

## **POLICY AGAINST HARASSMENT**

### **INCLUDING HARASSMENT BASED UPON SEX, RACE, COLOR, NATIONAL ORIGIN, RELIGION, AGE, HANDICAP AND/OR DISABILITY, AND SEXUAL ORIENTATION**

Newburyport Public Schools is committed to the prevention of harassment based upon race, color, national origin, religion, age, handicap and/or disability and sexual orientation, gender, or gender identity. This policy has been developed to ensure that the educational opportunities of all students, and the employment conditions of all employees, are not threatened or limited by such harassment. This policy defines prohibited conduct, the responsibility of the School District to prevent the occurrence of such prohibited conduct, the personal responsibilities of all students, employees, and agents of the School District to ensure prohibited conduct does not occur, a referral procedure for reporting violations of this policy, and defined disciplinary procedures if violations of this policy have been substantiated.

#### **HARASSMENT/PROHIBITED CONDUCT DEFINED**

A. Prohibited Conduct includes, but not necessarily limited to the following conduct when related to a person's sex (gender), race, color, national origin, religion, age, handicap and/or disability and sexual orientation and when such conduct is unwelcomed by the recipient:

1. name calling, teasing, jokes, rumors, or other derogatory or dehumanizing remarks
2. graffiti
3. notes or cartoons
4. unwelcome touching of a person or clothing
5. offensive or graphic posters, pictures, or book covers, or other possessions
6. any words or actions that provoke feelings of discomfort, embarrassment, or hurt.

Prohibited Conduct: slurs, swastikas, and related types of verbal harassment can be instances of a hate crime and can be pursued in the legal system as a civil rights violation. Hate crimes will be reported to appropriate law enforcement agencies for anti-bias criminal investigations.

The foregoing list was provided to give some concrete examples of conduct that constitutes harassment. However, all members of the Newburyport community must assess their conduct in light of the following definitions of the various forms of harassment. Thus, if certain conduct is not listed in the foregoing list, but does fall into one of the following definitions of harassment, then the conduct is harassment and is prohibited conduct.

A. Sexual Harassment/Gender Harassment consisted of unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education, or obtaining or retaining employment;
2. submission to or rejection of that conduct of communication by an individual is used as a factor in decisions affecting the individual's education or employment;
3. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's education or employment, or creating an intimidating, hostile or offensive educational or work environment;
4. that conduct adversely affects an individual's academic or employment opportunities.

Sexual Harassment includes but is not limited to:

1. unwelcome verbal harassment or abuse;
2. unwelcome pressure for sexual activity;
3. unwelcome sexually motivated or inappropriate touching, patting, pinching, or other sexual contact other than reasonable and necessary restraints of students by teachers, administrators, or other school personnel to avoid physical harm to persons or property;
4. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or over **threats** concerning an individual's educational or employment status;
5. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied, or overt **promises** of preferential treatment with regard to an individual's educational or employment status;
6. unwelcome behavior or words directed at an individual because of gender;
7. sexual epithets, jokes, written or oral reference 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;
8. displaying sexually suggestive objects, pictures, cartoons;
9. inquiries into one's sexual experiences;
10. discussion of one's sexual activities

Sexual harassment can include prohibited conduct as defined above that occurs between members of the same or opposite sex.

Sexual harassment in the workplace and retaliation against an individual for filing or cooperating in an investigation of complaint is unlawful.

## **Policy Against Harassment**

C. Harassment in addition consists of conduct that is related to an individual's race, color, national origin, religion, age, handicap and/or disability, and sexual orientation when the conduct:

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

## **RESPONSIBILITIES**

A. Individual: All students, teachers, administrators and other school personnel of the Newburyport School District are responsible for creating an environment that is free of harassment and other offensive behaviors, and for conducting themselves in a manner consistent with the spirit and intent of this policy.

B. Principals: Principals are responsible to ensure that this policy is conspicuously posted in appropriate student/employee work areas, and that it is printed in each school's student handbook. The posting shall include the name, mailing address, and telephone number of each school's harassment contact, as well as the name, address, and telephone number of the District Human Resource Officer.

C. Superintendent of Designee: The Newburyport School District is responsible for the dissemination of this policy and training. The School District will ensure that:

1. will develop a method of discussing this policy with students and employees.
2. will provide appropriate training to administrators and others who are assigned the responsibility to implement the procedures of this policy.
3. will see that this policy is reviewed at least annually for compliance with state and federal law.

## **LEGAL REFERENCE**

Title VI and VII of the Civil Rights Act of 1964, Title IX of the 1972 Education Amendments to the Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, the Age of Discrimination in Employment Act, the Americans with Disabilities Act, Chapter 622 of the Acts of 1971, G.L. c. 151B and G.L. c. 151C, G.L. 265 Section 37, G.L. 265 Section 39, G.L. 266 Section 98, G.L. 266 Section 126A, and G.L. 266 Section 126B.

## **POLICY AGAINST HARASSMENT - PROCEDURES**

### **REPORTING PROCEDURES**

Any person who believes that a student, teacher, administrator or other school personnel has engaged in conduct prohibited by this policy, whether such conduct has been directed at him/her or some other person, is encouraged to report the alleged prohibited conduct as soon as possible to the appropriate individual listed in this policy (see pages 6 & 7 for contact names).

The reporting party or complainant is encouraged to use the **report form** (see attachment I) available from each Principal of each school or available from the School District's Central Office, but oral reports will be considered complaints as well. Nothing in this policy shall prevent any person from reporting alleged prohibited conduct directly to the District Human Rights Officer or to the Superintendent. Further, nothing in this policy shall prevent any person from reporting alleged prohibited conduct to a different administrator than the administrator designated, or in the case of a student, to a district employee.

The School District designates the Assistant Superintendent as the District Human Rights Officer with responsibility to oversee administration of these procedures and to monitor compliance. If a complaint involves the Assistant Superintendent, the complaint shall be made or filed directly with the Superintendent. If a complaint involves the Superintendent, the report will be filed directly with the School Committee.

In each school there are two (2) designees with the responsibility for receiving and investigating oral or written reports of alleged prohibited conduct. Any employee who receives a report of alleged prohibited conduct shall inform the principal or his/her designee, as soon as possible. If the complaint involves the school principal, the complaint shall be filed with the Superintendent.

- A. How to File a Complaint – If any Newburyport School District student or employee believes that he or she has been subjected to harassment or has observed potential violations of the **Policy Against Harassment**, that student or employee has a right to file a complaint.
- B. Harassment Contacts – If you would like to file a complaint, you may do so by contacting:

#### **Francis T. Bresnahan Elementary School Contacts**

Kristina Davis, Principal, Grades 1-3  
Amy Sullivan, Principal, Grades PreK-K  
Karina Mascia, Assistant Principal

#### **Edward G. Molin Upper Elementary School Contacts**

Tara Rossi, Principal

**Rupert A. Nock Middle School Contacts**

Beth Raucci, Principal  
Lisa Furlong, Assistant Principal

**Newburyport High School Contacts**

Michael Testa, Associate Principal  
Michael Parent, Principal

**Human Rights Officers**

Barbara Dee, Director of Pupil Services

**Title IX Coordinator**

Barbara Dee, Director of Pupil Services

These individuals are available to discuss any concerns you may have and to provide information to you about our **Policy Against Harassment** and complaint process.

- A. State and Federal Remedies – In addition to the above, if you believe you have been subjected to harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using the School District’s complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (MCAD – 180 days; EEOC – 300 days).

1. **The Massachusetts Commission Against Discrimination (MCAD)**  
Boston Office: Springfield Office:  
One Ashburton Place, Room 601 424 Dwight Street, Room  
220  
Boston, MA 02108 Springfield, MA 01103  
(617)727-3990 (413) 739-2145

- A. Community Remedies - In addition to the above if you believe you have been subjected to a civil rights violation, you may file a formal complaint with your local police department. Using the School District’s complaint process does not prohibit you from filing with this agency:

Newburyport Police Department  
4 Green Street  
Newburyport, MA 01950  
978-462-4411

Your local Police Department will contact:

Office of the District Attorney for the Eastern District  
Museum Place  
One East India Square  
Salem, MA 01970

(978) 745-6610

All cases are logged-in and monitored by the District Attorney's Civil Rights Unit.

**COMPLAINT INVESTIGATION PROCEDURES**

Upon receipt of a report or complaint of alleged prohibited conduct, the responsible administrator or designee shall initiate a timely investigation of the complaint.

If warranted by the circumstances of the complaint, the District Human Rights Officer may assist the harassment contact with the investigation, may assume responsibility for the investigation, or may authorize an investigation by a third party who shall report to the District Human Rights Officer.

The investigation may consist of personal interviews with the complainant(s), the individual(s) against whom the complaint is filed, and others that may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

In determining whether "alleged conduct" constitutes a violation of this policy, the investigator shall consider the surrounding circumstances: the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationship between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all facts and surrounding circumstances.

The investigation will be completed as soon as practicable, and written monthly reports will be filed by the building contact person with the District Human Rights Officer. It is advised that the contact person keeps the principal and the Title IX coordinator informed immediately when deemed necessary. The District Human Rights Officer will give periodic reports to the Superintendent on the status and outcome of complaints. The reports will include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. The complainant will be informed in writing as to whether or not the allegation of harassment was substantiated. It is the responsibility of the Superintendent to determine disciplinary action if necessary.

During the entire process of reporting, investigating, and corrective action (if applicable), confidentiality will be maintained to every extent possible.

### **CORRECTIVE ACTION**

Upon completion of an investigation and substantiation of the complaint, the School District will take appropriate corrective action. Such action may include, but is not limited to, an apology, direction to stop the offensive behavior, counseling, or training, warning, suspension, exclusion, expulsion, transfer, remediation, termination, or discharge. School District action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Massachusetts and federal laws and School District policies.

At the close of an investigation, the complainant will be informed in writing that the alleged harassment was substantiated or not substantiated. In accordance with state and federal law regarding law or records privacy, the complainant will also be informed that appropriate corrective action has been taken.

In the case of substantiated harassment by an employee, the Superintendent will include a written statement of the findings, the corrective action taken, and the consequences of continued harassment, in the individual's personnel file.

In the case of substantiated harassment by a student, the principal will include a written statement, as above, in the student's discipline file.

### **REPRISAL**

The School District will discipline or take appropriate actions against any student, teacher, administrator, or school employee who retaliates against any person who reports an alleged violation of this policy or any person who testifies, assists, or participates in an investigation, or who testifies, assists, or participates in a proceeding or hearing relating to such harassment. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

### **RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES**

These procedures do not deny the right of any individual to pursue other avenues of recourse that may include:

- A. filing charges with the Massachusetts Department of Education, Massachusetts Commission Against Discrimination, Equal Employment Opportunity Commission, and the Office of Civil Rights of the U.S. Department of Education; Office of the District Attorney for the Eastern District.
- B. initiating civil action or seeking redress under criminal statutes and/or federal law.

### **HARASSMENT AS CHILD ABUSE**

Under certain circumstance, alleged harassment may also constitute abuse or neglect under

G.L. c.119 51A. If so, State requirements for mandatory reporting must be followed.

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NEWBURYPORT PUBLIC SCHOOLS

**Harassment Complaint Report  
Voluntary Report of Incident**

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**Date of Complaint Report:** \_\_\_\_\_

**Time of Complaint Report:** \_\_\_\_\_

**Method of Report:** \_\_\_\_\_

**Reported By:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Reported To:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Summary of Allegations: (please include time, date, location, witnesses and frequency, use back side of form if necessary)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**What was the effect?** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**What assistance can we provide?** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_





**NEWBURYPORT PUBLIC SCHOOLS**

**Follow-up Steps to Voluntary Report Form**

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*After a Voluntary Report Form (Har – 1) has been completed, the following steps are recommended:*

- 1. Make an appointment to meet with the complainant to update him/her on what has happened and to check on the individual's well being (within 2 working days, if possible.)**

**Date:** \_\_\_\_\_

- 2. Explain what steps you will take next.**

**Steps:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 3. Inform a back-up person (the other building or district representative) about the incident in case a related event occurs while you are out of the building.**

**Back-up Person:** \_\_\_\_\_

**Note:** Log a brief summary of the report in a file that is turned into the assistant superintendent at the end of each month.

**Your signature:** \_\_\_\_\_

**Name of Complainant:** \_\_\_\_\_

**Date:** \_\_\_\_\_

