpose of this Procedure the terms "complainant" and "alleged victim" shall have the same meaning.

Formal Complaint: A document or electronic submission filed by a complainant, that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the Formal Complaint, or a document signed by the Title IX coordinator, that:

- (1) alleges sexual harassment against a respondent; and
- (2) requests that the District investigate the allegation of sexual harassment.

At the time of filing a Formal Complaint, the complainant must be participating in or attempting to participate in the District's education program or activity with which the Formal Complaint is being filed.

Sexual Harassment: Under Title IX, the term “sexual harassment” includes three (3) types of misconduct based on sex:

- (1) any instance of quid pro quo harassment by a school employee;
- (2) unwelcome conduct on the basis of sex, including unwelcome conduct based on sex stereotyping or on the basis of traditional notions of masculinity and femininity, that is sufficiently severe and pervasive and objectively offensive conduct, effectively denying a person equal educational access; or
- (3) any instance of sexual assault, dating violence, domestic violence, or stalking as defined below.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system and set out below:

- H. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- I. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. In Massachusetts, pursuant to M.G.L. c. 265, § 13B, a child under the age of 14 is incapable of giving consent to indecent touching.
- J. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- K. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. In Massachusetts, pursuant to M.G.L. c. 265, § 23, the statutory age of consent is 16 years of age.

For the purposes of the definition of sexual assault, the term “consent” shall be defined in a manner consistent with Massachusetts laws.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence: A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Stalking: Engaging in a "course of conduct" directed at a specific person that would cause a "reasonable person" to fear for the person's safety or the safety of others or suffer "substantial emotional distress."

For the purposes of this definition:

"Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

"Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

"Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Party or Parties: The complainant and/or respondent.

Principal: The Principal or Principal's designee.

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

Superintendent: The Superintendent or Superintendent's designee.

Supportive Measures: Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the Complainant or Respondent, while designed to ensure equal educational access, protect safety, and/or deter sexual harassment. Supportive Measures may be offered before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party,

while designed to ensure equal educational access, protect safety, and/or deter sexual harassment. Supportive measures available to complainants and respondents include, but are not limited to: counseling; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the building and/or campus; and other similar measures. Violations of the restrictions imposed by supportive measures may be considered a violation of school rules and may also be considered in determining whether sexual harassment has occurred.

Title IX Coordinator: Employee(s) designated by the District to coordinate its efforts to comply with Title IX.

I. REPORTING SEXUAL HARASSMENT

- A. Who May Report Sexual Harassment: Anyone may report an allegation of sexual harassment.
- B. How to Report Sexual Harassment: Individuals are encouraged to report allegations of sexual harassment to the Title IX Coordinator or the Principal, but any District employee who receives a report of sexual harassment will respond to the report as outlined below.
- C. Internal Reporting: Any District employee who receives a report of sexual harassment shall respond by promptly informing the Principal or Title IX Coordinator of the report. Any District employee who observes sexual harassment of a student should intervene to stop the conduct and shall promptly inform the Principal or Title IX Coordinator of the incident. If a report involves an allegation against the Principal or Title IX Coordinator, the District employee shall instead report the allegation to the Superintendent.

Any Principal who receives a report of sexual harassment shall promptly inform the relevant Title IX Coordinator of the report.
- D. District's Response to Report: The District will respond to all reports of sexual harassment promptly and equitably, and in a manner consistent with this Procedure and any other relevant District procedures and policies. Upon receipt of a report, the Title IX Coordinator shall:
 - (1) Promptly and confidentially contact the complainant to discuss the availability of supportive measures;

- (2) Inform the complainant of the availability of supportive measures with or without the filing of a Title IX Formal Complaint;
- (3) Consider the complainant's wishes with respect to supportive measures;
- (4) If the District does not provide the complainant with supportive measures, document the reasons why such response was reasonable; and
- (5) Explain to the complainant the process for filing a Title IX Formal Complaint. Only the filing of a Title IX Formal Complaint will trigger the Title IX Formal Complaint grievance process, outlined in Section II.

II. FILING A TITLE IX FORMAL COMPLAINT

Only the filing of a Title IX Formal Complaint will trigger the Title IX Formal Complaint grievance process, outlined below.

A. Who may file a Title IX Formal Complaint: Although anyone may report sexual harassment, only a complainant or a Title IX Coordinator may file a Title IX Formal Complaint. If a complainant chooses not to file a Formal Complaint, the complainant's choice to not initiate an investigation will generally be respected, unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances. The Title IX Coordinator will take into account concerns articulated by the parties, the best interests of the community, fairness to all concerned, and the District's legal obligations under applicable state and federal laws. Where the Title IX Coordinator signs the Formal Complaint, the Title IX Coordinator is not a complainant or a party during the grievance process and must comply with the requirement to be free from conflicts or bias.

B. Processing of a Title IX Formal Complaint: Title IX Formal Complaints will be investigated promptly and equitably by the Title IX Coordinator or designee, as follows:

Step 1: Title IX Formal Complaint is filed:

- (1) A Formal Complaint shall state (if known to the reporter or alleged victim) the name(s) of the persons involved, witnesses to the conduct, if any, a

description of the conduct, and to the extent possible, the dates and locations of the conduct. A Formal Complaint will not be dismissed solely because it was not completely filled out or it was filled out incorrectly.

- (2) A Formal Complaint may be filed at any time, including during non-business hours. Formal Complaints submitted outside of normal business hours will be deemed received on the following school working day.
- (3) At the time of the filing of the Formal Complaint, the alleged victim must be participating in or attempting to participate in the education program or activity of the school district with which the Formal Complaint is filed.
- (4) A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator listed in this Procedure, and by any additional method designated by the school.
- (5) Consolidation of Formal Complaints: Schools may consolidate Formal Complaints where the allegations arise out of the same facts.
- (6) Consideration of the use of the Informal Resolution Process with the consent of the parties. See Section II(D).
- (7) Throughout this process, there shall be a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Step 2: Consider Supportive Measures for both the complainant and the respondent: Once a Formal Complaint is filed, the Title IX Coordinator will ensure that supportive measures are considered for both parties. See Section I(D).

Step 3: Written Notice of Allegations: Upon receipt of a Formal Complaint, the District shall send written notice of the allegations, including the identity of the parties, to both the complainant and the respondent, if their identities are known. The written notice must include: (1) a statement prohibiting knowingly submitting false information; (2) sufficient details known at the time to allow the respondent the opportunity to respond to the allegations; (3) a statement that the respondent is presumed not responsible for the alleged conduct; (4) that a determination regarding responsibility is made at the conclusion of the grievance process; (5) that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney; and (6) that the parties/advisors may inspect and review evidence in accordance with this Procedure. If, in the course of the investigation, the District decides to investigate allegations of sexual harassment that are not included in the initial written notice of allegations, the District shall provide notice of the additional allegations to the parties whose identities are known.

Step 4: Consider Whether Dismissal of Formal Complaint Warranted: Some Formal Complaints will be subject to mandatory or discretionary dismissal under Title IX.

- (1) Mandatory Dismissal of Formal Complaint: The Title IX Coordinator shall dismiss a Formal Complaint under Title IX when the conduct alleged:
 - a. even if proved, would not meet the definition of sexual harassment under Title IX;
 - b. did not occur in an education program or activity of the District; or
 - c. did not occur against a person in the United States.
- (2) Discretionary Dismissal of Formal Complaint: The Title IX Coordinator may dismiss a Formal Complaint or allegations therein for purposes of Title IX at any time if:
 - a. the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the Formal Complaint or allegations;
 - b. the respondent is no longer enrolled or employed by the District; or
 - c. specific circumstances prevent the District from gathering sufficient evidence to make a determination.
- (3) The Title IX Coordinator must provide the parties with written notice of any dismissal of a Formal Complaint and the reasons for the dismissal.
- (4) Dismissal of a Formal Complaint for purposes of Title IX shall not preclude the District from addressing the allegations under any other relevant District policies or procedure(s), including but not limited to, the Civil Rights Grievance Procedure, the Bullying Prevention and Intervention Plan, the Student Code of Conduct, and/or a collective bargaining contract, nor will it preclude the District from addressing the allegations pursuant to the grievance process set out in Section II of this Procedure. The Title IX Coordinator shall have the discretion to make any such referrals and proceed as appropriate in regard to the allegations.

Step 5: Initial Investigation: All Formal Complaints will be investigated by the Title IX Coordinator or other individual designated to serve as the investigator by the Title IX Coordinator. The investigator shall be responsible for seeking and gathering evidence relative to the investigation. Any Formal Complaint against an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. During the Formal Complaint resolution process:

- (1) Standard of Proof: The investigator shall make factual findings based on a preponderance of the evidence standard.
- (2) The burden for gathering evidence and the burden of proof remains on the District, not on the parties.
- (3) The District shall provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- (4) The District shall not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag" orders).
- (5) Each party may have one (1) advisor of their own selection and at their own expense participate in this grievance process. In the case of a student under the age of 18, this advisor may be in addition to the student's parents/guardians. Any restrictions on the participation of an advisor will be applied equally to each party. The advisor may, but is not required to, be an attorney. Any evidence received by an advisor in this process is subject to confidentiality and may be used only for the purpose of the grievance process. Advisors are prohibited from disseminating or disclosing such evidence outside of the grievance process.
- (6) The District shall send prior written notice to the parties of any investigative interviews, meetings, or hearings in which their participation is invited or expected.
- (7) Privacy of Medical Treatment and Mental Health Treatment Records: The District may not access or use either the complainant's or the respondent's medical, psychological, or similar treatment records unless the District obtains the party's written consent to do so.
- (8) The investigator may impose reasonable timeframes on all parties as required to facilitate the timely completion of the investigation. The investigator may extend any of the timeframes beyond the time periods identified in this Procedure for good cause. If a complaint or report of sexual harassment is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the applicable time frames, but may extend the investigation period to account for the unavailability of witnesses while school is not in session. If the investigator extends the investigation, the investigator will notify the parties of the extension and the reasons therefore in writing.

Step 6: Opportunity for Parties to Respond to Evidence: The District must send the parties, and their advisor(s) (if they have one) evidence directly related to the allegation, in electronic format or hard copy. Parties shall be afforded ten (10)

calendar days to inspect, review and respond to the evidence. The District shall not require, allow, rely upon, or otherwise use evidence that constitutes information protected from disclosure by a legally recognized privilege, unless it has been waived by the holder of the privilege.

- (1) Prior to providing evidence to the parties, the investigator may redact confidential information that is not directly related to the allegations or that is otherwise barred from use under Title IX or by privilege (e.g., treatment records), the Family Educational Rights and Privacy Act and/or 603 CMR 23.00. Information that is directly related to the investigation, and that is not expressly barred from disclosure under Title IX (e.g., treatment records), the Family Educational Rights and Privacy Act, and/or 603 CMR 23.00, must be made available for review by both parties.
- (2) The parties and their advisors shall be prohibited from dissemination of any of the evidence for any purpose not directly related to this grievance procedure.

Step 7: Completion of the Investigative Report: The District must send the parties, and their advisor, an Investigative Report that fairly summarizes relevant evidence but does not reach any conclusions regarding responsibility, in electronic format or hard copy, within twenty-five (25) school days of receipt of the Formal Complaint, unless otherwise extended for good cause. A copy of the Investigative Report will also be sent to the decision-maker.

Step 8: Parties' Opportunity to Respond to Investigative Report: The District shall provide each party ten (10) calendar days for the parties to respond to the investigative report. The Investigative Report will notify the parties of the opportunity to submit to the decision-maker directed questions of the other party and/or any witness within that same ten (10) calendar days. (See Step 9).

Step 9: Directed Written Questions from the Parties: After the Investigative Report has been sent to the parties, but prior to reaching a determination regarding responsibility, the decision-maker shall afford both the complainant and the respondent the opportunity to submit to the decision-maker written, relevant questions of the other party or any witness, provide the party with the other party's and/or witness's written responses to said written questions, and allow for additional, limited follow-up questions from each party in writing. Questions that seek disclosure of information protected under a legally recognized privilege, Family Educational Rights and Privacy Act, and/or 603 CMR 23.00 shall not be permitted, unless the person holding the privilege has waived the privilege.

- (1) The complainant shall be protected from answering questions about the complainant's prior sexual behavior unless such questions and evidence about the [complainant's](#) prior sexual behavior are offered to prove that someone other than the [respondent](#) committed the conduct alleged by the [complainant](#), or if the questions and evidence concern specific incidents of the [complainant's](#) prior sexual behavior with respect to the [respondent](#) and are offered to prove [consent](#). .
- (2) Upon receipt of the Investigative Report, each party shall have ten (10) calendar days to submit directed relevant questions to the decision-maker in writing.
 - a. All questions must be posed in a respectful manner (e.g., without profanity and without attacking a person's character or motivations).
 - b. Questions that are not relevant will be excluded, and the decision-maker shall explain to the party posing the question the reason(s) for excluding any question.
- (3) Upon receipt of the directed questions from the District, each party and witness shall have five (5) calendar days to respond to those questions in writing.¹
- (4) After receipt of the answers by the parties, any follow-up questions by the parties shall be submitted to the decision-maker in writing within three (3) calendar days, and those follow-up questions shall be responded to in writing within three (3) calendar days of receipt.
- (5) Each party will be provided a copy of the other party's or witness's written answers.

Step 10: Determination of Responsibility/Findings of Fact by the Decision-Maker:

3. The decision-maker shall issue a written determination regarding responsibility with a description of the procedural steps taken, findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, the range of disciplinary sanctions to which the respondent may be subject, whether remedies will be provided to the complainant, and procedures and bases for appeal. The decision-maker's written determination shall not be completed by the Title IX Coordinator or the investigator.
4. Standard of Proof: The decision-maker shall make factual findings based on a preponderance of the evidence standard.

¹ The parent or guardian may act on behalf of the party in drafting questions and submitting written answers. In the case of young children, reasonable accommodation based on disability, and/or other good cause, either party and/or any witness may request and have their oral responses reduced to writing by the investigator or Title IX Coordinator.

5. The decision-maker's findings shall be based on an objective review of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a complainant, respondent, or witness.
 6. The decision-maker shall not draw inferences about the determination of responsibility based solely on a party's failure or refusal to answer questions.
 7. The written determination must be sent simultaneously to both parties.
 8. This determination shall be sent within twenty (20) school days of the issuance of the investigative report unless an extension is agreed upon by the parties or if the process is otherwise reasonably delayed. Except where the parties have agreed to an extension of the timeline or where the process is otherwise reasonably delayed, the written determination shall be issued within sixty (60) school days of receipt of the Formal Complaint.
- C. Remedies: If the decision-maker determines that sexual harassment has occurred, the District administration shall take steps to eliminate the harassing environment, which must include but need not be limited to providing remedies to a complainant that are designed to restore or preserve the complainant's equal access to the District's education programs and/or activities. These remedies may be the same individualized services as the supportive measures outlined in Section I(D) above and/or may consist of alternative interventions and/or punitive or disciplinary sanctions that burden the respondent.
- D. Discipline: Persons who engage in sexual harassment or retaliation may be subject to disciplinary action, including, but not limited to, reprimand, suspension, termination, expulsion (if applicable under M.G.L. c. 71, §§ 37H or 37H ½), or other sanctions as determined by the District administration, subject to applicable procedural requirements.
- a. Although the respondent may, in accordance with Title IX, be subject to emergency removal at any time, the respondent may not be subject to disciplinary sanctions for the misconduct defined under this Procedure until after this grievance process has been completed.
- E. Informal Process: Only after a Formal Complaint is filed may the District opt to offer and facilitate informal resolution options, such as mediation or restorative justice. Both parties must give voluntary, informed, written consent

to attempt any offered informal resolution. Any informal resolution under this Procedure will be facilitated by trained personnel.

- (1) The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.
- (2) The informal process is voluntary, and the alleged victim and/or respondent may terminate or decline any informal process at any time and resume the Formal Complaint grievance process.
- (3) The informal process shall not exceed thirty (30) calendar days.

Participation in the informal process will stay the timelines of the Formal Complaint process.

- F. Emergency Removal under Title IX: The District may remove a respondent on an emergency basis at any time provided that the District: (1) undertakes an individualized safety and risk analysis; (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal and that there is no alternative to the respondent's emergency removal to mitigate the threat presented; and (3) provides the respondent with notice and the opportunity to challenge the decision immediately following the removal.
- G. Anonymous Reports: The District may be on notice of an allegation of sexual harassment through receipt of an anonymous report. In cases of anonymous reports, the District's obligation is to respond in a manner that is not clearly unreasonable in light of the known circumstances. If the anonymous reporter is the complainant and they request confidentiality, the District can and should offer supportive measures to the extent consistent with maintaining the request for confidentiality. If an anonymous report is received without a disclosure of the complainant's identity, the District will be unable to provide the complainant supportive measures in response to that report. The District may in conformance with applicable state laws and regulations be required to report sexual harassment identified in an anonymous complaint to state and/or local authorities such as the Massachusetts Department of Children and Families in conformance with state statutes and regulations and/or take actions to protect the safety of the school community (contacting the police, for example) that may result in the identity of the reporting person being disclosed. Although the District shall respond to anonymous reports of sexual harassment in accordance with this Procedure, a Formal Complaint cannot be filed anonymously.

- H. Appeals: The complainant or respondent may appeal from a determination regarding responsibility and/or from the District's dismissal of a Formal Complaint or any allegations therein, only on the following bases:
 - M. procedural irregularity that affected the outcome of the matter;
 - N. newly discovered evidence that could affect the outcome of the matter; and/or
 - O. Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

An appeal may be made to the Superintendent or designee within seven (7) calendar days after receiving the determination of responsibility or dismissal. The Superintendent will decide the appeal no later than thirty (30) calendar days of the date of receipt of the written appeal. In cases in which it has been determined that a respondent student is subject to long-term suspension as a result of a finding of sexual harassment in accordance with this Procedure, the respondent may elect to exercise their appeal under the disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, §§ 37H, 37H ½ or 37H ¾) in place of this appellate procedure. Appeals must be made in writing (email is sufficient) to the Superintendent, Appeals must be made in writing (email is sufficient) to the Superintendent, Public Schools of Brookline Schools 333 Washington Street, Brookline, MA, 02446. The Title IX Formal Complaint grievance process is deemed complete when either the time period for appeal has lapsed or upon the issuance of the Superintendent's decision on a timely filed appeal.

- I. Recordkeeping: Records related to this Procedure will be maintained for a period of seven (7) years.
- J. Employment Agencies: The contact information for state and federal employment discrimination enforcement agencies is as follows: (1) Federal: United States Equal Employment Opportunity Commission (EEOC); John F. Kennedy Federal Building; 15 New Sudbury Street, Room 475; Boston, MA 02203-0506; 1-800-669-4000; [EEOC Boston Area Office Website: https://www.eeoc.gov/field-office/boston/location](https://www.eeoc.gov/field-office/boston/location); and (2) State: Massachusetts Commission Against Discrimination (MCAD); Boston Headquarters; One Ashburton Place; Sixth Floor, Room 601; Boston, MA 02108; (617)-994-6000; [MCAD Website: https://www.mass.gov/orgs/massachusetts-commission-against-discrimination](https://www.mass.gov/orgs/massachusetts-commission-against-discrimination)

K. Identification of key personnel involved in Title IX process for reports and/or Formal Complaints of sexual harassment:

Identification of key personnel involved in Title IX process for reports and/or Formal Complaints of sexual harassment:

- Title IX Coordinator: Karen Shmukler, Deputy Superintendent of Student Services, Public Schools of Brookline Schools, 333 Washington Street, Brookline, MA, 02446, Tel: (617) 730-244, karen_shmukler@psbma.org
- Investigators: Vice Principals, Deans or designees
- Decision-maker:
Principals/Head of School
- Appeal Officer: Karen Shmukler, Deputy Superintendent of Student Services, Public Schools of Brookline Schools, 333 Washington Street, Brookline, MA, 02446, Tel: (617) 730-2444
- Informal Resolution Facilitator: Director of Clinical Services and Social Emotional Learning Matt DuBois, matt_dubois@psbam.org

The District will notify students, employees, applicants for admission or employment, parents and legal guardians of students, and unions of the name, title, office address, email address and telephone number of the Title IX Coordinator. This information will be prominently displayed on the District's website.

Legal Refs: Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act; Title IX of the Education Amendments of 1972; the Age Act; M.G.L. c. 151B and c. 151C; and M.G.L. c. 76, § 5; SC Policy, Bullying Prevention; SC Policy, Nondiscrimination.

5. Definitions

a. Antisemitism: hostility, prejudice, discrimination or antagonism against Jews, both as individuals and as a group. It can be overt such as swastikas, slurs or threats, or more subtle codes, tropes and assumptions including stereotyping and conspiracy theorizing, that can lead to harassment and discrimination.

b. Complaint is an oral or written, formal or informal, notification of an incident of discrimination, including harassment and discrimination, made by a target/complainant of alleged conduct that violates the Non-Discrimination Policy, Including Harassment and Retaliation (hereafter “the NonDiscrimination Policy”). For a student, their parent(s) or guardian(s) may also file a Complaint on behalf of their child.

c. Bias-Based Conduct means any unwelcome or inappropriate physical, verbal, written, graphic, or electronic conduct relating to a person's actual or perceived Protected Class that does not involve severe, persistent or pervasive conduct that creates a hostile environment, but will likely create a hostile educational or work environment if the conduct persists.

d. Corrective Action is steps taken to address factors that contributed to the issue at hand to prevent recurrence. Corrective action will be used when possible and practicable in light of the duty to maintain safe and orderly school environments conducive to student learning.

e. Designee refers to the administrator that is assigned by the Superintendent to facilitate a request for an appeal of the findings of an investigation. Disciplinary Action refers to traditional disciplinary responses such as punitive consequences issued for violative student or employee conduct, including violations of policies, that has been determined appropriate by educators and administrators under the circumstances. This could include ranging from extra-curricular or inschool consequences to suspension, or employee termination.

f. Discrimination includes, but is not limited to excluding from participation, denying the benefits of, or otherwise discriminating against individuals on the basis of a Protected Class, or any other category protected by state or federal law, in the administration of its educational and employment policies, or in its programs and activities, or in failing to provide equal access to designated youth groups

g. Harassment includes, but is not limited to, unwelcome, inappropriate, or illegal physical, verbal, written, graphic, or electronic conduct that relates to an individual's actual or perceived Protected Class, that has the purpose or effect of creating a hostile education or work environment, or, if the conduct were to persist, would likely create a hostile education or work environment. A target/complainant may include a person reasonably affected by conduct directed toward another individual.

h. Hate Crimes are crimes motivated, at least in part, by hate or bias, or where the target/complainant is targeted, selected, or chosen for the crime, at least in part, because of a person's actual or perceived race, color, religion, gender, sexual orientation, gender identity, national origin, ancestry, or ethnic background, or because the targeted person has a disability. A hate crime may involve, but is not limited to, an act of bodily injury, attempt to cause bodily injury, threat of bodily harm, physical or mental intimidation, or damage to another's property.

Indicators that a crime may constitute a hate crime include, but are not limited to: ● Use of racial, ethnic, religious, or anti-gay slurs; ● Use of symbols of hate, such as a swastika or burning cross; ● Similar behavior towards others who are members of the same Protected Class; ● The aggressor's protected class is different than the target/complainant's; ● The incident occurs while the target/complainant was promoting a racial, religious, ethnic or national origin, disability, gender, gender identity, or sexual orientation group, such as attending an advocacy group meeting, participating in a students' gay-straight alliance, or a disability rights demonstration.

Homophobia includes fear, hatred, discomfort, or mistrust of lesbian, gay, and bisexual people. It includes prejudices, negative attitudes, and discriminatory behaviors like harassment.

i. Hostile Environment is where physical, verbal, written, graphic or electronic conduct that relates to a person's protected class is sufficiently severe, persistent or pervasive so that it unreasonably interferes with or limits the ability of a student to participate in or benefit from the district's programs or activities.

j. Investigator is the administrator assigned to investigate a complaint of discrimination. This may be a principal, vice principal, assistant principal, dean or central office administrator. The investigator receives complaints and reports, implements the

investigative procedures, (in collaboration) determines the appropriate corrective, restorative and/or disciplinary action and concludes investigation with a findings report.

k. Islamaphobia: hostility, prejudice, discrimination or antagonism against Islam or people who practice Islam. It encompasses prejudice, bias and stereotyping against Muslims, that can lead to harassment and discrimination.

Other Prohibited Conduct means any unwelcome or inappropriate physical, verbal, written, graphic, or electronic conduct relating to a person's actual or perceived Protected Class that does not involve severe, persistent or pervasive conduct that creates a hostile environment, but will likely create a hostile educational or work environment if the conduct persists.

l. Aggressor is a member of the school community or any third party who engages in, aids with, encourages, or creates an environment of discrimination, including harassment and retaliation.

m. Protected Class - A group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. Protected classes include: race (to include traits historically associated with race, including, but not limited to, hair texture, hair type, hair length and protective hairstyles), color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, gender expression, sexual orientation, pregnancy, or pregnancy-related condition, or any other category protected by state or federal law.

n. Racism: Hostility, prejudice, discrimination, or antagonism directed against someone based on their race. It focuses on both individual bias and systemic inequality, and can lead to harassment and discrimination.

o. A Report is an oral or written, formal or informal notification of an incident of discrimination, including harassment and retaliation, made by a third party, and not the target/complainant of the alleged conduct (except for the parent/guardian filing on behalf of their minor child), that violates the Non-Discrimination Policy.

p. Restorative Practices are formal and informal processes on a continuum from prevention to intervention and from proactive to responsive action with the goal of building positive community and addressing harm constructively when it occurs.

Restorative practices are centered on the 5Rs (Relationship, Respect, Responsibility, Repair & Reintegration) and seek to create strong, caring and healthy communities within our schools.

q. Retaliation includes, but is not limited to, coercion, intimidation, interference, punishment, discrimination, or harassment against any member of the school community in response to that member's oral or written, formal or informal, reporting or filing a complaint of discrimination, including harassment or retaliation, cooperating in an investigation, aiding or encouraging another member of the school community to report or file a complaint, or for opposing any act or practice reasonably believed to be prohibited by the Non-Discrimination Policy.

r. School Community includes School Committee, employees, administration, faculty, staff, students, volunteers in the schools, family members participating in school meetings or school sponsored activities, and parties contracted to perform work for the Public Schools of Brookline.

s. Sexual Harassment (Massachusetts state law)

t. Hostile environment sexual harassment occurs when unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature by a member of the school community is sufficiently severe, persistent, or pervasive so as to interfere with or limit the target/complainant's ability to participate in or benefit from the district's programs or activities, or to interfere with or limit an individual's education or employment, by creating a hostile, humiliating, intimidating, or offensive educational or work environment. A target/complainant may include a person reasonably affected by conduct directed toward another individual.

ii. Quid pro quo sexual harassment means any sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

iii. Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of or a basis for decisions affecting a student's education or participation or placement in a District's programs or activities; or

iv. Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions.

u. Sexual Harassment (Federal law/Title IX)² : a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

i. Quid pro quo harassment: An employee, agent, or other person authorized by the 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.

ii. 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 District's education program or activity (i.e., creates a hostile environment). iii. Specific offenses: Sexual assault, dating violence, domestic violence and stalking

v. Target or Complainant is a member of the school community against whom discrimination, including harassment and retaliation, has been perpetrated.

6. Forms

All formal reports and investigations of discrimination are to be completed and submitted through the forms below. The Public Schools of Brookline will collect and archive all information submitted via reporters, investigators, witnesses and/or additional documentation throughout the investigation and in conclusion.

6.1 Discrimination Complaint Form. This form is accessible online for members of the school community who wish to make a report of alleged discrimination or harassment by a member of the school community. Community Incident Reporting Form available here. [Incident Report Form.](#)

7. Resources

[Guidance on Schools' Legal Obligations to Prevent and Address Hate and Bias Incidents](#)
[The Office of the Attorney General](#)
[Massachusetts School Hate Crime Resource Guide](#)
[Learning for Justice: Responding to Hate and Bias at School](#)
[Identifying and Responding to Bias Incidents](#)
[Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics](#)

Legal Statutes

[M.G.L. c. 76, § 5](#) (The Student Anti-Discrimination Act): This is the "Civil Rights Act" for students. It mandates that no student can be excluded from or discriminated against in a public school based on race, color, sex, gender identity, religion, national origin, or sexual orientation.

[M.G.L. c. 71, § 37O](#) (The Anti-Bullying Law): While this law covers general peer-to-peer aggression, it specifically requires schools to create plans that protect students who are "vulnerable" based on certain protected classes.

[603 CMR 26.00](#): These are the state regulations that implement the Anti-Discrimination Act. They legally define "harassment" as conduct that creates a hostile environment.

[Title II](#) (Americans with Disabilities Act, 1990): Prohibits discrimination based on disability.

[Title VI](#) (Civil Rights Act of 1964): Prohibits discrimination based on race, color, or national origin.

[Title IX](#) (1972): Prohibits discrimination based on sex (including sexual orientation and gender identity).

[Section 504 /ADA](#): Prohibits discrimination based on disability.

