

NON-DISCRIMINATION AND ANTI-HARASSMENT PROCEDURES

It is the policy of the Hudson Public Schools to maintain a learning environment that is free from harassment or discrimination of any kind, including sex-based harassment (under state law). Any allegations of sex-based harassment that may fall under the Federal definition of sexual harassment will be addressed through the District's Title IX policy. It is a violation of this policy for any member of the school community to harass or discriminate against another individual as outlined in this policy. Any allegation of harassment or discrimination will be investigated, and, if a violation of this policy is substantiated, disciplinary action will be taken. All reports of harassment or discrimination shall be investigated promptly, impartially and in a manner which will preserve the confidentiality of all concerned to the extent practicable under the circumstances.

Any employee, student or third party who believes that they have experienced harassment or discrimination on the basis of their actual or perceived race, color, creed, ethnicity, religion, national origin, sex/gender, pregnancy or pregnancy-related medical condition, homelessness, disability, sexual orientation, gender identity or age or who has witnessed or learns about the harassment of or discrimination against, another person in the school environment, should inform the principal of the relevant school site or appropriate discrimination/harassment complaint official immediately or as soon as possible. The Hudson Public Schools further does not deny equal access to or a fair opportunity to meet, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code as a patriotic society.

Harassment and discrimination is banned not just at school, during school hours, but also before or after school hours on all school property, including the school bus, school functions, or at school events held at other locations. The policy also applies to any off-campus conduct that causes or threatens to cause a substantial and material disruption at school, or interferes with the rights of students or employees to be free from a hostile school environment taking into consideration the totality of the circumstances on and off campus.

Problems and complaints regarding discrimination and harassment should be resolved in a prompt and equitable manner. When possible, such problems and complaints should be resolved in an informal manner.

Definitions

Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status, such as sex, color, race, sexual orientation, sexual identity, religion, national origin, age, disability, or other legally protected group status.

Sex-based harassment includes both sexual harassment and gender-based harassment.

Sexual harassment under state law consists of unwelcome sexual advances; requests for sexual favors; or other verbal or physical conduct of a sexual nature may constitute sexual harassment where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or educational development.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or education decisions affecting such individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile or offensive working or educational environment.

Sexual harassment may include, but is not limited to:

- unwelcome sexual advances - whether they involve physical touching or not;
- sexual epithets, jokes, written or oral references to sexual conduct, gossip about one's sex life, comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- displaying sexually suggestive objects, pictures and cartoons;
- unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- inquiries into one's sexual experiences; and
- discussion of one's sexual activities.

Gender-based harassment includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, although they are not necessarily sexual in nature, including harassment based on gender identity and expression. Gender-based harassment includes, but is not limited to, harassment based on the person's nonconformity with gender stereotypes, regardless of the actual or perceived sex, gender identity, or sexual orientation of the harasser or target of the harassment.

Sexual assault is the act of committing unwanted physical contact of a sexual nature, whether by an acquaintance or by a stranger. Such contact is unwanted when it occurs without the consent of one or both individuals, when one of the individuals is incapacitated or incapable of giving consent, or occurs with the use of force.

Hostile environment is unwelcome conduct that is sufficiently severe, persistent, or pervasive to interfere with or limit one or more students' abilities to participate in or benefit from the education program or creates a threatening, intimidating or abusive environment or sufficiently severe or pervasive so as to alter the conditions of the victim's employment and create an abusive working environment.

Retaliation is any form of intimidation, threatening, coercion or discrimination, directed against a student/staff/third party who reports a sex-based harassment, provides information during, assists in or participates in an investigation of sex-based harassment, or witnesses or has reliable information about sex-based harassment.

Reporting Responsibilities

Everyone in the school community is responsible for immediately reporting incidents of harassment, discrimination and/or retaliation, by anyone, in any form, that are directed at or witnessed by them at school or at a school sponsored event or of which they otherwise learn. Failure to cooperate with an investigation of such an incident will result in disciplinary action. Deceptive reporting may also be subject to a disciplinary response.

An individual may report to either the principal of the relevant school site or appropriate discrimination/harassment complaint official at their discretion. Students may additionally report incidents that they believe involve harassment or discrimination to their guidance counselor, any teacher, administrator or any member of the support staff, and the staff member will refer the complaint to the principal or the discrimination/harassment complaint official. If a School Guidance or Adjustment Counselor, School Nurse, or any member of the teaching staff, is contacted concerning a complaint or possible complaint, they should refer the matter to the principal immediately. Staff who observe conduct which violates this policy are to report the conduct to the principal immediately.

Employees who need help or wish to talk about harassment should contact the school principal, the appropriate discrimination/harassment complaint official, the perpetrator's immediate supervisor or any other school administrator immediately.

If one of the discrimination/harassment complaint officials is the person alleged to be engaged in discrimination/harassment, the complaint may be filed with one of alternate officials or any other school employee the student or employee chooses.

The discrimination/harassment complaint officials for the Hudson Public Schools are the following individuals on a district wide level:

District ADA, Title VI, Title VII, Title IX, Civil Rights and Sexual Harassment Coordinator for adults:

Jennifer Allard, SHRM-SCP, MSIOP
Director of Human Resources
155 Apsley Street
Hudson, MA 01749
Tel: 978.567.6100
Email: jnallard@hudson.k12.ma.us

District ADA, Title VI, Title IX, and Sexual Harassment and Civil Rights Coordinator for students:

Catherine Kilcoyne
Director of Student Services
155 Apsley Street
Hudson, MA 01749
Tel: 978-567-6100
Email: cakilcoyne@hudson.k12.ma.us

The school principals will serve as the building level coordinators for these categories.

Procedures for Investigating

The procedures set forth in this policy may be invoked even if other appeals and adjudication procedures have been provided by state law or federal law. Retaliation in any form for the filing of a complaint or reporting of harassment or discrimination is prohibited and will result in serious disciplinary action.

When a complaint of harassment or discrimination is received by the District, that allegation will be promptly investigated in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances and to the extent consistent with the law and collective bargaining agreements. The grievance officer or discrimination/harassment complaint official will inform witnesses and others involved in the resolution process of the importance of maintaining confidentiality.

The investigation will include a private interview with the person filing the complaint and with witnesses. The investigation will also include an interview with the person alleged to have committed the harassment or discrimination. Each party will have the opportunity to provide evidence and witnesses.

In certain cases, the harassment of a student may constitute child abuse under state law. The Hudson Public Schools will comply with all legal requirements governing the reporting of suspected cases of child abuse and will report suspected criminal activity to the appropriate authorities.

The specific procedures to be followed in conducting the investigations are set forth more fully below.

1. Any staff member who receives a complaint verbally or in writing concerning harassment or discrimination or observes conduct, which they believe, may constitute harassment or discrimination is required to document the complaint and refer it to the school principal or discrimination/harassment complaint official immediately. Although the Hudson Public Schools encourages a written complaint, use of a formal reporting requirement is not required. Oral reports will be considered complaints as well. The principal or discrimination/harassment complaint official shall ensure that the report is documented in

writing within two (2) school days of receiving the complaint. The principal must send copies to the relevant discrimination/harassment complaint official within two (2) school days.

2. Anyone may use the informal process in order to resolve the complaint, unless the District believes that it is inappropriate.
3. If the alleged victim or the alleged perpetrator chooses not to utilize the informal procedure, or feels that the informal procedure is inadequate or has been unsuccessful, they may proceed to the formal procedure. The informal process is completely voluntary and individuals can opt-out at any time.
4. The informal process will be a voluntary conversation between the alleged victim and the alleged perpetrator, which is facilitated by a school employee or by a designated discrimination/harassment complaint official. If the alleged victim or alleged perpetrator is a student under the age of eighteen (18), the facilitator **will** notify the student's parent(s)/guardian(s) if, after initial consultation with the student, it is determined to be in the best interest of the student. If the alleged victim and the alleged perpetrator feel that a resolution has been achieved, then the conversation remains confidential and no further action needs to be taken. The voluntary conversation must occur within five (5) school days after receiving the complaint of discrimination or harassment. The results of an informal resolution shall be maintained by the facilitator, in writing.
5. If the alleged victim does not want to deal directly with the alleged perpetrator, or if the matter is not resolved informally, the complainant should immediately notify the school principal or the discrimination/harassment complaint official for formal resolution.
6. For a formal complaint, the alleged victim (or complainant, if not the alleged victim) will be asked to complete the incident form which begins the formal investigation process conducted by the school principal or the discrimination/harassment complaint official. If the alleged victim is not able to complete the form, the principal or discrimination/harassment complaint official will complete it and ask the alleged victim to sign it. If requested, a Guidance / Adjustment Counselor, a School Nurse, or a School Psychologist may assist a student in completing the incident form.
7. During the investigation, the school principal or discrimination/harassment complaint official will:
 - Keep the investigation group as small as possible to protect the rights of all parties and to prevent the investigation from becoming overly publicized and to protect the alleged victim (in addition to the complainant, if not the alleged victim) from retaliation.
 - Complete the investigation as soon as possible from the date that it is reported, but no later than thirty (30) school days from the date of the complaint or report, unless impracticable. The investigation will include interviewing the complainant, the alleged

victim (if different than the complainant), the alleged perpetrator and such other person(s) named by the complainant, alleged victim (if different than the complainant), or the alleged perpetrator who may have witnessed or have information pertaining to the incident. An opportunity will be provided for all parties to be heard and present witnesses.

- Throughout the investigation the District will maintain on-going contact with the alleged victim and the alleged aggressor. In determining whether the alleged conduct constitutes a violation of this policy, the school principal or discrimination/harassment complaint official shall consider the age and level of understanding of the student(s) involved, surrounding circumstances, any relevant documents, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of the District's policy prohibiting discrimination or harassment based on the actual or perceived protected class status of a student, employee or third party, requires a determination based on all of the facts and surrounding circumstances. Given that victims often experience continuing effects of harassment in the educational setting, during the investigative process the District will consider off-campus conduct to determine whether there is a hostile environment on campus.
- 8. After completing the investigation, the school principal or discrimination/harassment complaint official will conclude whether a violation of the policy has occurred or not; complete the written investigation report form and send copies of the report to the discrimination/harassment complaint official, if the school principal is conducting the investigation, the alleged victim (or their parents if they are under 18) and the alleged perpetrator (or their parents if they are under 18). The report shall include:
 - a statement of the allegations investigated;
 - a summary of the steps taken to investigate the allegations;
 - the findings of fact based on a preponderance of the evidence gathered;
 - the District's conclusion of whether discrimination or harassment did or did not occur;
 - the disposition of the complaint;
 - the rationale for the disposition of the complaint; and
 - if the District concluded discrimination or harassment occurred, a description of the District's response.

The school principal or the discrimination/harassment complaint official shall determine whether the allegations have been substantiated as factual and whether they appear to be violations of this policy, using a preponderance of the evidence standard. A "preponderance of the evidence" means that it is more likely than not that the alleged conduct occurred.

If the complaint is supported, the report should recommend what action, if any, is required and will identify what steps the District is going to take to prevent recurrence of any discrimination

or harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

9. Formal disciplinary actions shall be imposed in the event that the preponderance of the evidence indicates that the alleged conduct occurred. Any disciplinary action will be in accordance with due process rights under State law and any applicable collective bargaining agreement. The seriousness of the offense, including the nature and degree of harm caused, shall be considered when deciding the appropriate disciplinary action.
 - If the person alleged to have violated this policy is a staff member, possible discipline includes, but is not limited to, letters of reprimand, reassignment, and other disciplinary actions, including suspension or job termination.
 - If the person alleged to have violated this policy is a student, possible discipline includes reprimand, classes or instruction on appropriate behavior, counseling, class transfer, detention, suspension or expulsion, consistent with the Student Code of Conduct.
 - Any discipline of students will focus on changing behavior and ensuring that students learn about the impact of their behaviors and attitudes. Possible remedial action includes:
 - o Interventions for the alleged victim, such as counseling, academic support, health services, assigning an escort to allow the student to move safely between classes, and instruction on how to report other incidents of harassment or discrimination.
 - o Training or other interventions for the larger school community to ensure that students, staff and parents understand the types of behavior that constitute harassment or discrimination, and how to report it.
 - o Interventions for the individual who engaged in the conduct, such as parent notification, counseling, guidance, education about the impact of the conduct, positive behavior support, referral to a student success team, transfer to alternative programs, denial of participation in extracurricular or co-curricular activities or other privileges, and discipline.
 - If it is established that the conduct involves a violation of law, report the matter immediately to the appropriate law enforcement authorities.

Interim Measures

The Hudson Public Schools shall take immediate steps to protect the alleged victim, alleged perpetrator, witnesses, and the larger school community pending the completion of an investigation or the informal process and address any ongoing harassment or discrimination. The District will take interim measures to prevent retaliation against the alleged victim and alleged aggressor.

Examples of interim measures include, but are not limited to:

- Providing counseling services via the school adjustment counselor and/or school psychologist for both the alleged victim and the alleged perpetrator;
- Providing academic support services;
- Ensuring no contact between the alleged victim and alleged perpetrator in District programs and activities (e.g., through stay away orders); the District will take care to minimize the burden of such steps on the alleged victim;
- Providing an alternate schedule to ensure that the alleged victim and alleged perpetrator do not attend the same classes;
- Informing the alleged victim of how to report any recurring conduct or retaliation;
- Providing the alleged victim or alleged aggressor with alternative movement between classes and activities; and
- Making community based referral to medical and counseling services.

In the case of alleged sexual assault, the school principal or the discrimination/harassment complaint official will take additional steps as necessary to ensure the alleged victim is safe. This may include, for example, referring the student to a rape crisis center, creating a safety plan and designating an individual at the site level to act as a support person during the investigation. If the circumstances suggest a threat to others, the school principal or the discrimination/harassment complaint official will ensure that the District informs relevant members of the school community. This may include, for example, notifying parents and employees, if a student is sexually assaulted on the way home from school, or notifying employees of areas where harassment or discrimination frequently occurs.

Referral to Law Enforcement and Other Agencies

Some alleged conduct may constitute both a violation of District policies and criminal activity. The school principal or the discrimination/harassment complaint official will refer matters to law enforcement and other agencies as appropriate under the law or District policy, and inform the complainant of the right to file a criminal complaint.

The school principal or the discrimination/harassment complaint official will follow this procedure regardless of whether the alleged conduct is also being investigated by another agency, unless the fact-finding process would impede a law enforcement investigation. In such cases, the school principal or the discrimination/harassment complaint official will determine whether interim measures to protect the well-being of the complainant and the school community and prevent retaliation are needed while the law enforcement agency's fact-gathering is in progress. Once notified that law enforcement has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the school principal or the discrimination/harassment complaint official will promptly resume and complete the investigation.

Additionally, several behaviors listed as sexual harassment may also constitute physical or sexual abuse. Sexual abuse is defined as any act or acts by any persons involving sexual molestation or exploitation of a child, including, but not limited to incest, prostitution, rape, sodomy, or any lewd or lascivious conduct involving a child. Thus, under certain circumstances, alleged harassment may also constitute physical and/or sexual abuse under Massachusetts law. Such harassment or abuse is subject to the duties of mandatory reporting and must be reported to the Department of Children and Families within twenty-four (24) hours of the time the educator becomes aware of the suspected abuse. All school personnel are identified as being mandatory reporters.

Conflict of Interest

If there is a conflict of interest with respect to any party affected by this policy, appropriate accommodations will be made, such as, but not limited to, appointing or contracting with a neutral third-party investigator to conduct the investigation, or recusing from the process the person for whom a conflict or potential conflict of interest exists.

Retaliation

Retaliation in any form for the filing of a complaint, the reporting of discrimination, including harassment, or participating in an investigation is prohibited. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. If retaliation is established, it can be considered grounds for disciplinary action. Any allegations of reprisal will be subject to the same kind of investigation and disciplinary action as described above. The school principal or the discrimination/harassment complaint official will inform all involved individuals that retaliation is prohibited, and that anyone who feels they have experienced harassment, coercion, intimidation, or discrimination for filing a complaint or participating in the resolution process should inform the school principal or the discrimination/harassment complaint official.

Right to Alternative Complaint Procedures

In addition to the remedies set forth above, if you believe you have been subjected to harassment or discrimination, you may file a formal complaint with the government agency or agencies set forth below. Using the District complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim.

A. Students

If you believe you have been subjected to harassment or discrimination, you may file a formal complaint with:

Massachusetts Department of Elementary and Secondary Education
Program Quality Assurance Services
75 Pleasant Street, Malden, MA 02148-4906

Phone: (781) 338-3700

FAX: (781) 338-3710

Email: compliance@doe.mass.edu

The time period for filing a claim is one year from the action.

United States Department of Education

Office for Civil Rights("OCR")

5 Post Office Square

Boston, MA 02109

tel. (617) 289-0111

The time period for filing a claim with the United States Department of Education Office for Civil Rights is 180 days.

B. Employees

If you believe you have been subjected to harassment or discrimination, you may file a formal complaint with either or both of the government agencies set forth below:

1. United States Equal Employment

Opportunity Commission ("EEOC")

JFK Federal Building, Room 475

Boston, MA 02203

tel. (800) 669-4000

The time period for filing a claim with the EEOC is 180 days.

2. Massachusetts Commission

Against Discrimination ("MCAD")

Boston Office

One Ashburton Place, Rm. 601

Boston, MA 02108

(617) 994-6000

Springfield Office

436 Dwight Street, Rm. 220

Springfield, MA 01103

(413) 739-2145

The time period for filing a claim with the MCAD is 300 days.

Approved by Hudson School Committee – February 14, 2023