



**CONSOLIDATED
SCHOOL DISTRICT
— OF —
NEW BRITAIN**

**NEW BRITAIN BOARD OF EDUCATION
POLICY COMMITTEE MEETING**

SEPTEMBER 21, 2020 – 5:30 PM | NEW BRITAIN HIGH SCHOOL



NOTICE OF MEETING

TO: New Britain Board of Education Members
Mayor Erin Stewart
Mr. Mark H. Bernacki, Town and City Clerk
New Britain Common Council Members

DATE: September 18, 2020

RE: New Britain Board of Education Committee Meeting

The following New Britain Board of Education committee meeting will be held:

- **The New Britain Board of Education Policy Committee** will hold a regular meeting on Monday, September 21, 2020 at 5:30 PM at the New Britain High School Lecture Hall, located at 110 Mill Street in New Britain, Connecticut.





CONSOLIDATED SCHOOL DISTRICT OF NEW BRITAIN

New Britain Board of Education | Policy Committee Regular Meeting

September 21, 2020 – 5:30 PM | New Britain High School

1. Call to Order and Opening

- A. Meeting Called to Order

2. New Business

- A. Review and Approve Minutes from Special Policy Committee Meeting on July 20, 2020
Submitted by Ms. Kristin Salerni | Page 5
- B. Review Policy 6146.20 – Graduation Requirements for Class of 2021
Submitted by Mr. Damon Pearce | Page 8
- C. Review CSDNB Remote Learning Expectations
Submitted by Mr. Mark Spalding | Page 12
- D. Review and Discuss Adoption of Shipman & Goodwin Policies Regarding Sexual Discrimination and Sexual Harassment per New Title IX Regulations Effective August 2020
Submitted by Ms. Maryellen Manning and Mr. Mark Spalding | Page 14

3. Closing

- A. Other Business as Permitted by Law
- B. Adjournment

New Britain Board of Education

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Monica Dawkins | Anthony Kane | Annie S. Parker | Diana Reyes | Nancy Rodriguez | Gayle Sanders-Connolly



**CONSOLIDATED
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NEW BUSINESS



CONSOLIDATED SCHOOL DISTRICT OF NEW BRITAIN

New Britain Board of Education Special Policy Committee Meeting

July 20, 2020 – 5:30 PM | Virtual Meeting

Call to Order and Opening

Mr. Nicholas Mercier, Policy Committee Chair, called the meeting to order at 5:32 PM.

Board Members Present

Mr. Merrill Gay, Ms. Diane Leja*, Mr. Nicholas Mercier*, Ms. Annie Parker, Ms. Diana Reyes*, Ms. Nancy Rodriguez*, Ms. Gayle Sanders-Connolly

**Committee members*

CSDNB Staff Present

Mr. Antoine Billy, Mr. Matthew Cannata, Mr. Michael Foran, Mr. Damon Pearce, Ms. Kristin Salerni, Dr. Nicole Sanders, Ms. Nancy Sarra, Mr. Mark Spalding, Ms. Donnah Swaby

New Business

Review and Approve Minutes from the Policy Committee Meeting on June 15, 2020

There were no recommended changes to the minutes from the Policy Committee Meeting on June 15, 2020.

Ms. Reyes motioned to approve the minutes from the Policy Committee Meeting on June 15, 2020 as submitted, seconded by Ms. Leja. Motion carried unanimously.

Review Policies and Agreements Pertaining to School Resource Officers and Police Presence in CSDNB Schools

Committee members were provided with copies of current Board Policy 5145.11 – School Resource Officer, the Administrative Procedure regarding School Resource Officers dated July 14, 2014 (Protocols for Police School Resource Officers Access to and Intervention with Students at NBHS), and the MOA between New Britain Public Schools and the New Britain Police Department dated December 8, 2017 for review.

Dr. Nicole Sanders (Senior Equity and Talent Officer), Ms. Donnah Swaby (Coordinator of Special Education and Pupil Services, K-Age 21 and Districtwide), Mr. Damon Pearce (NBHS Principal), and Mr. Antoine Billy (Associate Principal of New Britain High School) updated committee members on their efforts to review the MOA and administrative regulations regarding School Resource Officers over the past month. Dr. Sanders and Ms. Swaby emphasized the importance of taking into account context, research, and data collection as they decide on their long-term plans for SROs in the district.

Attorney Natalia Sieira Millan, of Shipman and Goodwin LLP, attended the meeting to provide some general context of how SROs started out in school buildings and offer guidance relative to the development of policies and agreements regarding SROs. She explained that the original role SROs served was not only to provide safety but also to serve as community liaisons and desensitize students to the idea of police. Attorney Millan shared the model SRO Memorandum of Agreement developed by the Juvenile Justice Advisory Committee in 2015. This MOA details specific expectations for SROs and the school district. She explained that

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the relationship between SROs and the school district is driven by what is specifically set forth in the MOA. Attorney Millan explained that educators are the enforcers of discipline while SROs do not get involved in disciplinary matters unless there are safety concerns relative to the life of a student or property or some type of criminal act. She emphasized the importance of amending the MOA if the method of interventions relative to the types of behavior you see are not in line with the district's expectations. This revision should include dialogue with the police department about what the relationship should look like moving forward. Attorney Millan also recommended having conversations with the police about the enforcement of existing agreements regarding data collection and reporting.

Dr. Sanders clarified that she has been meeting with high school administrators and Chief of Police Christopher Chute to look closely at the MOA together. Chief Chute assured Dr. Sanders that there are not very many arrest warrants executed on campus.

Ms. Swaby stated that she strongly disagrees with language in the Administrative Procedure that states that police may speak to students without parents being present if they have a warrant. She believes that parents should be present when Miranda Rights are being read to their children. Attorney Millan explained that the age of the minor student has a large impact on how the police respond in these situations. She recommended amending the MOA to address concerns the district may have regarding arrest warrants and related issues.

Mr. Pearce stated that while we do not have an accurate data monitoring system at the high school at present time, he has plans to develop a robust system for monitoring the data moving forward. He believes the SROs are not considered an extension of the school discipline procedure and are only present for emergency situations and to provide support to staff and students.

Mr. Mercier noted that Board Policy 5145.11 – School Resource Officer has not been approved since 2009 and is very vague and loosely worded. He recommended working with Mr. Spalding, Mr. Pearce, and Ms. Swaby to draft a policy that reflects the vision the district has for SROs. This draft policy would be created from board member and administrator feedback and would serve as a vehicle for discussions regarding the MOA and administrative regulations.

Ms. Rodriguez shared that she witnessed students having positive interactions with SROs in the Career Center. She also stated that it is important to be able to have SROs that can immediately step in and respond to an emergency when it occurs.

Ms. Leja emphasized the lack of data in the district regarding what the SROs are doing at the high school and what role they are serving. She would like to explore the benefits and the face of the SRO in New Britain and how it affects the school climate. Ms. Leja would also like student and teacher feedback considered in the decision making process.

Ms. Sanders-Connolly expressed concern that the language we use needs to be very clear regarding the steps that are taken to reach a parent when there is an arrest on campus.

Ms. Reyes emphasized the importance of looking at the data regarding how often SROs are involved and the gender, race, and ethnicity of students they are involved with. She would also like to know how often and how long the interview rooms are used. Ms. Reyes would like to ensure that they are receiving accurate data which reflects what is actually going on. She would also like to get feedback from parents, families, and children regarding how they feel about SROs.

Mr. Billy would like the MOA to include a provision that SROs will run programs that will continue a positive bond between the SROs and students while they are in the building. He believes he can work with his administrative team to track data at the high school easily.

Mr. Mercier recommended the following next steps:

- Draft a policy using board member and administrator feedback and see how it aligns with our current MOA
- Continue discussions regarding this topic
- Have a plan in place to solicit student feedback in the fall

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Review Policies Impacted by COVID-19 Pandemic

Mr. Mark Spalding, Director of Pupil Services, introduced and reviewed sample policies from CBE regarding face masks and coverings. The state has requested that school districts put face mask/covering policies in place for staff and students.

Recommended revisions to the CBE sample policies include:

- Amend first sentence of the fifth paragraph of the “School Buildings and Grounds” section of each policy to read “In addition to the wearing of face masks, the District will maximize social distancing between student’s workstations and desks, achieving three to six feet when feasible.”
- Amend first sentence of seventh paragraph of the “School Buildings and Grounds” section of each policy to read “Face shields may be an option for those students with documented medical or behavioral challenges who are unable to wear face masks or coverings.”
- Add the following eighth paragraph to the “School Buildings and Grounds” section of each policy: “In the event that a student is unable to wear a face shield due to documented medical or behavioral challenges, the school district will work to find the least restrictive accommodation that still provides for the safety of all staff and students.”
- Strike “Limited Exceptions to Use of Face Coverings” section of each policy.
- Amend end of first paragraph of the “Mask Breaks” section of each policy to include “To the maximum extent possible mask breaks should be taken outside.”
- Amend first sentence of the second paragraph of the “Violations of this Policy” section of each policy to read “If a student refuses to wear a face mask or covering and does not fulfill any of the exemptions allowed by this policy, such student shall be escorted to a designated area.”
- Strike last sentence of the “Violations of this Policy” section of each policy: “Teachers or schools may provide incentives for compliance with the face mask requirement.”
- Strike third bullet of the “Other Considerations” section of each policy: “When medically appropriate, nurses shall substitute use of metered dose inhalers and spacers for students with respiratory issues.”

Ms. Leja motioned that the Board approve Policies 4118.237, 4218.237, and 5141.8 – Face Masks/Coverings as amended at the next meeting, seconded by Ms. Reyes. Motion carried unanimously.

Closing and Adjournment

Ms. Rodriguez motioned to adjourn at 7:20 PM, seconded by Ms. Reyes. Motion carried unanimously.

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CONSOLIDATED SCHOOL DISTRICT OF NEW BRITAIN

Board Policy Statement

~~6146.20—Graduation Requirements~~

6146.22 Revised Special Graduation Requirements for the Class of 2021

Approved on May 16, 2016 | ~~Revised on October 15, 2018~~

I. Credit Distribution Requirements

The Board Of Education credit requirements meet state regulations:

English	Four (4) credits (one credit American Literature, one credit World Literature and two English elective credits)
Mathematics	Three (3) credits (one credit in Algebra I, one credit in Geometry and one credit in Math elective/Algebra II)
Science	Three (3) credits (1 Physical Science, 1 Life Science and 1 Science elective)
Social Studies	Three (3) credits (one credit in U.S. History, one credit in World/International Studies, .5 credit in American Government and .5 credit in Social Studies elective)
Physical Education	One (1) credit
Fine Arts	One (1) credit
Health	0.5 credit
Electives	6.5 credits
Capstone	1 credit
Total	23 22 credits

Students are assigned to grades 9-12 based on the number of credits earned. Students need to earn five credits to progress to grade 10, 10 credits to progress to grade 11, and 15 credits to progress to grade 12. Graduation eligibility of students classified as seniors (grade 12) can be found in the Connecticut General Statutes Section 10-221 and the New Britain High School Student Handbook.

II. District Performance Standards

The New Britain High School Graduate:

- ~~A. Is literate, as demonstrated by reading presented text and responding to a posted question in writing that is focused, organized, elaborated and edited for standard English conventions. The standard may be met by completing one of the following:
 - ~~a. Achieving a minimum score of 475 on the critical reading section of the SAT I and a score equivalent to the national average on the SAT II composition test~~
 - ~~b. Achieving a score of 20 or better on the English and Reading sections of the ACT~~
 - ~~c. Producing an essay that responds to presented text, is focused, organized, elaborated and edited for standard English conventions, recorded in the SSP~~~~
- ~~B. Is proficient in mathematical problem solving in the areas/number and quantity, geometry and measurement, statistics and probability, and algebra and junctions. The standard may be met by completing one of the following:
 - ~~a. Achieving a minimum score of 475 on the mathematics component of the SAT~~
 - ~~b. Achieving a score of 20 or better on the mathematics section of the ACT~~
 - ~~c. Achieving an acceptable score on a multi-response, assessment that demonstrates proficiency in mathematical problem solving recorded in the SSP.~~~~
- ~~C. Is a responsible and contributing member o/both the school and New Britain city communities. The standard may be met by completing the following:
 - ~~a. Completing all sections of the SBAC (or state approved alternative forms of the SBAC) with demonstrated serious intent as defined in the New Britain High School Handbook~~
 - ~~b. Demonstrating the ability to work in a team environment by successfully participating in at least one club, sports team or school activity or community activity that involves working collaboratively to accomplish a task or complete a project as documented by the advisor, coordinator or coach. The activity must be pre-approved by the student's guidance counselor.~~~~
- ~~D. Maintains a Student Success Plan (SSP) that demonstrates the competencies associated with College and Career Readiness (CCR) built around three core components: academic development; career development; social, emotional development and physical development. The standard may be met by completing one of the following:
 - ~~a. Complete a career interest survey (hard copy or web based) using resources identified by the Guidance Career Center (GCC)~~~~

~~b. Research, develop, organize and apply within the framework of the individualized Student Success Plan (SSP) correlation between interest survey outcomes and post-secondary planning, including financial planning~~

~~E. Students also must complete at least one of the following types of applications: job, scholarship, financial aid or ASFAB (military).~~

~~F. Students must prepare a formal cover letter and resume, including a list of appropriate references (maintained within the SSP)~~

~~G. Students must complete one of the following (must be pre-approved) and reflect on this experiences as part of the SSP: Job shadow experience, school to career work study program, Internship, accredited off-site college course/program, or hold a job for a minimum of 150 hours~~

~~H. Students must complete an application for an accredited post-secondary program.~~

III. Options if Requirements Are Not Met

Students who have not met the District's performance standard in reading and writing may enroll in a designated writing course the summer following their junior or senior years. A rubric scored performance assessment will be administered at the conclusion of the summer course. Students meeting the standard in the summer following their senior year may meet requirements for an August graduation.

Students who have not met the District's performance standard in mathematics may enroll in a designated mathematics course the summer following their junior or senior years. A rubric scored performance assessment will be administered at the conclusion of the summer course. Students meeting the standard in the summer following their senior year may meet requirements for an August graduation.

Other options may be made available dependent on District resources.

IV. Exemptions

- A. Special Needs - Students with special needs may be exempt from the District performance standards for graduation described in this policy if so indicated in their Individual Education Plans.
- B. English Language Learners - Students enrolled in a bilingual or English as a Second Language program for less than 30 months may be exempt from the District performance standards for graduation described in this policy if so recommended by the Bilingual/ESL/Foreign Language department chairperson in collaboration with the District Coordinator of Bilingual Education, ESL and World Languages at the student's annual review.
- C. Transfers - If a student transfers into New Britain High School after completing at least three years in a high school in another state or country, he/she may be exempted from the District performance standard. If a student transfers into New Britain High School from another Connecticut district, NBHS will accept completion of reading/writing and mathematics performance standards from that district as demonstrated through SAT scores or the District's locally designed performance assessment. If the student has not met these standards in his/her previous district, he/she must successfully complete a NBHS assessment in these areas.

V. Connecticut Seal of Biliteracy

Commencing with the graduating class of 2018, and for each graduating class thereafter, the Board of Education, utilizing criteria established by the State Board of Education, may/shall affix the "Connecticut State Seal of Biliteracy" to a diploma awarded to a student who has achieved a high level of proficiency in English and one or more foreign languages. "Foreign language" means a world language other than English and includes American Sign Language and any other language spoken by a federally recognized Native American tribe. The Board of Education shall include on such student's transcript a designation that the student received the "Connecticut Seal of Biliteracy."

Legal References/Citations

- 10-16 (1) Graduation Exercises (as amended by Public Act 96-26, An Act Concerning Graduation Requirements and Readmission and Placement of Older Students and Public Act 96-108, an act concerning student use of telecommunication devices and the establishment of graduation dates) 10-221a High School Graduation Requirements (as amended by Public Act 00-156, an act requiring a Civics course for high school graduation)
- 10-221a High School Graduation Requirements (as amended by Public Act 01-166, an act concerning high school graduation and the Connecticut Academic Performance Test)
- Public Act 11-135 An Act requiring each local Board of Education to create a student success plan for each student enrolled in a public school, beginning in grade six.
- The Connecticut Plan



Expectations for Remote Learning

The Consolidated School District of New Britain is beginning the 2020-2021 school year in a hybrid model and expect to continue in this model through at least the remainder of the 2020 calendar year, barring any decision by us or the State of Connecticut to shift to full remote learning. During our time in the hybrid and/or remote model, we will be implementing live remote instruction through various platforms. This is so students who are learning remotely can take part in live classroom lessons and activities during the school day.

Teachers will be delivering live instruction to students who are physically present. At the same time, students who are learning remotely will be able to log in and participate in the lessons. As determined by the teacher or in accordance with plans for students with special needs, the District may also use live remote instruction in small group and/or individual settings. Student names will be visible to the teacher and other participants and observers. However, video of students will not.

Per guidance from the Connecticut State Department of Education, students are expected to attend school each day, whether they are physically in school or taking part in remote learning. On remote learning days, the expectation is that students log on during regular school hours and engage in classroom lessons and activities.

Rules and Guidelines for Participation in Live Remote Instruction

To facilitate the delivery of instruction through live remote instruction and safeguard student privacy and confidentiality as appropriate and to the extent required by applicable law, CSDNB requires that students and caregivers of students adhere to the following:

- Caregivers and students are not allowed to record any sessions. This includes audio, video, or still photography. The only exception is if this is allowed because of an individual student's IEP or 504 Plan.
- We understand that other individuals may be in the home at the same time the student is logging in for remote learning. However, no one other than the student is permitted to participate in or be visible during the session.
- Students participating in videoconferencing from remote locations must join the video conference on time and follow all rules and guidelines established by the teacher.
- All participating individuals must comply with relevant CSDNB Board of Education policies and administrative regulations.

While student privacy and the confidentiality of student information is of utmost importance, parents/guardians are reminded that CSDNB is not in direct control of individual homes or the physical locations of students participating in videoconferencing remotely.



Expectations for Remote Learning

District Recordings of Live Lessons

In accordance with the Family Educational Rights and Privacy Act (FERPA), we are notifying you that classroom lessons will be recorded and uploaded onto the server while the Consolidated School District of New Britain is in a hybrid and/or remote model. While teachers and other support staff will specifically arrange the classroom so that students are not on camera during lessons and activities, there may be times where a student inadvertently walks in front of the camera. Since the lessons are being recorded and then uploaded onto the server, this action will become part of the video.

As is the practice with our annual photo and video release, if you do not wish for your child to be recorded on video, please contact your child's school and let them know. If your child is still accidentally recorded on video during the lesson due to them walking in front of the camera, we will delete that part of the video before uploading it onto the server.

Student Expectations When Using CSDNB Devices

- Students will follow teacher/building/district policies and instructions when using technology.
- Students will be polite and considerate and use appropriate language.
- Students will report and/or help prevent any bullying, abuse, or harm of others.
- Students will tell an adult if they read, see, or access something inappropriate or if they witness inappropriate use of technology.
- Students will comply with all district filters and security measures.
- Students will use technology carefully and conserve district resources.
- Students will not share passwords, except with their parents/guardians.
- Students will use only their own Drive, files and data. They will not access another individual's Drive, files or data without their permission.
- Students will not reveal or post personal information about themselves or another person (i.e., passwords, addresses, locations, or telephone numbers).
- Students will follow copyright laws.
- Model Students Exhibit Core Behaviors that represent CSDNB's four core values of citizenship, respect, integrity and responsibility. These behaviors create a safe learning environment and reduce disruption of the educational process.

Title IX and the New Regulations: Will Your District Be Ready?

Please note: The program will begin promptly at 10:00 a.m. If you experience difficulties with the audio portion of the program, there is an audio tab in the upper right corner of the webinar program. Click on that tab, and you will be given instructions for dialing in by phone to hear the audio.

Attorneys Melinda Kaufmann and Michael McKeon

June 4, 2020

TITLE IX

- “Federal law provides that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” **Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 *et seq.* [“Title IX”].**

TITLE IX

- a. Protects **both** male and female students;
- b. Prohibits sexually harassing conduct towards members of the opposite sex as well as members of the same sex;
- c. Title IX applies to sexual harassment directed **toward students** by school employees, including but not limited to administrators and teachers, or by third parties;
- d. Title IX also applies to sexual harassment **between students**, which is also known as peer sexual harassment.

TITLE IX

- Two Supreme Court cases established the appropriate standards of liability under Title IX for sexual harassment.
-
- **Gebser v. Lago Vista Independent School District**, 524 U.S. 274 (1998), established the standard of liability imposed on schools when a school employee sexually harasses a student.
- **Davis v. Monroe County Board of Education**, 526 U.S. 629 (1999), established the standard for school liability when a student is sexually harassed by another student.
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TITLE IX

- In Gebser, the Supreme Court held that a school will **not** be liable for sexual harassment of a student by a school employee unless:
 - An school official with **authority to take corrective action** had **actual knowledge** of discrimination, but failed to adequately respond; and
 - The **inadequate response** must amount to **deliberate indifference** to discrimination.

TITLE IX

- Similarly, in Davis, the Court held that liability is imputed to the school *only* where:
 - a. The school has been “deliberately indifferent to sexual harassment, of which the [district had] actual knowledge”;
 - b. The harassment is so “severe, pervasive and objectively offensive that it effectively bars the victim’s access to an educational opportunity or benefit”; and
 - c. The school responded in a way that was clearly unreasonable under the circumstances.

- The United States Department of Education’s Office for Civil Rights [“OCR”] has jurisdiction over alleged violations of Title IX.
- On April 4, 2011, OCR issued a “**Dear Colleague Letter**,” or “**DCL**,” in response to what OCR perceived as schools’ generally dismal handling of student-on-student sexual harassment claims, particularly those that involved sexual assaults. It has proven to be one of the most controversial DCLs that OCR has ever issued.

- OCR's April 4, 2011 DCL required schools to adopt a **“preponderance of the evidence”** standard when determining whether a student sexually harassed a peer. This is the law's lowest evidentiary threshold, below the **“clear and convincing”** standard most schools had been using. The “preponderance” standard requires only a showing that it is more likely than not that the accused individual engaged in the relevant conduct.
- The DCL also effectively allowed schools to limit the accused student's right to confront his or her accuser.

- In conjunction with the DCL, OCR disseminated a list of colleges and universities that were being investigated for their alleged failure to address and remediate sexual assault claims. Needless to say, this resulted in terrible publicity for the named institutions.
- OCR's April 4, 2011 DCL, in conjunction with the desire not to be included on OCR's list of schools under investigation, and the threat that OCR would withdraw federal funds, created substantial pressure on schools to improve their response to sexual assault claims.

April 4, 2011 Dear Colleague Letter

- Compelling a more robust response to allegations of sexual assault was obviously an extremely positive goal, and OCR's more exacting mandates were lauded by many.
- Others, however, despite agreeing with OCR's intent, disagreed with its methods. One federal appellate judge issued a scathing assessment of the April 4, 2011 DCL, writing in part that "its extremely broad definition of "sexual harassment" has no counterpart in federal civil rights case law; and the procedures prescribed for adjudication of sexual misconduct are heavily weighted in favor of finding guilt."
- [Plummer v. University of Houston, 860 F.3d 767 \(5th Cir. 2017\)\(dissent\)](#)

Post-DCL Fallout

- Unfortunately, many schools were ill-equipped to investigate such serious claims.
- Disciplinary panels consisting of academics or even other students, and whose traditional duties had been limited to deciding claims of academic dishonesty, were suddenly required to adjudicate the equivalent of serious felonies.
- It was like asking a school nurse to start performing surgeries.

Post-DCL Fallout

- This resulted in a number of procedural debacles which, in turn, triggered a torrent of lawsuits, filed primarily by male students who claimed they were unjustly disciplined in adjudicatory processes that were prosecuted ineptly, selectively, or in bad faith.
- It was recently estimated that approximately 500 such lawsuits have been filed across the United States.

Post-DCL Fallout

- The overwhelming majority of these legal actions have claimed, somewhat ironically, that in seeking to comply with Title IX, schools have, in fact, violated Title IX either by: 1) selectively enforcing it against male students while not pursuing claims against female students, or 2) reaching an erroneous outcome as a result of an unfair or biased disciplinary process.
- The majority of the lawsuits were initially dismissed, but they have increasingly gained traction, with courts now more open to recognizing these Title IX causes of action as well as contract, negligence, and – in the case of public universities -- constitutional claims.

Post-DCL Fallout

- It is this sequence of events that has given rise to the new Title IX regulations which OCR has promulgated and which will take effect on August 14, 2020.

Definition of Sexual Harassment Under the Title IX Regulations

- Conduct on the basis of sex that satisfies one of the following:
 - An employee of the district conditioning the provision of an aid, benefit, or service on the individual's participation in unwelcome sexual conduct;
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or
 - sexual assault, dating violence or stalking.
- Per the Regulations, Title IX only applies to conduct that occurs in a program or activity over which the district exerts substantial control over both the respondent and the context.
- Does not apply if the conduct occurred against a person outside the U.S.

NOTE – just because OCR will not treat conduct as a Title IX violation, it does not mean the conduct does not violate some other section of the district's policies

When Can A District Be Liable?

- A district with actual knowledge of sexual harassment must take steps to address it.
- In elementary and secondary schools “actual knowledge” means that any employee of an elementary or secondary school had knowledge.
 - As written, this covers all employees including custodians, secretaries, food service workers, paraprofessionals, etc.
- Once the district has knowledge, it must act in a way that is not deliberately indifferent to the alleged harassment.

Various New Roles

- **Title IX Coordinator**
 - Employee who will coordinate the district's efforts to comply with its responsibilities under Title IX
- **Investigator**
 - If possible, should not be the Title IX Coordinator
- **Decision-maker**
 - Must not be the Title IX Coordinator or the Investigator
- **Appeal Decision-maker**
 - Must not be the Title IX Coordinator, Investigator or Decision-maker

The Grievance Process

- Some underlying principles for sexual harassment investigations
 - Equitable
 - Impartial
 - Thorough
 - Prompt
- New Terminology to Learn
 - Complainant
 - Respondent
 - Responsible Party
 - Supportive measures
- Standard of evidence to be used should be pre-defined in policy and consistent for investigations into staff and students
 - District chooses: “***preponderance of the evidence***” or “***clear and convincing evidence***”

The Grievance Process

- What is a formal complaint?
 - Signed by complainant or Title IX Coordinator
 - Alleges sexual harassment
 - Requests investigation

- First steps once a formal complaint is filed
 - Provide the parties with notice of the allegations, including:
 - Identity of parties
 - Conduct alleged to be sexual harassment
 - Date and location of incident
 - Provide notice of:
 - Notice of the grievance process including any informal resolution processes available
 - Statement that the respondent is presumed not responsible and that the determination of responsibility will not be made until the end of the process,
 - Ability to have advisor (including an attorney) at all stages, and
 - The section of the code of conduct that prohibits providing false statements and information during the grievance process
 - Determine if the conduct, as alleged, would violate Title IX

The Grievance Process

- Focus on due process – overview of major investigation steps
 - Each party must have equal opportunity to present witnesses, including fact and expert witnesses, and other evidence,
 - Cannot restrict the ability of either party to discuss the allegation or gather/present relevant evidence,
 - Allow each party to have an advisor of their choosing at each step,
 - The district may establish consistent restrictions on the extent to which the advisor may participate in the proceedings
 - Provide each party the opportunity to inspect and review all evidence, and
 - Prior to the completion of the formal investigation report, send to each party and his/her advisor, the evidence subject to inspection and review.
 - Each party must be given 10 days to provide written responses

The Grievance Process

- The Investigation Report

- This is a formal written report that must fairly summarize relevant evidence
- The investigator must provide both parties and their advisors a copy of the investigation report at least 10 days prior to the determination regarding responsibility so the parties may review and provide a written response

The Grievance Process

- The Decision-Making Process

- In K-12 school, an in-person hearing is NOT required prior to determining whether the respondent is responsible for sexual harassment
- The decision-maker still must:
 - Give each party the opportunity to submit relevant questions that the party wants asked for any party or witness,
 - Provide each party with the answers to those questions, and
 - Allow for follow up questions

Note that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the district, not the parties

The Grievance Process

- The Written Decision on Responsibility
- This is a formal written decision that must at a minimum:
 - Identify the allegations,
 - Describe the procedural steps taken to investigate,
 - Make findings of fact,
 - Make conclusions regarding the application of the code of conduct to the facts,
 - Contain a statement of rationale for the result as to each allegation,
 - Identify any disciplinary sanctions to be imposed,
 - Identify whether remedies will be provided to the complainant, and
 - Inform the parties of the appeal procedures.

The decision must be provided to both parties simultaneously

The Grievance Process

- The Appeal Process

- Is available to both parties,
- Must be decided by a different decision-maker,
- Both parties must be given a reasonable, equal opportunity to submit a written statement,
- The decision-maker must issue a written decision describing results of the appeal and the rationale for the result,
- The decision must be given to each party simultaneously.

- Recordkeeping

- Keep each investigation file for at least 7 years,
- Including the disciplinary sanctions, if any, and
- Including remedies and any supportive measures provided.

The Grievance Process – Administrative Dismissals

- The district MAY dismiss a formal complaint or any allegations therein, if at any time during the investigation:
 - The complainant notifies the Title IX Coordinator in writing that he/she would like to withdraw the formal complaint or allegations therein,
 - The respondent is no longer enrolled in or employed by the district, and/or
 - Specific circumstances prevent the district from gathering evidence sufficient to make a determination.

- Such dismissal does not preclude initiating discipline under another section of the district's code of conduct

- Whether or not a formal complaint is filed, the district can always offer an informal resolution process
 - Before doing so, the district must provide the parties with a written notice disclosing:
 - The allegations,
 - The requirements of the informal process including circumstances under which it would preclude a party from resuming the formal complaint process from the same allegations,
 - Any party has the right to withdraw from the informal resolution at any time, and
 - Any consequences from engaging in the informal resolution process including whether records from it will be maintained and/or shared in the formal complaint process.

Initial Steps to Take

- **Identify:** Title IX Coordinator, Investigator, Decision-Makers and anyone designated by the district to facilitate an informal resolution process
- **Post:** the contact information of the Title IX Coordinator on the website and in the school's handbook
- **Train** them in:
 - Definition of sexual harassment under Title IX
 - Scope of the district's education program or activity
 - How to conduct an investigation and/or grievance process
 - How to serve impartially, including avoiding prejudgment, conflicts of interest and bias
- Post training materials on the district's website
- Update the district's Title IX policies and procedures

Final Thoughts

- The ACLU along with various other organizations has already filed the first legal challenge against the Regulations
- Just because conduct does not violate Title IX as set forth in the Regulations does not mean it does not violate the district's other policies
 - For example, off-campus conduct
- Beware of state laws that provide additional protections
- Do not forget district employees' obligations as mandated reporters if the alleged conduct could be considered abuse or neglect

QUESTIONS?

Contact Information



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**Series 4000
Personnel**

**POLICY REGARDING PROHIBITION OF SEX DISCRIMINATION AND
SEXUAL HARASSMENT IN THE WORKPLACE (PERSONNEL)**

It is the policy of the _____ Board of Education (the “Board”) for the _____ Public Schools that any form of sex discrimination or sexual harassment is prohibited in the Board’s education programs and activities, whether by students, Board employees or third parties subject to substantial control by the Board. It is the policy of the Board to maintain a working environment free from harassment, insults or intimidation on the basis of an employee's sex and free from discrimination based on sex. Verbal or physical conduct by a supervisor or co-worker relating to an employee's sex that has the effect of creating an intimidating, hostile or offensive work environment, unreasonably interfering with the employee's work performance, or adversely affecting the employee's employment opportunities is prohibited.

The Board does not discriminate on the basis of sex in the education programs or activities that it operates and the Board is required by Title IX of the Education Amendments of 1972 and its implementing regulations (“Title IX”) not to discriminate in such a manner. Students, Board employees and third parties are required to adhere to a standard of conduct that is respectful of the rights of all parties. Any employee or student who engages in conduct prohibited by this Policy shall be subject to disciplinary action, up to and including termination or expulsion, respectively. Third parties who engage in conduct prohibited by this Policy shall be subject to other sanctions, which may include exclusion from Board property and/or activities. Individuals who engage in acts of sex discrimination or sexual harassment may also be subject to civil and criminal penalties.

For conduct to violate this Policy, the conduct must have occurred in an education program or activity of the Board; the conduct must have occurred within the United States of America; and the complainant must be participating in or attempting to participate in the education program or activity of the Board. Conduct that does not meet these requirements still may constitute a violation of another Board policy.

The Superintendent of Schools shall develop Administrative Regulations implementing this Policy and in accordance with Title IX (the “Administrative Regulations”).

Sex discrimination occurs when an employer refuses to hire, disciplines or discharges any individual, or otherwise discriminates against an individual with respect to his or her compensation, terms, conditions, or privileges of employment on the basis of the individual’s sex. Sex discrimination also occurs when a person, because of the person’s

sex, is denied participation in or the benefits of any education program or activity receiving federal financial assistance.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the Board conditioning the provision of an aid, benefit, or service of the Board on an individual's participation in unwelcome sexual conduct (*i.e.*, *quid pro quo*);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Board's education programs or activities; or
- (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Reporting Sex Discrimination or Sexual Harassment

It is the express policy of the Board to encourage victims of sex discrimination and/or sexual harassment to report such claims. Employees are encouraged to report complaints of sex discrimination and/or sexual harassment promptly in accordance with the appropriate process set forth in the Administrative Regulations. The Board directs its employees to respond to such complaints in a prompt and equitable manner. Violations of this Policy by employees will not be permitted and may result in discipline up to and including discharge from employment. Individuals who engage in acts of sex discrimination or sexual harassment may also be subject to civil and criminal penalties. Retaliation against any employee for complaining about sex discrimination or sexual harassment is prohibited under this Policy and illegal under state and federal law.

Any Board employee with notice of sex discrimination and/or sexual harassment allegations shall immediately report such information to the building principal and/or the Title IX Coordinator, or if the employee does not work in a school building, to the Title IX Coordinator.

The _____ Public Schools administration (the "Administration") shall provide training to Title IX Coordinator(s), investigators, decision-makers, and any person who facilitates an informal resolution process (as set forth in the Administrative Regulations). Such training will include information on the definition of sex discrimination and sexual harassment, the scope of the Board's education program and activity, how to conduct an investigation and implement the grievance process, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The Administration shall make the training materials used to provide these trainings publicly available on the Board's website. The Administration shall also periodically provide training to all Board employees on the topic of sex discrimination and sexual

harassment under Title IX, which shall include but not be limited to when reports of sex discrimination and/or sexual harassment must be made. The Administration shall distribute this Policy and the Administrative Regulations to employees, union representatives, students, parents and legal guardians and make the Policy and the Administrative Regulations available on the Board's website to promote an environment free of sex discrimination and sexual harassment.

The Board's Title IX Coordinator is _____ *[include name or title - this may be multiple individuals]*. Any individual may make a report of sex discrimination and/or sexual harassment directly to the Title IX Coordinator using any one, or multiple, of the following points of contact *[must include all of this contact information]*:

OFFICE ADDRESS

ELECTRONIC MAIL ADDRESS

TELEPHONE NUMBER

Any individual may also make a report of sexual harassment and/or sex discrimination to the U.S. Department of Education: Office for Civil Rights, Boston Office, U.S. Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921 (Telephone: 617-289-0111).

Employees may also make a report of sexual harassment and/or sex discrimination to the Connecticut Commission on Human Rights and Opportunities, 450 Columbus Boulevard, Hartford, CT 06103-1835 (Telephone: 860-514-3400).

Legal References:

Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e-2(a).

Equal Employment Opportunity Commission Policy Guidance on Current Issues of Sexual Harassment (N-915.050), March 19, 1990.

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq.

Title IX of the Education Amendments of 1972, 34 CFR § 106, et seq.

Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)

Conn. Gen. Stat. § 46a-54 - Commission powers Connecticut

Conn. Gen. Stat. § 46a-60 - Discriminatory employment practices prohibited.

Conn. Gen. Stat. § 46a-81c - Sexual orientation discrimination:
Employment

Conn. Gen. Stat. § 10-153 - Discrimination on the basis of sex,
gender identity or expression or marital status prohibited

Conn. Agencies Regs. §§ 46a-54-200 through § 46a-54-207

ADOPTED: _____

REVISED: _____

7/30/2020



**Series 4000
Personnel**

[Note: The following administrative procedures are not part of the sex discrimination and sexual harassment policy and need not be approved by the Board. However, because a complaint procedure is legally required, these administrative regulations are included for your convenience.]

**ADMINISTRATIVE REGULATIONS REGARDING
THE PROHIBITION OF SEX DISCRIMINATION AND SEXUAL HARASSMENT
(PERSONNEL)**

It is the policy of the _____ Board of Education (the “Board”) for the _____ Public Schools that any form of sex discrimination or sexual harassment is prohibited in the Board’s education programs and activities, whether by students, Board employees or third parties subject to substantial control by the Board. Students, District employees and third parties are expected to adhere to a standard of conduct that is respectful of the rights of students, District employees, and third parties. It is the policy of the Board to maintain a working environment free from harassment, insults or intimidation on the basis of an employee's sex and free from discrimination based on sex. Verbal or physical conduct by a supervisor or co-worker relating to an employee's sex that has the effect of creating an intimidating, hostile or offensive work environment, unreasonably interfering with the employee's work performance, or adversely affecting the employee's employment opportunities is prohibited.

Any employee or student who engages in conduct prohibited by the Board’s Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) shall be subject to disciplinary action. Any third party who engages in conduct prohibited by the Board’s Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) shall be subject to remedial measures, which may include exclusion from school property.

Sex discrimination occurs when a person, because of the person’s sex, is denied participation in or the benefits of any education program or activity receiving federal financial assistance.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the Board conditioning the provision of an aid, benefit, or service of the Board on an individual’s participation in unwelcome sexual conduct (i.e., *quid pro quo*);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education programs or activities; or

(3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30). These definitions can be found in Appendix A of these Administrative Regulations.

Although not an exhaustive list, the following are other examples of conduct prohibited by the Board’s Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel):

1. Unwelcome sexual advances from a co-worker or supervisor, such as unwanted hugs, touches, or kisses;
2. Unwelcome attention of a sexual nature, such as degrading, suggestive or lewd remarks or noises;
3. Dirty jokes, derogatory or pornographic posters, cartoons or drawings;
4. The threat or suggestion that continued employment advancement, assignment or earnings depend on whether or not the employee will submit to or tolerate harassment;
5. Circulating, showing, or exchanging emails, text messages, digital images or websites of a sexual nature;
6. Using computer systems, including email, instant messaging, text messaging, blogging or the use of social networking websites, or other forms of electronic communications, to engage in any conduct prohibited by the Board’s Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel).

NOTICE OF THE TITLE IX COORDINATOR

The District’s Title IX Coordinator is _____ *[include name or title - this may be multiple individuals]*. Any individual may make a report of sex discrimination and/or sexual harassment directly to the Title IX Coordinator using any one, or multiple, of the following points of contact *[must include all of this contact information]*:

OFFICE ADDRESS

ELECTRONIC MAIL ADDRESS

TELEPHONE NUMBER

The Title IX Coordinator manages the District’s compliance with Title IX and is an available resource to anyone seeking information or wishing to file a formal complaint. When a student, District employee, or other participant in the District’s programs and activities feels that such person has been subjected to discrimination on the basis of sex in any District program or activity, including without limitation being subjected to sexual harassment, such person may

contact the Title IX Coordinator or utilize the Title IX grievance systems set forth herein to bring concerns forward for the purpose of obtaining a prompt and equitable resolution.

[Note: Additional Persons May be Added. The federal regulations provide that each recipient of federal financial assistance must designate and authorize “at least one Employee” to coordinate its efforts to comply with its responsibilities under the federal regulations.]

EXPLANATION OF COMPLAINT PROCESS AND PROCEDURE

The federal regulations implementing Title IX require the adoption and publication of two separate grievance systems: a grievance process for complaints of sex discrimination involving allegations of sexual harassment and grievance procedures for complaints of sex discrimination that are not sexual harassment. Accordingly, the Administration will process any complaints of sex discrimination involving allegations of sexual harassment, as defined above, pursuant to the **grievance process** set forth in Section I of these regulations. The Administration will process any complaints of sex discrimination that are not sexual harassment pursuant to the **grievance procedures** set forth in Section II of these regulations.

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of these Administrative Regulations, including the conduct of any investigation, hearing, or judicial proceeding arising from these Administrative Regulations.

The obligation to comply with Title IX is not obviated or alleviated by the FERPA.

SECTION I. GRIEVANCE PROCESS FOR COMPLAINTS OF SEXUAL HARASSMENT

A. Definitions

- **Bias** occurs when it is proven that the Title IX Coordinator, investigator(s), and/or decision-maker(s) demonstrate actual bias, rather than the appearance of bias. Actual bias includes, but is not limited to, demonstrated personal animus against the respondent or the complainant and/or prejudgment of the facts at issue in the investigation.
- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- A **conflict of interest** occurs when it is proven that the Title IX Coordinator, investigator(s), and/or decision-maker(s) have personal, financial and/or familial interests that affected the outcome of the investigation.

- For purposes of investigations and complaints of sexual harassment, **education program or activity** includes locations, events, or circumstances over which the Board exercises substantial control over both the respondent and the context in which the sexual harassment occurs.
- **Employee** means (A) a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, school counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by the Board or working in a public elementary, middle or high school; or (B) any other individual who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in a public elementary, middle or high school, pursuant to a contract with the Board.
- **Formal complaint** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the Administration investigate the allegation of sexual harassment. A “document filed by a complainant” means a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.
- **Respondent** means an individual who has been alleged to be the perpetrator of conduct that could constitute sexual harassment.
- **Supportive measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the District’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual restrictions on contact between the parties, increased security and monitoring, and other similar measures.

B. Reporting Sexual Harassment

1. It is the express policy of the Board to encourage victims of sexual harassment to report such claims. Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator. If the District receives notice of sexual harassment or alleged sexual harassment against a person in the District’s education program or activity, the Title IX Coordinator or designee will promptly contact the complainant to discuss the availability of supportive measures, whether or not the complainant has filed a formal complaint, and will consider the complainant’s wishes with respect to such measures. If the complainant has yet to file a formal complaint, the Title IX Coordinator or designee will explain to the complainant the process for doing so.

2. The District will treat complainants and respondents equitably. A respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility will be made at the conclusion of the grievance process if a formal complaint is filed. Nothing in this Regulation shall limit or preclude the District from removing a respondent from the District's education program or activity on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, and 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. If a respondent is removed on an emergency basis, the District shall provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

C. Formal Complaint and Grievance Process

1. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the District's education programs or activity. A formal complaint may be signed by the Title IX Coordinator. If the complaint being filed is against the Title IX Coordinator, the formal complaint should be filed with the Superintendent. If the formal complaint being filed is against the Superintendent, the formal complaint should be filed with the Board Chair, who will then retain an independent investigator to investigate the matter.
2. The District may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. If possible, formal complaints should be filed within ten (10) school days of the alleged occurrence in order to facilitate the prompt and equitable resolution of such claims. The District will attempt to complete the formal grievance process within ninety (90) school days of receiving a complaint. This timeframe may be temporarily delayed or extended in accordance with Subsection G of this Section.
3. Upon receipt of a formal complaint, if the Title IX Coordinator or designee has not already discussed the availability of supportive measures with the complainant, the Title IX Coordinator or designee will promptly contact the complainant and respondent separately to discuss the availability of such measures and consider the complainant's wishes with respect to them. The District will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide supportive measures.
4. Within ten (10) school days of receiving a formal complaint, the District will provide the known parties with written notice of the allegations potentially constituting sexual harassment and a copy of this grievance process. The written notice must also include the following:

- i. The identities of the parties involved in the incident, if known;
- ii. The conduct allegedly constituting sexual harassment as defined above;
- iii. The date and the location of the alleged incident, if known;
- iv. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- v. A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and
- vi. A statement of any provision in the District's policies that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that are not included in the written notice, the District must provide notice of the additional allegations to the parties whose identities are known.

5. The parties may have an advisor of their choice accompany them during any grievance proceeding at which the party's attendance is required. The District may, in its discretion, establish certain restrictions regarding the extent to which an advisor may participate in the proceedings. If any such restrictions are established, they will be applied equally to all parties.
6. The Title IX Coordinator will, as applicable, promptly commence an investigation of the formal complaint, designate a school administrator to promptly investigate the formal complaint, or dismiss the formal complaint in accordance with Subsection F of this Section. The standard of evidence to be used to determine responsibility is the preponderance of the evidence standard (i.e., more likely than not). ***[Note: A school district may choose to use a "clear and convincing evidence" standard instead. A clear and convincing evidence standard is a higher evidentiary burden than the preponderance of evidence standard. The clear and convincing evidence standard is understood to mean that a decision-maker must conclude that a fact is highly probable to be true, as opposed to a "more likely than not" under the preponderance of the evidence standard. The same standard of evidence for formal complaints must be used for both employees and students. Districts may wish to consult legal counsel regarding selection of an evidentiary standard.]*** The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the District and not on the parties.
7. The parties will be given an equal opportunity to discuss the allegations under investigation with the investigator(s) and are permitted to gather and present relevant evidence. This opportunity includes presenting witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

8. Both parties will be given an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. Prior to completion of the investigative report, the District will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have ten (10) school days to submit a written response, which the investigator(s) will consider prior to completion of the investigative report, as described in Paragraph 9 of this section.
9. The investigator(s) will create an investigative report that fairly summarizes relevant evidence. The investigator(s) will send the investigative report, in an electronic format or hard copy, to each party and to each party's advisor for their review and written response at least ten (10) school days prior to ***[Insert "a hearing or" if a District chooses to conduct live hearings]*** the time a determination regarding responsibility is made.
10. ***[The Title IX regulations provide that school districts "may, but need not, provide for a hearing." If school districts choose to hold a hearing (live or otherwise), the regulations provide school districts significant discretion as to how to conduct such a hearing. If a school district would like to include the procedures for holding a live hearing in its administrative regulations, Shipman & Goodwin LLP would be happy to assist in crafting specific hearing procedures that satisfies the school district's needs.]***
11. The Superintendent will appoint a decision-maker(s), who shall be a District employee or third-party contractor and who shall be someone other than the Title IX Coordinator or investigator(s). If the complaint filed is against the Superintendent, the Board Chair shall appoint the decision-maker, who shall be someone other than the Title IX Coordinator or investigator(s). The investigator(s) and the decision-maker(s) shall not discuss the investigation's facts and/or determination while the complaint is pending. The decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, 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. The decision-maker(s) will explain to the party proposing the questions any decisions to exclude a question as not relevant.
12. The decision-maker(s) will issue a written determination regarding responsibility. The written determination will include: (1) identification of the allegations potentially constituting sexual harassment; (2) a description of the procedural steps taken from the

receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (3) findings of fact supporting the determination; (4) conclusions regarding the application of the District's code of conduct to the facts; (5) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District will impose on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant; and (6) the District's procedures and permissible bases for the complainant and respondent to appeal. The written determination will be provided to both parties simultaneously.

13. Student respondents found responsible for violating the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) may be subject to discipline up to and including expulsion. Employee respondents found responsible for violating the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) may be subject to discipline up to and including termination of employment. Other respondents may be subject to exclusion from the District's programs, activities and/or property. In appropriate circumstances, the District may make a criminal referral. Remedies will be designed to restore or preserve equal access to the District's education programs or activities.
14. After receiving notification of the decision-maker(s)' decision, or after receiving notification that the District dismissed a formal complaint or any allegation therein, both complainant and respondent may avail themselves of the appeal process set forth in Section E of this Regulation.

D. Informal Resolution

At any time prior to reaching a determination regarding responsibility, the District may suggest to the parties the possibility of facilitating an informal resolution process, such as mediation, to resolve the formal complaint without the need for a full investigation and adjudication. If it is determined that an informal resolution may be appropriate, the Title IX Coordinator or designee will consult with the parties.

Prior to facilitating an informal resolution to a formal complaint, the Title IX Coordinator or designee will provide the parties with written notice disclosing the sexual harassment allegations, the requirements of an informal resolution process, and any consequences from participating in the informal resolution process. Upon receipt of this document, complainants and respondents have five (5) school days to determine whether they consent to participation in the informal resolution. The District must obtain voluntary, written consent to the informal resolution process from both parties.

Prior to agreeing to any resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. If a satisfactory resolution is reached through this informal process, the matter will be considered resolved. If these efforts are unsuccessful, the formal grievance process will continue.

Nothing in this section precludes an employee from filing a complaint of retaliation for matters related to an informal resolution, nor does it preclude either party from filing complaints based on conduct that is alleged to occur following the District's facilitation of the informal resolution.

An informal resolution is not permitted to resolve allegations that an employee sexually harassed a student.

E. Appeal Process

After receiving notification of the decision-maker(s)' decision, or after receiving notification that the District dismissed a formal complaint or any allegation therein, both complainant and respondent have five (5) school days to submit a formal letter of appeal to the Title IX Coordinator specifying the grounds upon which the appeal is based.

Appeals will be appropriate only in the following circumstances:

- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- procedural irregularity that affected the outcome of the matter;
- the Title IX Coordinator, investigator(s), and/or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. A conflict of interest or bias does not exist solely because the Title IX Coordinator, investigator(s), and/or decision-maker(s) previously worked with or disciplined the complainant or respondent.
- ***[Note: School districts may add other bases for appeal so long as they are offered equally to both parties]***

The District will provide the other party with written notice of such appeal. Both parties will then have an opportunity to submit a written statement in support of, or challenging, the outcome. Such written statement must be submitted ten (10) school days after receiving written notice of the appeal. Upon receipt of an appeal, the Superintendent shall appoint a decision-maker(s) for the appeal, who shall be someone other than the Title IX Coordinator, investigator(s), or initial decision-maker(s). The decision-maker(s) for the appeal, in their discretion, will determine the appropriate procedure for the appeal. After considering the parties' written statements, the decision-maker(s) for the appeal will provide a written decision. If it is found that one of the bases for appeal exists, the decision-maker(s) for the appeal will issue an appropriate remedy.

Supportive measures for either or both parties may be continued throughout the appeal process.

F. Dismissal of a Formal Complaint

The Title IX Coordinator shall dismiss any formal complaint that 1) would not constitute sexual harassment as defined in these Administrative Regulations even if proved, 2) did not occur in the District's education program or activity, or 3) did not occur against a person in the United States. Such dismissal does not preclude action under another Board policy.

The District may dismiss a formal complaint or any allegations therein, if at any time during the investigation or hearing a complainant notifies the Title IX Coordinator in writing that 1) the complainant would like to withdraw the formal complaint or any allegations therein; 2) the respondent is no longer enrolled or employed in the District; or 3) specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal, the District will promptly and simultaneously send written notice of the dismissal and reason(s) therefor to each party. Either party can appeal from the District's dismissal of a formal complaint or any allegations therein using the appeals procedure.

A dismissal pursuant to this section does not preclude action by the District under the Student Discipline policy, Code of Conduct for students/or and employees, or any other applicable rule, policy, and/or collective bargaining agreement.

G. Miscellaneous

1. Any timeframe set forth in these Administrative Regulations may be temporarily delayed or extended for good cause. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; concurrent activity by the Department of Children and Families; or the need for language assistance or accommodation of disabilities. If any timeframe is altered on a showing of good cause, written notice will be provided to each party with the reasons for the action.
2. If a sexual harassment complaint raises a concern about discrimination or harassment on the basis of any other legally protected classification (such as race, religion, color, national origin, age, or disability), the Title IX Coordinator or designee shall make a referral to other appropriate personnel within the District (e.g. Section 504 Coordinator, etc.), so as to ensure that any such investigation complies with the requirements of policies regarding nondiscrimination.
3. If the sexual harassment complaint results in reasonable cause to suspect or believe that a child has been abused or neglected, has had a nonaccidental physical injury, or injury which is at variance with the history given of such injury, is placed at imminent risk of serious harm, or that a student has been sexually assaulted by a school employee, then, the person to whom the complaint is given or who receives such information shall report such matters in accordance with the Board's policy on the Reports of Suspected Child Abuse or Neglect of Children.
4. Retaliation against any individual who complains pursuant to the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) and these Administrative Regulations is strictly prohibited. The District will take actions designed to prevent retaliation as a result of filing a complaint. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination described herein.

5. The District will maintain for a period of seven (7) years records of:
 - i. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the Board's education program or activity;
 - ii. Any appeal and the result therefrom;
 - iii. Any informal resolution and the result therefrom; and
 - iv. All material used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The Board will make these training materials publicly available on its website.

If the District has actual knowledge of sexual harassment in an education program or activity of the Board, and for any report or formal complaint of sexual harassment, the District will create and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. The District will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the Board's education program or activity. If the District does not provide a complainant with supportive measures, then the District will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

SECTION II. GRIEVANCE PROCEDURES FOR CLAIMS OF SEX DISCRIMINATION (OTHER THAN SEXUAL HARASSMENT)

A. Definitions

- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sex discrimination.
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sex discrimination.

B. Reporting Sex Discrimination Other than Sexual Harassment

It is the express policy of the Board to encourage victims of sex discrimination to report such claims. Any person may report sex discrimination (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator. If the District receives notice of sex discrimination or alleged sex discrimination against a person in the District's education program or activity, the Title IX Coordinator or designee will promptly notify the complainant of the grievance process. The District will treat complainants and respondents equitably during the grievance process. Sexual harassment is a form of sex

discrimination, and any incident of sexual harassment, as defined above, should be handled pursuant to Section I of these Administrative Regulations.

C. Grievance Procedures

1. As soon as an employee feels that he or she has been subjected to sex discrimination other than sexual harassment, he/she should make a written complaint to the Title IX Coordinator or to the building principal, or his/her designee. The employee will be provided a copy of the Board's policy and Administrative Regulations and made aware of his or her rights. Preferably, complaints should be filed within ten (10) school days of the alleged occurrence. Timely reporting of complaints facilitates the investigation and resolution of such complaints.
2. The complaint should state the:
 - i. Name of the complainant;
 - ii. Date of the complaint;
 - iii. Date(s) of the alleged discrimination;
 - iv. Name(s) of the discriminator(s);
 - v. Location where such discrimination occurred;
 - vi. Names of any witness(es) to the discrimination;
 - vii. DETAILED STATEMENT OF THE CIRCUMSTANCES CONSTITUTING THE ALLEGED DISCRIMINATION; AND
 - viii. REMEDY REQUESTED.
3. Any employee who makes an oral complaint of sex discrimination to any of the above-mentioned personnel will be provided a copy of these Administrative Regulations and will be requested to make a written complaint pursuant to the above procedure.
4. All complaints are to be forwarded immediately to the building principal or designee unless that individual is the subject of the complaint, in which case the complaint should be forwarded directly to the Superintendent of Schools or his/her designee. In addition, a copy of any complaint filed under this policy shall be forwarded to the Title IX Coordinator. If the complaint being filed is against the Title IX Coordinator, the complaint should be filed with the Superintendent. If the complaint being filed is against the Superintendent, the complaint should be filed with the Board Chair, who will then retain an independent investigator to investigate the matter.
5. The Title IX Coordinator or designee shall investigate all complaints of sexual discrimination against an employee, regardless of whether the conduct occurred on or off-school grounds. Complaints will be investigated promptly within the timeframes identified below. Timeframes may be extended as needed given the complexity of the investigation, availability of individuals with relevant information, and other extenuating circumstances. The investigation shall be conducted discreetly, maintaining confidentiality insofar as possible while still conducting an effective and thorough investigation.
6. Any employee who makes a complaint shall be notified of the District's intent to investigate the complaint. In the event the employee requests confidentiality or that an

investigation not be conducted, the District will take reasonable steps to investigate and respond to the complaint to the extent possible, given the request for confidentiality or that the District not investigate the complaint. If the employee insists that his/her information not be shared with the alleged discriminator(s), the employee will be informed that the District's ability to investigate and/or take corrective action may be limited.

7. Upon receipt of a sex discrimination complaint, the Title IX Coordinator shall either promptly commence an investigation of the complaint, or shall designate a school administrator to promptly investigate the complaint. The Title IX Coordinator or designee shall:
 - i. offer to meet with the complainant and respondent (if applicable) separately within ten (10) school days to discuss the nature of the complaint, identify individuals the complainant and respondent (if applicable) believe have relevant information, and obtain any relevant documents the complainant and respondent may have;
 - ii. provide the complainant and respondent (if applicable) with a copy of the Board's sex discrimination policy and accompanying regulations;
 - iii. consider whether any interim measures may be appropriate to protect the complainant or respondent (if applicable), pending the outcome of the investigation;
 - iv. conduct an investigation that is adequate, reliable, and impartial. Investigate the factual basis of the complaint, including, as applicable, conducting interviews with individuals deemed relevant to the complaint;
 - v. consider whether alleged sex discrimination has created a hostile work environment, including consideration of the effects of off-campus conduct on the school;
 - vi. communicate the outcome of the investigation in writing to the complainant, to the respondent, and to any individual properly identified as a party to the complaint (to the extent permitted by state and federal confidentiality requirements), within ninety (90) school days from the date the complaint was received by the Superintendent's office. The investigator may extend this deadline for no more than fifteen (15) additional school days if needed to complete the investigation. The complainant and respondent (if applicable) shall be notified of such extension. The written notice shall include a finding whether the complaint was substantiated and if so, shall identify, to the extent possible, how the District will remedy the discrimination, adhering to the requirements of state and federal law; and
 - vii. when sex discrimination has been found, take steps that are reasonably calculated to end the discrimination, take corrective and/or disciplinary action aimed at preventing the recurrence of the discrimination, as deemed

appropriate by the Superintendent or his/her designee, and take steps to remedy the effects of the sex discrimination.

8. If a complaint is made during summer recess, the complaint will be reviewed and addressed as quickly as possible given the availability of staff and/or other individuals who may have information relevant to the complaint. If fixed timeframes cannot be met, the complainant and respondent will receive notice and interim measures may be implemented as necessary.
9. If the complainant or respondent (if applicable) is dissatisfied with the findings of the investigation, he or she may file a written appeal within five (5) school days to the Title IX Coordinator, or, if he/she conducted the investigation, to the Superintendent of Schools, who shall review the Title IX Coordinator or designee's written report, the information collected by the Title IX Coordinator or designee together with the recommended disposition of the complaint to determine whether the alleged conduct constitutes sex discrimination. The Title IX Coordinator or Superintendent of Schools may determine if further action and/or investigation is warranted. After completing this review, the Title IX Coordinator or Superintendent of Schools shall respond to the complainant and respondent (if applicable), in writing, within fifteen (15) school days following the receipt of the written request for review.

D. Miscellaneous

1. If a sexual discrimination complaint raises a concern about discrimination or harassment on the basis of any other legally protected classification (such as race, religion, color, national origin, age, or disability), the Title IX Coordinator or designee shall make a referral to other appropriate personnel within the District (e.g. Section 504 Coordinator, etc.), so as to ensure that any such investigation complies with the requirements of policies regarding nondiscrimination.
2. If the sexual discrimination complaint results in reasonable cause to suspect or believe that a child has been abused or neglected, has had a nonaccidental physical injury, or injury which is at variance with the history given of such injury, is placed at imminent risk of serious harm, or that a student has been sexually assaulted by a school employee, then, the person to whom the complaint is given or who receives such information shall report such matters in accordance with the Board's policy on the Reports of Suspected Child Abuse or Neglect of Children.
3. Retaliation against any individual who complains pursuant to the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) and these Administrative Regulations is strictly prohibited. The District will take actions designed to prevent retaliation as a result of filing a complaint. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination described herein.

Section III. Further Reporting

At any time, a complainant alleging sex discrimination or sexual harassment may also file a formal complaint with the Office for Civil Rights, Boston Office, U.S. Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921 (Telephone (617) 289-0111).

Employees may also make a report of sexual harassment and/or sex discrimination to the Connecticut Commission on Human Rights and Opportunities, 450 Columbus Boulevard, Hartford, CT 06103-1835 (Telephone: 860-514-3400).

Copies of these Administrative Regulations will be distributed to all employees.

Appendix A

Sexual Assault: An offense classified as forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Forcible Rape—The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of the person's temporary or permanent mental or physical incapacity.

Forcible Sodomy—Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of the person's youth or because of the person's temporary or permanent mental or physical incapacity.

Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of the person's youth or because of the person's temporary or permanent mental or physical incapacity.

Forcible Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of the person's youth or because of the person's temporary or permanent mental or physical incapacity.

Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

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; and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: Includes felony or misdemeanor crimes 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 receiving grant monies, or 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.

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.

Affirmative Consent means an active, clear and voluntary agreement by a person to engage in sexual activity with another person.

For the purposes of an investigation conducted pursuant to these Administrative Regulations, the following principles shall be applied in determining whether consent for sexual activity was given and/or sustained:

- A. Affirmative consent is the standard used in determining whether consent to engage in sexual activity was given by all persons who engaged in the sexual activity.
- B. Affirmative consent may be revoked at any time during the sexual activity by any person engaged in the sexual activity.
- C. It is the responsibility of each person to ensure that he or she has the affirmative consent of all persons engaged in the sexual activity to engage in the sexual activity and that the affirmative consent is sustained throughout the sexual activity.
- D. It shall not be a valid excuse to an alleged lack of affirmative consent that the respondent to the alleged violation believed that the complainant consented to the sexual activity:
 - (i) because the respondent was intoxicated or reckless or failed to take reasonable steps to ascertain whether the complainant affirmatively consented, or
 - (ii) if the respondent knew or should have known that the complainant was unable to consent because such individual was unconscious, asleep, unable to communicate due to a mental or physical condition, unable to consent due to the age of the individual or the age difference between the individual and the respondent, or incapacitated due to the influence of drugs, alcohol or medication.
- E. The existence of a past or current dating or sexual relationship between the complainant and the respondent, in and of itself, shall not be determinative of a finding of affirmative consent.

**Series 4000
Personnel**

COMPLAINT FORM REGARDING SEXUAL HARASSMENT (PERSONNEL)

This complaint form should be used for complaints of sexual harassment as defined on page 1 of the Board's Administrative Regulations regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel)

Name of the complainant _____

Date of the complaint _____

Date of the alleged sexual harassment _____

Name or names of the sexual harasser(s) _____

Location where such sexual harassment occurred _____

Name(s) of any witness(es) to the sexual harassment _____

Detailed statement of the circumstances constituting the alleged sexual harassment

Remedy requested _____

Signature of Complainant or Title IX Coordinator: _____

Series 4000
Personnel

COMPLAINT FORM REGARDING SEX DISCRIMINATION (OTHER THAN SEXUAL HARASSMENT) (PERSONNEL)

This complaint form should be used for complaints of sex discrimination as defined on page 1 of the Board's Administrative Regulations regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel)

Name of the complainant _____

Date of the complaint _____

Date of the alleged sex discrimination _____

Name or names of the sex discriminator(s) _____

Location where such sex discrimination occurred _____

Name(s) of any witness(es) to the sex discrimination _____

Detailed statement of the circumstances constituting the alleged sex discrimination

Remedy requested _____

Signature: _____

SAMPLE WRITTEN NOTICE FOR FORMAL COMPLAINTS OF SEXUAL HARASSMENT

[LETTERHEAD]

NOTICE OF SEXUAL HARASSMENT ALLEGATIONS

In accordance with the Board's Policy and Administrative Regulations regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel), a formal complaint of sexual harassment has been filed with the Title IX Coordinator.

Identities of the parties involved, if known:

_____ (Complainant(s))
_____ (Respondent(s))

The conduct allegedly constituting sexual harassment: _____

The date and the location of the alleged incident, if known: _____

The Title IX Coordinator or designee will contact the parties regarding the next step in the grievance process. Questions can be directed to the Title IX Coordinator: **[INSERT CONTACT INFORMATION FOR TITLE IX COORDINATOR]**

The respondent is presumed not responsible for the alleged conduct. A determination regarding responsibility is made at the conclusion of the grievance process.

All parties involved may have an advisor of their choice who may be, but it not required to be, an attorney. This advisor may inspect and review evidence as permitted by the Board's Administrative Regulations regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel).

Any employee who knowingly makes false statements or knowingly submits false information during this grievance process is subject to discipline, up to and including termination. Additionally, it is a violation of the Board's Student Discipline Policy to lie to school officials or otherwise engage in dishonest behavior, which includes knowingly making false statements or knowingly submitting false information during the grievance process. Any student who knowingly makes false statements or knowingly submits false information during this grievance process will be subject to sanctions pursuant to the Board's Student Discipline Policy.

A copy of the Board's Policy and Administrative Regulations regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) is included with this notice.



**Series 5000
Students**

**POLICY REGARDING TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 -
PROHIBITION OF SEX DISCRIMINATION AND SEXUAL HARASSMENT
(STUDENTS)**

It is the policy of the _____ Board of Education (the “Board”) for the _____ Public Schools that any form of sex discrimination or sexual harassment is prohibited in the Board’s education programs and activities, whether by students, Board employees or third parties subject to substantial control by the Board. The Board does not discriminate on the basis of sex in the education programs or activities that it operates and the Board is required by Title IX of the Education Amendments of 1972 and its implementing regulations (“Title IX”) not to discriminate in such a manner. Students, Board employees and third parties are required to adhere to a standard of conduct that is respectful of the rights of students, employees and third parties. Any student or employee who engages in conduct prohibited by this policy shall be subject to disciplinary action, up to and including expulsion or termination, respectively.

For conduct to violate this Policy, the conduct must have occurred in an education program or activity of the Board; the conduct must have occurred within the United States of America; and the complainant must be participating in or attempting to participate in the education program or activity of the Board. Conduct that does not meet these requirements still may constitute a violation of another Board policy.

The Superintendent of Schools shall develop Administrative Regulations implementing this Policy and in accordance with Title IX (the “Administrative Regulations”).

Sex discrimination occurs when a person, because of the person’s sex, is denied participation in or the benefits of any education program or activity receiving federal financial assistance.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the Board conditioning the provision of an aid, benefit, or service of the Board on an individual’s participation in unwelcome sexual conduct (*i.e.*, *quid pro quo*);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Board’s education programs or activities; or

(3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Reporting Sex Discrimination or Sexual Harassment

It is the express policy of the Board to encourage victims of sex discrimination and/or sexual harassment to report such claims. Students are encouraged to report complaints of sex discrimination and/or sexual harassment promptly in accordance with the appropriate process set forth in the Administrative Regulations. The Board directs its employees to respond to such complaints in a prompt and equitable manner. The Board further directs its employees to maintain confidentiality to the extent appropriate and not tolerate any reprisals or retaliation that occur as a result of the good faith reporting of charges of sex discrimination and/or sexual harassment. Any such reprisals or retaliation will result in disciplinary action against the retaliator, up to and including expulsion or termination as appropriate.

Any Board employee with notice of sex discrimination and/or sexual harassment allegations shall immediately report such information to the building principal and/or the Title IX Coordinator, or if the employee does not work in a school building, to the Title IX Coordinator.

The _____ Public Schools administration (the “Administration”) shall provide training to Title IX Coordinator(s), investigators, decision-makers, and any person who facilitates an informal resolution process (as set forth in the Administrative Regulations) on the definitions of sex discrimination and sexual harassment, the scope of the Board’s education program and activity, how to conduct an investigation and grievance process, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The Administration shall make the training materials used to provide these trainings publicly available on the Board’s website. The Administration shall also periodically provide training to all Board employees on the topic of sex discrimination and sexual harassment under Title IX, which shall include but not be limited to when reports of sex discrimination and/or sexual harassment must be made. The Administration shall distribute this Policy and the Administrative Regulations to staff, students and parents and legal guardians and make the Policy and the Administrative Regulations available on the Board’s website to promote an environment free of sex discrimination and sexual harassment.

The Board’s Title IX Coordinator is _____ *[include name or title - this may be multiple individuals]*. Any individual may make a report of sex discrimination and/or sexual harassment directly to the Title IX Coordinator using any one, or multiple, of the following points of contact *[must include all of this contact information]*:

OFFICE ADDRESS
ELECTRONIC MAIL ADDRESS
TELEPHONE NUMBER

Any individual may also make a report of sexual harassment and/or sex discrimination to the U.S. Department of Education: Office for Civil Rights, Boston Office, U.S. Department of

Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921 (Telephone (617) 289-0111).

Legal References: Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq.

Title IX of the Education Amendments of 1972, 34 C.F.R § 106.1, et seq.

Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998)

Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)

ADOPTED: _____

REVISED: _____

7/30/2020

**Series 5000
Students**

[Note: The following administrative procedures are not part of the sex discrimination and sexual harassment policy and need not be approved by the Board. However, because a complaint procedure is legally required, these administrative regulations are included for your convenience.]

**ADMINISTRATIVE REGULATIONS REGARDING
TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 - PROHIBITION OF SEX
DISCRIMINATION AND SEXUAL HARASSMENT (STUDENTS)**

It is the policy of the _____ Board of Education (the “Board”) for the _____ Public Schools (“the District”) that any form of sex discrimination or sexual harassment is prohibited, whether by students, District employees or third parties subject to substantial control by the Board. Students, District employees and third parties are expected to adhere to a standard of conduct that is respectful of the rights of students, District employees, and third parties. Any student or employee who engages in conduct prohibited by the Board’s Policy regarding Title IX of the Education Amendments of 1972-Prohibition of Sex Discrimination and Sexual Harassment (Students) shall be subject to disciplinary action. Any third party who engages in conduct prohibited by the Board’s Policy regarding Title IX of the Education Amendments of 1972-Prohibition of Sex Discrimination and Sexual Harassment (Students) shall be subject to remedial measures, which may include exclusion from school property.

Sex discrimination occurs when a person, because of the person’s sex, is denied participation in or the benefits of any education program or activity receiving federal financial assistance.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the Board conditioning the provision of an aid, benefit, or service of the Board on an individual’s participation in unwelcome sexual conduct (i.e., *quid pro quo*);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education programs or activities; or
- (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30). These definitions can be found in Appendix A of these Administrative Regulations.

Although not an exhaustive list, the following are other examples of conduct prohibited by the Board's Policy regarding Title IX of the Education Amendments of 1972-Prohibition of Sex Discrimination and Sexual Harassment (Students):

1. Statements or other conduct indicating that a student's submission to, or rejection of, sexual overtures or advances will affect the student's grades and/or other academic progress.
2. Unwelcome attention and/or advances of a sexual nature, including verbal comments, sexual invitations, leering and physical touching.
3. Display of sexually suggestive objects, or use of sexually suggestive or obscene remarks, invitations, letters, emails, text messages, notes, slurs, jokes, pictures, cartoons, epithets or gestures.
4. Touching of a sexual nature or telling sexual or dirty jokes.
5. Transmitting or displaying emails or websites of a sexual nature.
6. Using computer systems, including email, instant messaging, text messaging, blogging or the use of social networking websites, or other forms of electronic communications, to engage in any conduct prohibited by the Board's Policy regarding Title IX of the Education Amendments of 1972-Prohibition of Sex Discrimination and Sexual Harassment (Students).

NOTICE OF THE TITLE IX COORDINATOR

The District's Title IX Coordinator is _____ *[include name or title - this may be multiple individuals]*. Any individual may make a report of sex discrimination and/or sexual harassment directly to the Title IX Coordinator using any one, or multiple, of the following points of contact *[must include all of this contact information]*:

OFFICE ADDRESS

ELECTRONIC MAIL ADDRESS

TELEPHONE NUMBER

The Title IX Coordinator manages the District's compliance with Title IX and is an available resource to anyone seeking information or wishing to file a formal complaint. When a student, District employee, or other participant in the District's programs and activities feels that such person has been subjected to discrimination on the basis of sex in any District program or activity, including without limitation being subjected to sexual harassment, such person may contact the Title IX Coordinator or utilize the Title IX grievance systems set forth herein to bring concerns forward for the purpose of obtaining a prompt and equitable resolution.

[Note: Additional Persons May be Added. The federal regulations provide that each recipient of federal financial assistance must designate and authorize "at least one Employee" to coordinate its efforts to comply with its responsibilities under the federal regulations.]

EXPLANATION OF COMPLAINT PROCESS AND PROCEDURE

The federal regulations implementing Title IX require the adoption and publication of two separate grievance systems: a grievance process for complaints of sex discrimination involving allegations of sexual harassment and grievance procedures for complaints of sex discrimination that are not sexual harassment. Accordingly, the Administration will process any complaints of sex discrimination involving allegations of sexual harassment, as defined above, pursuant to the **grievance process** set forth in Section I of these regulations. The Administration will process any complaints of sex discrimination that are not sexual harassment pursuant to the **grievance procedures** set forth in Section II of these regulations.

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of these Administrative Regulations, including the conduct of any investigation, hearing, or judicial proceeding arising from these Administrative Regulations.

The obligation to comply with Title IX is not obviated or alleviated by the FERPA.

SECTION I. GRIEVANCE PROCESS FOR COMPLAINTS OF SEXUAL HARASSMENT

A. Definitions

- **Bias** occurs when it is proven that the Title IX Coordinator, investigator(s), and/or decision-maker(s) demonstrate actual bias, rather than the appearance of bias. Actual bias includes, but is not limited to, demonstrated personal animus against the respondent or the complainant and/or prejudgment of the facts at issue in the investigation.
- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- A **conflict of interest** occurs when it is proven that the Title IX Coordinator, investigator(s), and/or decision-maker(s) have personal, financial and/or familial interests that affected the outcome of the investigation.
- For purposes of investigations and complaints of sexual harassment, **education program or activity** includes locations, events, or circumstances over which the Board exercises substantial control over both the respondent and the context in which the sexual harassment occurs.
- **Employee** means (A) a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, school counselor, psychologist, social worker, nurse,

physician, school paraprofessional or coach employed by the Board or working in a public elementary, middle or high school; or (B) any other individual who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in a public elementary, middle or high school, pursuant to a contract with the Board.

- **Formal complaint** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the Administration investigate the allegation of sexual harassment. A “document filed by a complainant” means a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.
- **Respondent** means an individual who has been alleged to be the perpetrator of conduct that could constitute sexual harassment.
- **Supportive measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the District’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual restrictions on contact between the parties, increased security and monitoring, and other similar measures.

B. Reporting Sexual Harassment

1. It is the express policy of the Board to encourage victims of sexual harassment to report such claims. Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator. If the District receives notice of sexual harassment or alleged sexual harassment against a student in the District’s education program or activity, the Title IX Coordinator or designee will promptly contact the complainant to discuss the availability of supportive measures, whether or not the complainant has filed a formal complaint, and will consider the complainant’s wishes with respect to such measures. If the complainant has yet to file a formal complaint, the Title IX Coordinator or designee will explain to the complainant the process for doing so.
2. The District will treat complainants and respondents equitably. A respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility will be made at the conclusion of the grievance process if a formal complaint is filed. Nothing in this Regulation shall limit or preclude the District from removing a respondent from the District’s education program or activity on an

emergency basis, provided that the District undertakes an individualized safety and risk analysis, and 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. If a respondent is removed on an emergency basis, the District shall provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

C. Formal Complaint and Grievance Process

1. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the District's education programs or activity. A formal complaint may be signed by the Title IX Coordinator. If the complaint being filed is against the Title IX Coordinator, the formal complaint should be filed with the Superintendent. If the formal complaint being filed is against the Superintendent, the formal complaint should be filed with the Board Chair, who will then retain an independent investigator to investigate the matter.
2. The District may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. If possible, formal complaints should be filed within ten (10) school days of the alleged occurrence in order to facilitate the prompt and equitable resolution of such claims. The District will attempt to complete the formal grievance process within ninety (90) school days of receiving a complaint. This timeframe may be temporarily delayed or extended in accordance with Subsection G of this Section.
3. Upon receipt of a formal complaint, if the Title IX Coordinator or designee has not already discussed the availability of supportive measures with the complainant, the Title IX Coordinator or designee will promptly contact the complainant and respondent separately to discuss the availability of such measures and consider the complainant's wishes with respect to them. The District will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide supportive measures.
4. Within ten (10) school days of receiving a formal complaint, the District will provide the known parties with written notice of the allegations potentially constituting sexual harassment and a copy of this grievance process. The written notice must also include the following:
 - i. The identities of the parties involved in the incident, if known;
 - ii. The conduct allegedly constituting sexual harassment as defined above;
 - iii. The date and the location of the alleged incident, if known;

- iv. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- v. A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and
- vi. A statement of any provision in the District's Student Discipline Policy or any other policy that prohibits knowingly making false statements of knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that are not included in the written notice, the District must provide notice of the additional allegations to the parties whose identities are known.

5. The parties may have an advisor of their choice accompany them during any grievance proceeding at which the party's attendance is required. The District may, in its discretion, establish certain restrictions regarding the extent to which an advisor may participate in the proceedings. If any such restrictions are established, they will be applied equally to all parties.
6. The Title IX Coordinator will, as applicable, promptly commence an investigation of the formal complaint, designate a school administrator to promptly investigate the formal complaint, or dismiss the formal complaint in accordance with Subsection F of this Section. The standard of evidence to be used to determine responsibility is the preponderance of the evidence standard (i.e., more likely than not). ***[Note: A school district may choose to use a "clear and convincing evidence" standard instead. A clear and convincing evidence standard is a higher evidentiary burden than the preponderance of evidence standard. The clear and convincing evidence standard is understood to mean that a decision-maker must conclude that a fact is highly probable to be true, as opposed to a "more likely than not" under the preponderance of the evidence standard. The same standard of evidence for formal complaints must be used for both employees and students. Districts may wish to consult legal counsel regarding selection of an evidentiary standard.]*** The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the District and not on the parties.
7. The parties will be given an equal opportunity to discuss the allegations under investigation with the investigator(s) and are permitted to gather and present relevant evidence. This opportunity includes presenting witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
8. Both parties will be given an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely

in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. Prior to completion of the investigative report, the District will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have ten (10) school days to submit a written response, which the investigator(s) will consider prior to completion of the investigative report, as described in Paragraph 9 of this section.

9. The investigator(s) will create an investigative report that fairly summarizes relevant evidence. The investigator(s) will send the investigative report, in an electronic format or hard copy, to each party and to each party's advisor for their review and written response at least ten (10) school days prior to ***[Insert "a hearing or" if a District chooses to conduct live hearings]*** the time a determination regarding responsibility is made.
10. ***[The Title IX regulations provide that school districts "may, but need not, provide for a hearing." If school districts choose to hold a hearing (live or otherwise), the regulations provide school districts significant discretion as to how to conduct such a hearing. For example, the Title IX Coordinator may determine it is appropriate to hold a live hearing where the students are above a certain age, where the students are in high school, or where both parties request or consent to a hearing. If a school district would like to include the procedures for holding a live hearing in its administrative regulations, Shipman & Goodwin LLP would be happy to assist in crafting specific hearing procedures that satisfies the school district's needs.]***
11. The Superintendent will appoint a decision-maker(s), who shall be a District employee or third-party contractor and who shall be someone other than the Title IX Coordinator or investigator(s). If the complaint filed is against the Superintendent, the Board Chair shall appoint the decision-maker, who shall be a District employee or third-party contractor and who shall be someone other than the Title IX Coordinator or investigator(s). The investigator(s) and the decision-maker(s) shall not discuss the investigation's facts and/or determination while the complaint is pending. The decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, 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. The decision-maker(s) will explain to the party proposing the questions any decisions to exclude a question as not relevant.
12. The decision-maker(s) will issue a written determination regarding responsibility. The written determination will include: (1) identification of the allegations potentially constituting sexual harassment; (2) a description of the procedural steps taken from the

receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (3) findings of fact supporting the determination; (4) conclusions regarding the application of the District's code of conduct to the facts; (5) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District will impose on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant; and (6) the District's procedures and permissible bases for the complainant and respondent to appeal. The written determination will be provided to both parties simultaneously.

13. Student respondents found responsible for violating the Board's Policy regarding Title IX of the Education Amendments of 1972-Prohibition of Sex Discrimination and Sexual Harassment (Students) may be subject to discipline up to and including expulsion. Employee respondents found responsible for violating the Board's Policy regarding Title IX of the Education Amendments of 1972-Prohibition of Sex Discrimination and Sexual Harassment (Students) may be subject to discipline up to and including termination of employment. Other respondents may be subject to exclusion from the District's programs, activities and/or property. In appropriate circumstances, the District may make a criminal referral. Remedies will be designed to restore or preserve equal access to the District's education programs or activities.
14. After receiving notification of the decision-maker(s)' decision, or after receiving notification that the District dismissed a formal complaint or any allegation therein, both complainant and respondent may avail themselves of the appeal process set forth in Section V of this Regulation.

D. Informal Resolution

At any time prior to reaching a determination regarding responsibility, the District may suggest to the parties the possibility of facilitating an informal resolution process, such as mediation, to resolve the formal complaint without the need for a full investigation and adjudication. If it is determined that an informal resolution may be appropriate, the Title IX Coordinator or designee will consult with the parties.

Prior to facilitating an informal resolution to a formal complaint, the Title IX Coordinator or designee will provide the parties with written notice disclosing the sexual harassment allegations, the requirements of an informal resolution process, and any consequences from participating in the informal resolution process. Upon receipt of this document, complainants and respondents have five (5) school days to determine whether they consent to participation in the informal resolution. The District must obtain voluntary, written consent to the informal resolution process from both parties.

Prior to agreeing to any resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. If a

satisfactory resolution is reached through this informal process, the matter will be considered resolved. If these efforts are unsuccessful, the formal grievance process will continue.

Nothing in this section precludes a student from filing a complaint of retaliation for matters related to an informal resolution, nor does it preclude either party from filing complaints based on conduct that is alleged to occur following the District's facilitation of the informal resolution.

An informal resolution is not permitted to resolve allegations that an employee sexually harassed a student.

E. Appeal Process

After receiving notification of the decision-maker(s)' decision, or after receiving notification that the District dismissed a formal complaint or any allegation therein, both complainant and respondent have five (5) school days to submit a formal letter of appeal to the Title IX Coordinator specifying the grounds upon which the appeal is based.

Appeals will be appropriate only in the following circumstances:

- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- procedural irregularity that affected the outcome of the matter;
- the Title IX Coordinator, investigator(s), and/or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. A conflict of interest or bias does not exist solely because the Title IX Coordinator, investigators(s), and/or decision-maker(s) previously worked with or disciplined the complainant or respondent.
- ***[Note: School districts may add other bases for appeal so long as they are offered equally to both parties]***

The District will provide the other party with written notice of such appeal. Both parties will then have an opportunity to submit a written statement in support of, or challenging, the outcome. Such written statement must be submitted ten (10) school days after receiving written notice of the appeal. Upon receipt of an appeal, the Superintendent shall appoint a decision-maker(s) for the appeal, who shall be someone other than the Title IX Coordinator, investigator(s), or initial decision-maker(s). The decision-maker(s) for the appeal, in their discretion, will determine the appropriate procedure for the appeal. After considering the parties' written statements, the decision-maker(s) for the appeal will provide a written decision. If it is found that one of the bases for appeal exists, the decision-maker(s) for the appeal will issue an appropriate remedy.

Supportive measures for either or both parties may be continued throughout the appeal process.

F. Dismissal of a Formal Complaint

The Title IX Coordinator shall dismiss any formal complaint that 1) would not constitute sexual harassment as defined in these Administrative Regulations even if proved, 2) did not occur in the

District's education program or activity, or 3) did not occur against a person in the United States. Such dismissal does not preclude action under another Board policy.

The District may dismiss a formal complaint or any allegations therein, if at any time during the investigation or hearing a complainant notifies the Title IX Coordinator in writing that 1) the complainant would like to withdraw the formal complaint or any allegations therein; 2) the respondent is no longer enrolled or employed in the District; or 3) specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal, the District will promptly and simultaneously send written notice of the dismissal and reason(s) therefor to each party. Either party can appeal from the District's dismissal of a formal complaint or any allegations therein using the appeals procedure.

A dismissal pursuant to this section does not preclude action by the District under the Student Discipline policy, Code of Conduct for students/or and employees, or any other applicable rule, policy, and/or collective bargaining agreement.

G. Miscellaneous

1. Any timeframe set forth in these Administrative Regulations may be temporarily delayed or extended for good cause. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; concurrent activity by the Department of Children and Families; or the need for language assistance or accommodation of disabilities. If any timeframe is altered on a showing of good cause, written notice will be provided to each party with the reasons for the action.
2. If a sexual harassment complaint raises a concern about bullying behavior, the Title IX Coordinator or designee shall notify the Safe School Climate Specialist or designee who shall coordinate any bullying investigation with the Title IX Coordinator, to promote the alignment of any such bullying investigation with the requirements of applicable Board policies and state law. Additionally, if a sexual harassment complaint raises a concern about discrimination or harassment on the basis of any other legally protected classification (such as race, religion, color, national origin, age, or disability), the Title IX Coordinator or designee shall make a referral to other appropriate personnel within the District (e.g. Section 504 Coordinator, etc.), so as to ensure that any such investigation complies with the requirements of policies regarding nondiscrimination.
3. If the sexual harassment complaint results in reasonable cause to suspect or believe that a child has been abused or neglected, has had a nonaccidental physical injury, or injury which is at variance with the history given of such injury, is placed at imminent risk of serious harm, or that a student has been sexually assaulted by a school employee, then, the person to whom the complaint is given or who receives such information shall report such matters in accordance with the Board's policy on the Reports of Suspected Child Abuse or Neglect of Children.

4. Retaliation against any individual who complains pursuant to the Board's Policy regarding Title IX of the Education Amendments of 1972-Prohibition of Sex Discrimination and Sexual Harassment (Students) and these Administrative Regulations is strictly prohibited. The District will take actions designed to prevent retaliation as a result of filing a complaint. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination described herein.
5. The District will maintain for a period of seven (7) years records of:
 - i. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the Board's education program or activity;
 - ii. Any appeal and the result therefrom;
 - iii. Any informal resolution and the result therefrom; and
 - iv. All material used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The Board will make these training materials publicly available on its website.

If the District has actual knowledge of sexual harassment in an education program or activity of the Board, and for any report or formal complaint of sexual harassment, the District will create and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. The District will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the Board's education program or activity. If the District does not provide a complainant with supportive measures, then the District will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

SECTION II. GRIEVANCE PROCEDURES FOR CLAIMS OF SEX DISCRIMINATION (OTHER THAN SEXUAL HARASSMENT)

A. Definitions

- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sex discrimination.
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sex discrimination.

B. Reporting Sex Discrimination Other than Sexual Harassment

It is the express policy of the Board to encourage victims of sex discrimination to report such claims. Any person may report sex discrimination (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex

discrimination), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator. If the District receives notice of sex discrimination or alleged sex discrimination against a student in the District's education program or activity, the Title IX Coordinator or designee will promptly notify the complainant of the grievance process. The District will treat complainants and respondents equitably during the grievance process. Sexual harassment is a form of sex discrimination, and any incident of sexual harassment, as defined above, should be handled pursuant to Section I of these Administrative Regulations.

C. Grievance Procedures

1. As soon as a student feels that he or she has been subjected to sex discrimination other than sexual harassment, he/she or his/her parent/legal guardian should make a written complaint to the Title IX Coordinator or to the building principal, or his/her designee. The student will be provided a copy of the Board's policy and Administrative Regulations and made aware of his or her rights. Preferably, complaints should be filed within ten (10) school days of the alleged occurrence. Timely reporting of complaints facilitates the investigation and resolution of such complaints.
2. The complaint should state the:
 - i. Name of the complainant;
 - ii. Date of the complaint;
 - iii. Date(s) of the alleged discrimination;
 - iv. Name(s) of the discriminator(s);
 - v. Location where such discrimination occurred;
 - vi. Names of any witness(es) to the discrimination;
 - vii. Detailed statement of the circumstances constituting the alleged discrimination; and
 - viii. Remedy requested.
3. Any student who makes an oral complaint of sex discrimination to any of the above-mentioned personnel will be provided a copy of these Administrative Regulations and will be requested to make a written complaint pursuant to the above procedure. In appropriate circumstances, such as due to the age of the student making the complaint, a parent or school administrator may be permitted to fill out the form on the student's behalf.
4. All complaints are to be forwarded immediately to the building principal or designee unless that individual is the subject of the complaint, in which case the complaint should be forwarded directly to the Superintendent of Schools or his/her designee. In addition, a copy of any complaint filed under this policy shall be forwarded to the Title IX Coordinator. If the complaint being filed is against the Title IX Coordinator, the complaint should be filed with the Superintendent. If the complaint being filed is against the Superintendent, the complaint should be filed with the Board Chair, who will then retain an independent investigator to investigate the matter.

5. The Title IX Coordinator or designee shall investigate all complaints of sexual discrimination against a student, regardless of whether the conduct occurred on or off-school grounds. Complaints will be investigated promptly within the timeframes identified below. Timeframes may be extended as needed given the complexity of the investigation, availability of individuals with relevant information, and other extenuating circumstances. The investigation shall be conducted discreetly, maintaining confidentiality insofar as possible while still conducting an effective and thorough investigation.
6. Any student who makes a complaint shall be notified of the District's intent to investigate the complaint. In the event the student requests confidentiality or that an investigation not be conducted, the District will take reasonable steps to investigate and respond to the complaint to the extent possible, given the request for confidentiality or that the District not investigate the complaint. If the student insists that his/her personally identifiable information not be shared with the alleged discriminator(s), the student will be informed that the District's ability to investigate and/or take corrective action may be limited.
7. Upon receipt of a sex discrimination complaint, the Title IX Coordinator shall either promptly commence an investigation of the complaint, or shall designate a school administrator to promptly investigate the complaint. The Title IX Coordinator or designee shall:
 - i. offer to meet with the complainant and respondent (if applicable) separately within ten (10) school days to discuss the nature of the complaint, identify individuals the complainant and respondent (if applicable) believe have relevant information, and obtain any relevant documents the complainant and respondent may have;
 - ii. provide the complainant and respondent (if applicable) with a copy of the Board's sex discrimination policy and accompanying regulations;
 - iii. consider whether any interim measures may be appropriate to protect the complainant or respondent (if applicable), pending the outcome of the investigation;
 - iv. conduct an investigation that is adequate, reliable, and impartial. Investigate the factual basis of the complaint, including, as applicable, conducting interviews with individuals deemed relevant to the complaint;
 - v. consider whether alleged sex discrimination has created a hostile school environment, including consideration of the effects of off-campus conduct on the school;
 - vi. communicate the outcome of the investigation in writing to the complainant, to the respondent, and to any individual properly identified as a party to the complaint (to the extent permitted by state and federal confidentiality requirements), within ninety (90) school days from the date the complaint was received by the Superintendent's office. The investigator may extend this

deadline for no more than fifteen (15) additional school days if needed to complete the investigation. The complainant and respondent (if applicable) shall be notified of such extension. The written notice shall include a finding whether the complaint was substantiated and if so, shall identify, to the extent possible, how the District will remedy the discrimination, adhering to the requirements of state and federal law; and

- vii. when sex discrimination has been found, take steps that are reasonably calculated to end the discrimination, take corrective and/or disciplinary action aimed at preventing the recurrence of the discrimination, as deemed appropriate by the Superintendent or his/her designee, and take steps to remedy the effects of the sex discrimination.
8. If a complaint is made during summer recess, the complaint will be reviewed and addressed as quickly as possible given the availability of staff and/or other individuals who may have information relevant to the complaint. If fixed timeframes cannot be met, the complainant and respondent will receive notice and interim measures may be implemented as necessary.
9. If the complainant or respondent (if applicable) is dissatisfied with the findings of the investigation, he or she may file a written appeal within five (5) school days to the Title IX Coordinator, or, if he/she conducted the investigation, to the Superintendent of Schools, who shall review the Title IX Coordinator or designee's written report, the information collected by the Title IX Coordinator or designee together with the recommended disposition of the complaint to determine whether the alleged conduct constitutes sex discrimination. The Title IX Coordinator or Superintendent of Schools may determine if further action and/or investigation is warranted. After completing this review, the Title IX Coordinator or Superintendent of Schools shall respond to the complainant and respondent (if applicable), in writing, within fifteen (15) school days following the receipt of the written request for review.

D. Miscellaneous

1. If a sexual discrimination complaint raises a concern about bullying behavior, the Title IX Coordinator shall notify the Safe School Climate Specialist or designee who shall coordinate any bullying investigation with the Title IX Coordinator, to promote the alignment of any such bullying investigation with the requirements of applicable Board policies and state law. Additionally, if a sexual discrimination complaint raises a concern about discrimination or harassment on the basis of any other legally protected classification (such as race, religion, color, national origin, age, or disability), the Title IX Coordinator or designee shall make a referral to other appropriate personnel within the District (e.g. Section 504 Coordinator, etc.), so as to ensure that any such investigation complies with the requirements of policies regarding nondiscrimination.
2. If the sexual discrimination complaint results in reasonable cause to suspect or believe that a child has been abused or neglected, has had a nonaccidental physical injury, or injury which is at variance with the history given of such injury, is placed at imminent

risk of serious harm, or that a student has been sexually assaulted by a school employee, then, the person to whom the complaint is given or who receives such information shall report such matters in accordance with the Board's policy on the Reports of Suspected Child Abuse or Neglect of Children.

3. Retaliation against any individual who complains pursuant to the Board's Policy regarding Title IX of the Education Amendments of 1972-Prohibition of Sex Discrimination and Sexual Harassment (Students) and these Administrative Regulations is strictly prohibited. The District will take actions designed to prevent retaliation as a result of filing a complaint. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination described herein.

Section III. Further Reporting

At any time, a complainant alleging sex discrimination or sexual harassment may also file a formal complaint with the Office for Civil Rights, Boston Office, U.S. Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921 (Telephone (617) 289-0111).

Copies of these Administrative Regulations will be distributed to all students.

Appendix A

Sexual Assault: An offense classified as forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Forcible Rape—The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of the person's temporary or permanent mental or physical incapacity.

Forcible Sodomy—Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of the person's youth or because of the person's temporary or permanent mental or physical incapacity.

Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of the person's youth or because of the person's temporary or permanent mental or physical incapacity.

Forcible Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of the person's youth or because of the person's temporary or permanent mental or physical incapacity.

Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

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; and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: Includes felony or misdemeanor crimes 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 receiving grant monies, or 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.

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.

Affirmative Consent means an active, clear and voluntary agreement by a person to engage in sexual activity with another person.

For the purposes of an investigation conducted pursuant to these Administrative Regulations, the following principles shall be applied in determining whether consent for sexual activity was given and/or sustained:

- A. Affirmative consent is the standard used in determining whether consent to engage in sexual activity was given by all persons who engaged in the sexual activity.
- B. Affirmative consent may be revoked at any time during the sexual activity by any person engaged in the sexual activity.
- C. It is the responsibility of each person to ensure that he or she has the affirmative consent of all persons engaged in the sexual activity to engage in the sexual activity and that the affirmative consent is sustained throughout the sexual activity.
- D. It shall not be a valid excuse to an alleged lack of affirmative consent that the respondent to the alleged violation believed that the complainant consented to the sexual activity:
 - (i) because the respondent was intoxicated or reckless or failed to take reasonable steps to ascertain whether the complainant affirmatively consented, or
 - (ii) if the respondent knew or should have known that the complainant was unable to consent because such individual was unconscious, asleep, unable to communicate due to a mental or physical condition, unable to consent due to the age of the individual or the age difference between the individual and the respondent, or incapacitated due to the influence of drugs, alcohol or medication.
- E. The existence of a past or current dating or sexual relationship between the complainant and the respondent, in and of itself, shall not be determinative of a finding of affirmative consent.

**Series 5000
Students**

COMPLAINT FORM REGARDING SEXUAL HARASSMENT (STUDENTS)

This complaint form should be used for complaints of sexual harassment as defined on page 1 of the Board's Administrative Regulations Regarding Title IX of the Education Amendments of 1972 - Prohibition of Sex Discrimination and Sexual Harassment (Students)

Name of the complainant _____

Date of the complaint _____

Date of the alleged sexual harassment _____

Name or names of the sexual harasser(s) _____

Location where such sexual harassment occurred _____

Name(s) of any witness(es) to the sexual harassment

Detailed statement of the circumstances constituting the alleged sexual harassment

Remedy requested _____

Signature of Complainant or Title IX Coordinator: _____

**Series 5000
Students**

COMPLAINT FORM REGARDING SEX DISCRIMINATION (OTHER THAN SEXUAL HARASSMENT) (STUDENTS)

This complaint form should be used for complaints of sex discrimination as defined on page 1 of the Board's Administrative Regulations Regarding Title IX of the Education Amendments of 1972 - Prohibition of Sex Discrimination and Sexual Harassment (Students)

Name of the complainant _____

Date of the complaint _____

Date of the alleged sex discrimination _____

Name or names of the sex discriminator(s) _____

Location where such sex discrimination occurred _____

Name(s) of any witness(es) to the sex discrimination _____

Detailed statement of the circumstances constituting the alleged sex discrimination

Remedy requested _____

Signature: _____

*SAMPLE WRITTEN NOTICE FOR FORMAL COMPLAINTS OF SEXUAL
HARASSMENT*

[LETTERHEAD]

NOTICE OF SEXUAL HARASSMENT ALLEGATIONS

In accordance with the Board's Policy and Administrative Regulations Regarding Title IX of the Education Amendments of 1972 - Prohibition of Sex Discrimination and Sexual Harassment (Students), a formal complaint of sexual harassment has been filed with the Title IX Coordinator.

Identities of the parties involved, if known:

_____ (Complainant(s))
_____ (Respondent(s))

The conduct allegedly constituting sexual harassment:

The date and the location of the alleged incident, if known: _____

The Title IX Coordinator or designee will contact the parties regarding the next step in the grievance process. Questions can be directed to the Title IX Coordinator: **[INSERT CONTACT INFORMATION FOR TITLE IX COORDINATOR]**

The respondent is presumed not responsible for the alleged conduct. A determination regarding responsibility is made at the conclusion of the grievance process.

All parties involved may have an advisor of their choice who may be, but it not required to be, an attorney. This advisor may inspect and review evidence as permitted by the Board's Administrative Regulations Regarding Title IX of the Education Amendments of 1972 - Prohibition of Sex Discrimination and Sexual Harassment (Students).

It is a violation of the Board's Student Discipline Policy to lie to school officials or otherwise engage in dishonest behavior, which includes knowingly making false statements or knowingly submitting false information during the grievance process. Any student who knowingly makes false statements or knowingly submits false information during this grievance process will be subject to sanctions pursuant to the Board's Student Discipline Policy. Any employee who knowingly makes false statements or knowing submits false information during this grievance process is subject to discipline, up to and including termination.

A copy of the Board's Policy and Administrative Regulations Regarding Title IX of the Education Amendments of 1972 - Prohibition of Sex Discrimination and Sexual Harassment (Students) is included with this notice.

