



File: AC - NONDISCRIMINATION AND HARASSMENT PREVENTION

The Andover School Committee is committed to the prevention of discrimination based upon sex (including pregnancy and pregnancy-related conditions), race, color, national origin, ethnicity, religion, age, disability, sexual orientation, gender identity, or any other characteristic protected by law. This policy has been developed to ensure that the educational opportunities and potential of all students, and the employment conditions of all employees, are not threatened or limited by unlawful discrimination, and to ensure that individuals are free to work, learn, and develop relationships without fear of intimidation, humiliation or degradation.

This commitment to the community is affirmed by the following statements that the School Committee intends to:

1. Promote and protect the rights and responsibilities of all individuals as set forth in the State and Federal Constitutions, pertinent legislation, and applicable judicial interpretations.
2. Encourage positive experiences in human values for students and employees, all of whom have differing personal and family characteristics and who come from various socioeconomic, racial and ethnic groups and religious backgrounds.
3. Work toward a more integrated society and enlist the support of individuals as well as groups and agencies, both private and governmental, in such an effort.
4. Use all appropriate communication and action techniques to air and reduce the grievances of individuals and groups.
5. Carefully consider, in all the decisions made within the school system, the potential benefits or adverse consequences that those decisions might have on the human relations aspects of all segments of society.
6. Initiate a process of reviewing policies and practices of the school system in order to achieve to the greatest extent possible the objectives of this statement.

The Committee's policy of nondiscrimination and prevention of harassment extends to students, staff, the general public, and individuals with whom it does business. No person shall be excluded from or discriminated against in admission to an Andover public school or in obtaining the advantages, privileges, and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin, sexual orientation, disability, pregnancy or pregnancy related conditions, or any other characteristic protected by law.

The prohibition against discrimination includes a prohibition against harassment on the basis of the protected characteristics described in this policy. It shall be a violation of this policy for students or staff to harass other students or staff through the conduct defined below. Further, any retaliation against an individual who has reported, witnessed, or complained about prohibited conduct or retaliation against individuals who have provided information during an investigation into a complaint of prohibited conduct is similarly unlawful and will not be tolerated.

Unlawful and Prohibited Conduct Defined: Unlawful and prohibited conduct includes, but is not limited to, actions which are related to a person's sex/gender, gender identity, race, color, national origin, ethnicity, religion, age, disability or sexual orientation when such actions are unwelcome and unsolicited by the recipient. Harassment based on these characteristics includes all conduct that:

1. has the purpose or effect of creating an intimidating, hostile, humiliating, or offensive work or education environment;
2. has the purpose of substantially or unreasonably interfering with a person's work or academic performance; or
3. otherwise adversely affects a person's academic standing or employment opportunities.

Examples of prohibited conduct include, but are limited to:

Verbal conduct: name calling, teasing, jokes or other derogatory or dehumanizing remarks, whether made by an individual or a group;

Physical contact: unwelcome touching of a person or person's clothing or any other act of physical intimidation or bullying;

Written conduct: notes, cartoons, calendars, graffiti, offensive or graphic posters, pictures, photos, drawings, electronic or digital messages, or designs on clothing that are offensive to another person on the basis of the protected characteristics described in this policy;

Blackmail: threatening to engage in conduct that is designed to, or reasonably can be expected to, harm another individual.

Retaliation: Retaliation includes any form of intimidation, reprisal, or harassment directed against an individual because he or she makes a complaint of discrimination or harassment under this policy, witnesses an incident of discrimination or harassment, or provides information during an investigation into a complaint of discrimination or harassment.

Any such conduct undertaken electronically, including through social media, messaging applications, or other cyber activity, is also prohibited. The foregoing is meant to provide some concrete examples, but is not meant to be an all inclusive list of conduct prohibited by this policy. For more details concerning sexual harassment and the procedures to be followed in cases of potential sexual harassment, refer to section [ACAB](#), Sexual Harassment.

This policy applies to conduct on all school premises, on school buses, and at all school-sponsored programs and activities. Any prohibited conduct that occurs off school premises or outside of school-related or school-sponsored programs or activities will be regarded as conduct in violation of this policy if it has a continuing effect on or creates a hostile environment for the victim of the conduct on school premises, on school buses, or at school-sponsored programs and activities.

Please note that while this policy sets forth the Andover Public Schools' goals of promoting a workplace and school environment that is free of discrimination and harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace or school conduct which the District deems unacceptable, regardless of whether that conduct satisfies the definition of unlawful and prohibited conduct set forth in this policy.

Anyone who has a complaint or feels that they have been discriminated against or harassed in violation of this policy, should raise a complaint by following the procedure in section AC-R. Any staff member who becomes aware of an incident of discrimination or harassment in violation of this policy is obligated to report the incident by following the procedure in section AC-R (and may also have mandatory reporting obligations under M.G.L. c. [119, § 51A](#)).

LEGAL REFS.: Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972

Executive Order 11246, as amended by E.O. 11375

Equal Pay Act, as amended by the Education Amendments of 1972

Title IX, Education Amendments of 1972

Rehabilitation Act of 1973

Education for All Handicapped Children Act of 1975

M.G.L. [71B:1](#) et seq. (Chapter 766 of the Acts of 1972)

M.G.L. [76:5](#); Amended 2011

M.G.L. [76:16](#)

BESE regulations 603CMR [26.00](#) Amended 2012

BESE regulations 603CMR [28.00](#)

CROSS REFS.: [ACA](#)- [ACE](#), Subcategories for Nondiscrimination

[GBA](#), Equal Employment Opportunity

[JB](#), Equal Educational Opportunities

[JICFB](#), Bullying Prevention

UPDATED: January 2019

File: AC-R - NONDISCRIMINATION AND HARASSMENT PREVENTION

Any student or employee of the District who feels that he or she has been discriminated against or subjected to harassment for any of the reasons cited in section [AC](#) above, or who becomes aware of an incident of such discrimination or harassment, should utilize the following procedure to report the incident (complaints of sexual harassment should be reported and will be processed as set forth in section [ACAB](#)):

Complaint Procedure

1. Report the incident(s) to a trusted staff member or to any grievance officer. Staff members who become aware of an incident of possible sexual harassment must immediately notify a grievance officer. **All complaints shall be investigated promptly.**
2. Where appropriate in light of the nature of the allegations and facts involved, the grievance officer may attempt to resolve the problem in an informal manner. If the grievance officer attempts to resolve the problem, he/she shall take the following steps:

- a. The grievance officer will meet with the charging party in order to obtain a clear understanding of that party's allegations.
- b. The grievance officer will attempt to meet with the charged party in order to obtain his/her response to the allegations.
- c. The grievance officer will interview any witnesses.
- d. The grievance officer will hold as many meetings with the parties and any witnesses as is necessary to make factual findings.
- e. The grievance officer will make a written record of all interviews and factual findings.

On the basis of the grievance officer's assessment of the situation he/she may:

- Attempt to resolve the matter informally through reconciliation; or
- Report the matter and transfer the record for further assessment to:
 - In cases where the charged party is a student, the building Principal where that student attends school; or
 - In cases where the charged party is a staff member, the Superintendent or designee.

In either case, the grievance officer shall notify the parties of the transfer by certified mail.

3. Upon receipt of a matter from the grievance officer and after reviewing the record made by the grievance officer, the Principal or Superintendent or designee may attempt to gather any more information necessary to decide the case. At this stage, the parties may present witnesses and other evidence and may also be represented. At all times, the District will observe due process protections for the parties involved. Using the preponderance of the evidence standard, the Principal or Superintendent or designee will decide the case and impose any disciplinary action deemed appropriate. The parties, to the extent permissible by law, shall be informed of the disposition of the complaint. All matters will remain confidential to the extent possible. If it is determined that conduct in violation of APS policy has occurred, the District will act promptly to eliminate the offending conduct.

Alternative Complaint Procedure

In the case of more serious allegations (such as sexual assault or other sexual violence), the following process will apply in lieu of the Complaint Process described above:

Upon receipt of a complaint, the grievance officer shall immediately report the incident to:

- In cases where the charged party is a student, the building Principal where that student attends school; or
- In cases where the charged party is a staff member, the Superintendent or designee.

The Principal or the Superintendent or designee will determine the appropriate steps to investigate the matter, make findings of fact, and issue a decision. At all times, the District will observe due process protections for the parties involved. Factual findings will be based on the preponderance of the evidence standard. All decisions that impose disciplinary action will include specific reference to the applicable policies on student and staff discipline. The actions taken by the District may include, but are not limited to, notifying appropriate law enforcement authorities.

Additional Information

The grievance officer, upon request, will provide the charging party with contact information for the government agencies that handle claims of unlawful discrimination and harassment. The charging party also has the right to invoke the complaint procedure for Chapter 622 of the Acts of 1971 and/or Title IX of the 1972 Education Amendments.

Any person who seeks information concerning the application of Title IX and/or Chapter 622 and its regulations should contact the Title IX Compliance Officer, Dr. Julie Riley, (978) 247-7025, Andover Public Schools, 30 Whittier Court, Andover, MA 01810; or Program Quality Assurance Services at the Massachusetts Department of Elementary and Secondary Education, (781) 338-3700, 75 Pleasant Street, Malden, MA 02148; or the Office for Civil Rights, U.S. Department of Education, (617) 289-0111, 5 Post Office Square, 8th Floor, Boston, MA 02109.

REVISED: September 2, 2021

File: ACA - NONDISCRIMINATION ON THE BASIS OF SEX

The School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school system does not and will not discriminate on the basis of sex in the educational programs and activities of the public schools. This policy will extend not only to students with regard to educational opportunities, but also to employees with regard to employment opportunities.

The School Committee will continue to ensure fair and equitable educational and employment opportunities, without regard to sex, to all of its students and employees.

The Committee will designate an individual to act as the school system's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.

LEGAL REFS.: Title IX of the Education Amendments of 1972
 45 CFR, Part 86, (Federal Register, 6/4/75)
 M.G.L. [76:5](#); [76:16](#) (Chapter 622 of the Acts of 1971)
 BESE 603 CMR [26:00](#)

CROSS REF.: [AC](#), Nondiscrimination

File: ACAB - SEXUAL HARASSMENT

Sexual harassment of students or of employees by other students, employees, vendors and other third parties will not be tolerated in the Andover Public Schools ("District"). The alleged

harassment must involve conduct that occurred within the school's own program or activity, including at a location or under circumstances where the school owned, or substantially controlled, the premises; exercised oversight, supervision or discipline over the location or participants; or funded, sponsored, promoted or endorsed the event where the alleged harassment occurred; and must have occurred against a person in the United States. This policy is in effect while students are on school grounds, District property or property within the jurisdiction of the District, on school buses, or while attending or engaging in school-sponsored activities.

Students whose behavior is found to be in violation of this policy will be subject to disciplinary action up to and including suspension or expulsion pursuant to disciplinary codes. Employees who have been found to violate this policy will be subject to discipline up to and including, termination of employment, subject to contractual disciplinary obligations.

The District will promptly and reasonably investigate allegations of sexual harassment through designation of a Title IX Coordinator and building based employees, as set forth below

Sexual harassment is unwelcome conduct of a sexual nature. The definition includes unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity. It also includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment includes conduct by an employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct, often called quid pro quo harassment and, sexual assault as the Federal Clery Act defines that crime.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment, depending on the totality of the circumstances, including the severity of the conduct and its pervasiveness:

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

The legal definition of sexual harassment is broad and in addition to the above examples other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating an environment that is hostile, offensive, intimidating, to male, female, or gender non-conforming students or employees may also constitute sexual harassment.

Because the District takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and, following an investigation where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting an environment that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment. For example, conduct that constitutes harassment other than sexual harassment, bullying, violation of the student discipline code or school district workplace rules, unlawful discrimination, hazing, or student misconduct statutes, will be investigated and addressed under the District relevant policies and the applicable laws.

A complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or a violation of this policy.

Retaliation against a complainant because the complainant has filed a sexual harassment complaint or assisted or participated in a sexual harassment investigation or proceeding, is also prohibited. A student or employee who is found to have retaliated against another in violation of this policy will be subject to disciplinary action up to and including student suspension and expulsion or employee termination.

The complainant does not have to be the person at whom the unwelcome sexual conduct is directed. The complainant, regardless of gender, may be a witness to and personally offended by such conduct.

NOTICE OF SEXUAL HARASSMENT

The regulations require a school district to respond when the district has actual knowledge of sexual harassment. Schools must treat seriously all reports of sexual harassment that meet the definition of sexual harassment and the conditions of actual notice and jurisdiction, whether or not the complainant files a formal complaint. A formal complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment. Schools are required to investigate every formal complaint and respond meaningfully to every known report of sexual harassment.

Upon receipt of allegations the Title IX Coordinator shall promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant that supportive measures are available with or without the filing of a formal complaint, and explain the process for filing a formal complaint. Supportive measures include, but are not limited to, 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 education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or to deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school building/campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the building/campus, and other similar measures.

Where there has been a finding of responsibility, the regulations require remedies designed to restore or preserve access to the school's education program or activity.

DUE PROCESS PROTECTIONS

Due process protections in connection with investigation and decision-making regarding a complaint include the following:

- 1) If the allegations do not meet the definition of sexual harassment or do not satisfy the requirements regarding location or connection to an educational program of the school district, the allegations shall be dismissed for purposes of Title IX, but may be investigated and addressed under other prohibitions in the student discipline code, relevant collective bargaining agreements or other laws under which they fit;
- 2) A presumption of innocence throughout the grievance process, with the burden of proof on the school;
- 3) A complainant's wishes with respect to whether the school investigates will be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances;
- 4) A prohibition of the single investigator model, instead requiring a decision -maker separate from the Title IX Coordinator or investigator;
- 5) Proof by a preponderance of the evidence, subject to limitations;
- 6) The opportunity to test the credibility of parties and witnesses through disclosure of evidence and opportunity to submit additional questions, subject to "rape shield" protections;
- 7) Written notice of allegations and an equal opportunity to review the evidence upon filing a formal complaint;
- 8) An objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoidance of credibility determinations based on a person's status as a complainant, a respondent, or a witness;
- 9) Title IX Coordinators, investigators, and decision-makers must be trained and free from bias or conflict of interest;
- 10) A right to appeal from a determination regarding responsibility and from a dismissal of a formal complaint or the allegations therein, where the determination or dismissal involved any of the following: procedural irregularity that affected the outcome; newly-discovered evidence that could affect the outcome; or the Title IX Coordinator, the investigator, or the decision-maker had a conflict of interest or bias that affected the outcome;
- 11) As long as the process is voluntary for all parties, after being fully informed and written consent is provided by both parties, a school may facilitate informal resolution of

a formal sexual complaint, but no such informal resolution can be used where the allegations are that an employee sexually harassed a student.

A district may establish an informal investigation process that may, upon the request of the complainant be followed by a formal process.

The Title IX Coordinator in the District is **Dr. Julie Riley, Assistant Superintendent for Teaching and Learning, Andover Public Schools, 30 Whittier Court, Andover, MA 01810, 978-247-7025**. The Title IX Coordinator or the school building Principal shall be the initial entity to receive the sexual harassment complaint. In all cases the Title IX Coordinator shall be informed, as soon as possible, of the filing of the complaint. Nothing in this policy shall prevent any person from reporting the prohibited conduct to someone other than those above designated complaint recipients. An employee with actual knowledge of conduct that may violate this policy must report to the Title IX Coordinator.

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

INVESTIGATIONS

The investigating officer shall be an Assistant Principal in the building or other appropriate administrator designated by the Principal. The investigation shall be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances and in compliance with applicable law. The investigation will be prompt, thorough, and impartial, and will include, at least, a private interview with the complainant, with the respondent, and with witnesses. The investigator shall give the parties equal opportunity to present fact and expert witnesses and other inculpatory and exculpatory evidence; shall give each party the same opportunity to select an advisor of the party's choice who may, but need not be, an attorney; shall send written notice of all interviews or meetings; shall send to the parties evidence directly related to the allegations, in electronic form or hard copy, with at least 10 days for the parties to inspect, review, and respond; and shall prepare and submit an investigative report that fairly summarizes the relevant evidence to the decision-maker, who shall be the Principal or his/her designee (other than the investigator).

The investigator shall strive to complete investigations within twenty-five (25) school days of the filing of the formal complaint or resumption of the investigation after an unsuccessful information resolution meeting.

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

- 1) The investigator will interview the complainant to obtain a clear understanding of that complainant's allegations within five (5) school days of the filing of the formal complaint provided that the complainant is available to be interviewed by the investigator.
- 2) The investigator will interview the respondent to obtain a response to the complainant's allegations from the respondent within five (5) school days of the interview

with the complainant provided that the respondent is available to be interviewed with the investigator.

- 3) The investigator will interview witnesses identified by the complainant or respondent within five (5) school days of being identified as a potential witness by the complainant or respondent provided the witness is available. The investigator will interview witnesses as the investigator deems necessary.
- 4) The investigator will hold as many meetings or interviews with the parties and any witnesses as is necessary to make factual findings.

The timelines above are subject to the District's goal to complete investigations generally within twenty-five (25) school days but may be extended for good cause upon written notice to the complainant and respondent. The timeline for investigation may be suspended during any informal resolution procedure or meeting. Each party is entitled to be accompanied in interviews by an advisor, who may be a parent/guardian or an attorney, but who may only have limited participation in interviews. Translators will be provided upon request.

After all interviews are conducted and evidence is obtained, the parties and if applicable, their advisors, will have an equal opportunity to inspect, review and respond to any evidence obtained. Prior to completion of the investigative report, the investigator will send each party all evidence subject to inspection and review and provide each party at least ten (10) school days to provide a response to the investigator. Evidence to be shared may be redacted to protect confidential information under the Family and Educational Rights and Privacy Act ("FERPA") or other federal or state laws and regulations.

The investigator will draft an investigation report that fairly summarizes the relevant evidence including, but not limited to, interviews with parties and witnesses, written evidence, audio/video recordings, and site visits. The investigator will provide the decision maker, with a report including all evidence obtained during the course of the investigation. The decision-maker shall upon receipt send the report in electronic format or hard copy to the parties and their advisors with 10 days for the parties to respond, including submitting written relevant questions that each party wants asked of a party or witness, subject to the protections of the Rape Shield Law. Before reaching a determination, the decision-maker shall provide to the parties the answers to the submitted questions and the opportunity for limited follow up questions.

DETERMINATIONS

The decision-maker shall issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, the rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant.

The decision maker assigned will have no conflicts with or biases against either the complainant of the respondent and the decision maker will not be the Title IX Coordinator assigned in the matter or the investigator for the complaint. The decision maker shall review all of the evidence and issue a written determination within fifteen (15) school days of receipt of the matter from the investigator, absent extenuating circumstances. If the decision maker substantiates the allegations of sexual harassment, the decision maker may recommend or impose discipline

against the respondent. If the decision maker does not substantiate the allegations of sexual harassment, the complaint will be dismissed.

The written determination shall 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, and methods used to gather evidence; (3) findings of fact supporting the determination; (4) conclusions as to whether District policies were violated; (5) a statement of the result of each allegation, including a determination regarding responsibility, disciplinary action to be imposed on the respondent, and whether remedies designed to preserve equal access to the District's education program or activity will be provided to the complainant; and (6) the District's procedures and permissible bases for appeal. Confidential student record information and personnel information may be redacted consistent with and as required by state and federal law. The decision-maker shall provide the written determination to the complainant(s) and respondent(s).

APPEALS

Appeals must be submitted to the Title IX Coordinator within five (5) school days of receipt of the written determination and contain a written statement in support or challenge of the outcome.

When an appeal is filed, the District shall notify the other party and ensure that the individual deciding the appeal is not the same person as the decision maker who reached the determination regarding responsibility and that the individual has no conflicts of interests and is free of bias. The non-appealing party shall have five (5) school days from the date of receipt of the notice of the appeal to submit a written statement to support or oppose the outcome.

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

RECORD KEEPING REQUIREMENTS

Schools must create and maintain records documenting every Title IX sexual harassment complaint. This could include mediation, restorative justice, or other models of alternative dispute resolution. Schools must keep records regarding the school's response to every report of sexual harassment of which it becomes aware even if no formal complaint was filed, including documentation of supportive matters offered and implemented for the complainant.

This policy, or a summary thereof that contain the essential policy elements shall be distributed by the District to its students and employees and each parent or guardian shall sign that they have received and understand the policy.

Please note that the following entities have specified time limits for filing a claim.

The Complainant may also file a complaint with:

- The Mass. Commission Against Discrimination, 1 Ashburton Place, Room 601
Boston, MA 02108.
Phone: 617-994-6000.
- Office for Civil Rights (U.S. Department of Education)
5 Post Office Square, 8th Floor
Boston, MA 02109.
Phone: 617-289-0111.
- The United States Equal Employment Opportunity Commission,
John F. Kennedy Bldg.
475 Government Center
Boston, MA 02203.

LEGAL REF. M.G.L. [151B:3A](#)

Title IX of the Education Amendments of 1972

BESE 603 CMR [26:00](#)

34 CFR 106.44 (a), (a)-(b)

34 CFR 106.45 (a)-(b) (1)

34 CFR 106.45 (b)(2)-(b)(3,4,5,6,7) as revised through June 2020

Note: A summary of the attached Policy, as adopted, must be sent to parents/guardians, students, employees, unions, and prospective employees of the school district including Title IX Coordinator(s), investigator(s) and the decision-maker. The above referenced employees must attend training sessions on the implementation of the Policy.

SOURCE: ANDOVER September 2, 2020; Revised September 2, 2021

File: ACE - NONDISCRIMINATION ON THE BASIS OF DISABILITY

Title II of the Americans With Disabilities Act of 1992 requires that no qualified individual with a disability shall, because the District's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, and activities of the District or be subject to discrimination. Nor shall the District exclude or otherwise deny services, programs, or activities to an individual because of the known disability of a person with whom the individual is known to have a relationship or association.

Definition: A "qualified individual with a disability" is an individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the District.

Reasonable Modification: The District shall make reasonable modification in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the District can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Communications: The District shall take the appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as

communications with others. To this end, the District shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy benefits of, a service, program, or activity conducted by the District. In determining what type of auxiliary aid or service is necessary, the District shall give primary consideration to the requests of the individuals with disabilities.

Auxiliary Aids and Services: "Auxiliary aids and services" includes (1) qualified interpreters, note takers, transcription services, written materials, assisted listening systems, and other effective methods for making aurally delivered materials available to individuals with hearing impairments; (2) qualified readers, taped texts, audio recordings, Braille materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments; (3) acquisition or modification of equipment or devices and (4) other similar services and actions.

Limits of Required Modification: The District is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. Any decision that, in compliance with its responsibility to provide effective communication for individuals with disabilities, would fundamentally alter the service, program, or activity or unduly burden the District shall be made by the School Committee after considering all resources available for use in funding and operating the program, service, or activity. A written statement of the reasons for reaching that conclusion shall accompany the decision.

Notice: The District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the American With Disabilities Act (ADA) and its applicability to the services, programs, or activities of the District. The information shall be made available in such a manner as the School Committee and Superintendent find necessary to apprise such persons of the protections against discrimination assured them by the ADA.

Compliance Coordinator: The District shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II of ADA, including any investigation of any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited under ADA. The District shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated and shall adopt and publish procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA. The school system receives federal financial assistance and must comply with the above requirements. Additionally, the School Committee is of the general view that:

1. Discrimination against a qualified disabled person solely on the basis of disability is unfair; and
2. To the extent possible, qualified disabled persons should be in the mainstream of life in the school community. Accordingly, employees of the school system will comply with the above requirements of the law and policy statements of this Committee to ensure nondiscrimination on the basis of disability.

LEGAL REFS.: Rehabilitation Act of 1973, Section 504

Education for All Handicapped Children Act of 1975
M.G.L. [71B:1](#) et seq. (Chapter 766 of the Acts of 1972)
Title II, Americans with Disabilities Act of 1992
Board of Education Chapter 766 Regulations, adopted 10/74, as amended
through 3/28/78

CROSS REFS.: [IGB](#), Support Services Programs