

WELLESLEY PUBLIC SCHOOLS

ANTI-DISCRIMINATION POLICY TO PROTECT STUDENTS AND STAFF FROM HARASSMENT, INCLUDING SEXUAL HARASSMENT, BULLYING AND HAZING

Background

The Wellesley Public Schools are committed to maintaining a work and educational environment free from all forms of discrimination and harassing conduct. We expect all employees, students and other members of the school community to conduct themselves in an appropriate manner with concern and respect for all members of the school community. Discrimination or harassment on the basis of race, national origin, religion, age, sex, gender identification, sexual orientation, socioeconomic status, ability or disability in any form will not be tolerated.

Policy

A. It is the policy of the Wellesley Public Schools to maintain a working and learning environment for students and employees that is free from discrimination or harassment of any kind, including sexual harassment, bullying and hazing. It is a violation of this policy for any member of the school community to discriminate or harass another through conduct or communication as defined in this policy. Any allegation of discrimination or harassment¹ will be investigated and, if a violation of this policy is substantiated, disciplinary action will be taken.

B. Each administrator is responsible for promoting understanding and acceptance of, and assuring compliance with, state and federal laws and school policy and procedures governing discrimination and harassment within his/her school or office.

C. It is the responsibility of every employee, student and parent to recognize acts of harassment and take every reasonable action necessary to ensure that the applicable policies and procedures of this school district are implemented.

¹ The use of the term *harassment* is deemed to reference harassment as defined by this policy as well as to include harassment of any kind, including sexual harassment, bullying, and hazing.

D. It is a violation of this policy for any administrator, teacher, or other employee, or any student to engage in or condone harassment in school or to fail to report or otherwise take reasonable corrective measures when they become aware of an incident of harassment.

E. This policy is not designed or intended to limit the school's authority to take disciplinary or remedial action when such harassment occurs out of school but has a nexus to school, or is disruptive to or materially and substantially interferes with an employee's work, personal life, a student's school work, or participation in school related opportunities or activities.

Reports of cyberbullying by electronic or other means, occurring in or out of school will be reviewed and, when a nexus to work or school exists, will result in discipline. Parents of students alleged to have engaged in cyber harassment will be invited to attend a meeting at which the activity, words or images subject to the complaint will be reviewed. A student disciplined for cyberbullying will not be re-admitted to the regular school program until his or her parent(s) attend such meeting.

F. Any employee or student who believes that he or she has been subjected to harassment has the right to file a complaint and to receive prompt and appropriate handling of the complaint. Further, all reasonable efforts shall be made to maintain the confidentiality and protect the privacy of all parties, but proper enforcement of this policy may require disclosure of any or all information received.

G. Knowingly providing false reports of harassment or manipulation of investigative processes will be subject to disciplinary action.

H. Any student or staff member who, after an investigation, has been found to have engaged in the discrimination or harassment of a student or staff member in any school setting or at any school-sponsored event will be subject to disciplinary action.

Definition of Terms

"Harassment" is conduct or speech that is unwelcome, intimidating, derogatory, hostile and/or offensive; and has the purpose, or effect, of unreasonably interfering with a student's ability to learn or a staff member's ability to work.

Harassment may be student-to-student, adult-to-student, student-to-adult, or adult-to-adult. Harassment may be offensive to a person for a variety of reasons,

including sex, gender identification, race, ethnic background, religion, age, sexual orientation, socioeconomic status, ability or disability.

"Conduct" includes gestures, "body language," speech, or physical contact; it also includes writing, electronic transmittals, displaying pictures or making drawings. "Sexual harassment" is harassment which is of a sexual nature. Sexual harassment can include a range of behaviors, including sexual insults and name-calling, off color jokes, intimidation by words or actions, offensive touching, and pressure for sexual activity.

Sexual harassment is a form of sex discrimination. Under the Massachusetts law on fair educational practices (Chapter 151 C of the Mass. General Laws), the term "sexual harassment" is defined as follows:

Any sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (i) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (ii) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational environment. MGL c151C s, 1(e)

Under federal Title IX regulations, "sexual harassment" is defined as "verbal or physical contact of a sexual nature, imposed on the basis of sex, by an employee or student, which is unwelcome, hostile or intimidating." Letter to McCoy from OCR Region V, April 27, 1993, citing 34 CFR s.106.31 (b)(1) through (4) and (7).

Examples of sexual harassment include, but are not limited to, unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal or visual or physical contact of a sexual nature when that conduct has the purpose or effect of having a negative impact on performance or of creating an intimidating, hostile, humiliating or offensive educational or work environment.

"Discrimination" for the purpose of this policy is conduct or speech which conveys discrimination on the basis of sex, gender identification, race, color, sexual orientation, socioeconomic status, age, religion, national origin and/or disability in any educational programs, activities, or employment.

"Bullying" for the purpose of this policy is the repeated use by one or more individuals of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that: (1) causes physical or

emotional harm to the victim or damage the victim's property; (2) places the victim in reasonable fear of harm to himself or of damage to his property; (3) creates a hostile environment at school for the victim; (4) infringes on the rights of the victim at school; or (5) materially and substantially disrupts the education process or the orderly operation of a school. MGL c71, §37O (a)

“Cyberbullying” for the purpose of this policy is defined as bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyberbullying shall also include (1) the creation of a web page or blog in which the creator assumes the identity of another person or (2) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses (1) to (5), inclusive, of the definition of bullying. Cyberbullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in clauses (1) to (5), inclusive, of the definition of bullying. MGL c.71, §37O (a)

Legislative scope of prohibition of bullying provides that bullying shall be prohibited: (1) on school grounds, property immediately adjacent to school grounds, at a school sponsored or school related activity, function or program whether on or off school grounds, or at a school bus stop, on a school bus or other vehicle owned, leased or used by the school district or school, or through the use of technology or an electronic device owned, leased or used by the school district or school and (2) at a location, activity, function or program that is not owned, leased or used by the school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of school. MGL c.71, §37O (b)

“Hazing” is defined as any conduct or method of initiation into any student organization which willfully or recklessly endangers the physical or mental health of any student or person. Incidents of hazing must be reported to the appropriate law enforcement officials as soon as reasonably practicable. The text of MGL c.269, §17-18, is provided below for future reference.

Section 17. Whoever is a principle organizer or participant in the crime of hazing shall be punished by a fine of not more than 3 thousand dollars or

by imprisonment in a house of correction for not more than one year, or by both such fine and imprisonment.

Hazing is defined as any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

Section 18. Whoever knows that another person is the victim of hazing as defined in section seventeen and is at the scene of such crime shall, to the extent that such person can do so without danger or peril to himself or others, report such a crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such a crime shall be punished by a fine of not more than one thousand dollars.

“Employee”, for the purpose of this policy, includes any individual who receives compensation from the Wellesley Public Schools for service provided in the schools or at school-sponsored activities. It also includes contracted service providers and their employees who work in the schools, or on school student transportation vehicles.

Procedures for Reporting and for Conducting an Investigation

In responding to and resolving complaints, administrators will be guided by five goals:

- focus on changing behavior rather than simply punishing the offender;
- engage students and staff in dialogue so that they may learn more about the impacts of behaviors and attitudes;
- maintain, as much as practicable, the confidentiality of the alleged victims and offenders by involving as few people as possible in the resolution of the problem;
- protect the complainant from retaliation; and,
- ensure prompt and thorough attention to all complaints.

Students may report incidents they believe involve discrimination or harassment to any employee.

Any employee who has received a report regarding a student, verbally or in writing, will forward the report to the building principal within forty eight (48) hours. Staff may report incidents regarding adults to their supervisor, Principal, Assistant Superintendent, and/or Superintendent.

Any employee who has reliable information that would lead a reasonable person to suspect that a person is an instigator/participant or a target of harassment shall immediately report it to the administration.

Each school shall document any prohibited incident that is reported and confirmed, as well as the resulting consequences, including discipline and referrals.

Oral and anonymous complaints will be reviewed but are inherently difficult to investigate and may not be procedurally fair; as a result no disciplinary action shall be taken on anonymous complaints unless independently verified by other convincing evidence. All charges of harassment, if not originally submitted in writing, should be summarized in writing and verified by the victim to include the specifics of the complaint to ensure the subsequent investigation is focused on the relevant facts.

In cases involving a staff member alleged to have engaged in discriminatory or harassing conduct or communication, the building principal will notify the Superintendent of Schools, or his/her designee, within forty eight (48) hours. The Superintendent, or his/her designee, will appoint an investigating officer, who may be the building principal.

In cases involving a student alleged to have made discriminatory or harassing conduct or communication, the principal (or his/her designee) will be the investigating officer.

Harassment or discrimination is determined from the viewpoint of a reasonable person in the complainant's situation. When an individual complains about harassment, school officials must assess the facts and circumstances from that viewpoint.

The investigating officer will initiate and complete an investigation as soon as possible, normally within two weeks. The investigation may, but need not necessarily, include interviewing the complainant; the person alleged to have made the harassing conduct or communication; and such other person(s) as the

investigating officer deems necessary or appropriate in order to complete a thorough investigation of the allegation. An opportunity to be heard will be provided, consistent with school system's policies and procedures on the same.

The investigating officer will assist the complainant to communicate directly to the alleged perpetrator, in person or in writing, the negative impact of the behavior and the need to stop the behavior.

The investigating officer will conclude whether a violation of this policy has occurred and communicate such findings to:

- the Superintendent (in cases of allegations against staff)
- the building principal (in cases of allegations against students)
- the complainant and the person(s) against whom the complaint was made.

Unresolved investigations will be reported as such.

Disciplinary Action

Any violation of this policy will be subject to disciplinary action. In the case of a student found to have violated this policy, disciplinary action will be determined by the Principal and can range from a verbal warning to removal from the school setting. In the case of staff found to have violated this policy, disciplinary action will be determined by the Superintendent of Schools and may include dismissal.

If the alleged sexual harassment constitutes sexual abuse of a child by a "caretaker" (e.g., by a school staff member), then school administrators, teachers, and other school staff who are mandated reporters will report the suspected child abuse to the Department of Social Services, as required by Mass. General Laws Chapter 199, section 51A.

Retaliation

Retaliation is forbidden against any person who has alleged discrimination or harassment, testified or participated in an investigation of a claim of discrimination or harassment. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. If it occurs, it can be considered grounds for dismissal of staff personnel and/or removal from the educational setting for a student. Any allegation of reprisal will be subject to the same kind of investigation and disciplinary actions as are described above.

Voted: April 14, 1994

Revised and Voted: May 25, 1999

Revised: June 8, 2010

Voted: June 15, 2010