

NON-DISCRIMINATION AND HARASSMENT POLICY AND GRIEVANCE PROCEDURE

Title VI, Title IX, Section 504, ADA, Age Discrimination Act M.G.L. c. 76 §5, M.G.L. c.151C, 603 C.M.R. §26.08

I. Introduction

The Acushnet Public Schools has a commitment to maintaining an educational environment where bigotry and intolerance, including discrimination such as harassment on the basis of race, color, national origin, sex, sexual orientation, religion, disability, or age, are not tolerated. Discrimination, including harassment, is contrary to the mission of the Acushnet Public Schools and its commitment to equal opportunity in education.

The Acushnet Public Schools does not discriminate against students, parents, employees or the general public. No person shall be excluded from or discriminated against in admission to the Acushnet Public Schools, or in obtaining the advantages, privileges and courses of study of the Acushnet Public Schools on account of race, color, sex, religion, national origin, or sexual orientation. (M.G.L. c. 76 §5). Additionally, the Acushnet Public Schools does not tolerate harassment based upon race, color, sex, religion, national origin, or sexual orientation. (603 CMR 26.08).

For purposes of this policy and procedure, "school" includes school-sponsored events, trips, sports events, similar events connected with school or employment. Any retaliation against an individual who has complained about discrimination, including harassment, or any retaliation against any individual who has cooperated with an investigation of a discrimination, harassment or retaliation complaint, is also unlawful and will not be tolerated.

The Acushnet Public Schools takes allegations of discrimination, including harassment, seriously and will respond promptly to complaints. Where it is determined that conduct that violates the law and this policy has occurred, the Acushnet Public Schools will act promptly to eliminate the conduct and will impose corrective action as necessary, including disciplinary action where appropriate.

II. Definition of Discrimination and Harassment

"Discrimination" includes conduct that excludes a person from participation in, denies an individual the benefits of, or otherwise subjects an individual to different treatment on the basis of race, color, sex, religion, national origin, sexual orientation, age, or disability. Harassing conduct involving these bases can be a form of discrimination.

"Harassment" is defined as unwelcome conduct, whether verbal or physical, that is based on: race, color, national origin, sex, sexual orientation, religion, disability, or age. Harassment is prohibited by the Acushnet Public Schools, and violates the law.

Examples of harassment include:

- Display or circulation of written materials or pictures that are degrading to a person or group based upon the criteria listed above.
- Verbal abuse or insults about, directed at, or made in the presence of an individual or group described above because of one of the criteria listed above.
- Any action or speech that contributes to, promotes or results in a hostile or discriminatory environment to an individual or group described above.
- Any action or speech that is sufficiently severe, pervasive or persistent that it either (i) interferes with or limits the ability of an individual or group (as described above) to participate in or benefit from a school program or activity of the Acushnet Public Schools; or (ii) creates an intimidating, threatening or abusive educational environment.

Many forms of harassment have been recognized as violations of the civil rights laws (including Section 504 of the Rehabilitation Act of 1973, the ADA, Title VI, Title IX and state statutes like M.G.L. 151C) by federal courts, state courts, the U.S. Department of Education, Office for Civil Rights, and the Massachusetts Commission Against Discrimination.

"Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly as a term or condition of employment, academic standing, school-related opportunities, or as a basis for employment decisions.
- Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual's academic or work performance by creating an intimidating, hostile, humiliating, or sexually offensive work or educational environment.

While it is not possible to list all circumstances that may be considered sexual harassment, the following are examples of conduct that violate the law and policy and which, if severe and pervasive, constitute sexual harassment. In each case, such a determination will depend upon the totality of the circumstances, including the severity of the conduct and its pervasiveness. Sexual harassment includes, but is not limited to:

- Unwelcome sexual advances, whether they involve physical touching or not.
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
- Sexual epithets, jokes, written or verbal references to sexual conduct, comments about an individual's body, comments about an individual's sexual activity, deficiencies, or prowess.
- Discussions of one's own sexual activities or inquiries into others' sexual experiences.
- Displaying sexually suggestive objects, pictures, cartoons.

The definitions of discrimination, harassment and sexual harassment are broad. In addition to the above examples, other unwelcome conduct, whether intended or not, that has the effect of

creating a school environment that is hostile, offensive, intimidating, or humiliating may constitute discrimination, harassment and/or sexual harassment.

III. Grievance Procedure: Reporting Complaints of Discrimination and Harassment

a. Introduction

If any Acushnet Public Schools student, parent or employee believes, in good faith, that he or she has been subjected to sexual harassment or any other form of harassment or discrimination described above, the individual has a right to file a complaint with the Acushnet Public Schools. This may be done informally or formally, as described below.

Teachers or staff members who observe or receive reports of incidents of harassment or discrimination involving students shall report such incidents immediately to the student's Principal. Teachers or staff members aware of harassment or discrimination involving any employee shall report such incidents to the Principal or District Civil Rights Coordinator listed below.

Please note that while these procedures relate to the Acushnet Public Schools' policy of promoting an educational setting free from discrimination and harassment, including sexual harassment, as detailed further in this policy, these procedures are not designed nor intended to limit the Acushnet Public Schools' authority to discipline or take remedial action for conduct which the Acushnet Public Schools deems unacceptable.

b. Grievance Procedures

i. Contacts

District Civil Rights Coordinator for Title VI (race, color, national origin); Title IX (sex); Section 504 (disability); Title II of the ADA (disability); Religion, Sexual Orientation and Age is the Special Education Director- 800 Middle Road Acushnet, MA (508) 998-0258.

Acushnet Elementary School Principal- 800 Middle Road Acushnet, MA (508) 998-0255.

Albert F. Ford Middle School Principal- 708 Middle Road Acushnet, MA (508) 998-0265.

Students, parents or employees who wish to initiate the formal complaint process may put their complaint in writing to the building Principal or Civil Rights Coordinator. Any Principal receiving such a complaint shall immediately forward the complaint to the Civil Rights Coordinator listed above, who will then begin the formal procedure described below.

Any teacher or other employee who receives a formal complaint of discrimination or harassment shall immediately forward the complaint to the building Principal or Civil

Rights Coordinator. Any Principal receiving such a complaint shall immediately forward the complaint to the Civil Rights Coordinator listed above, who will begin the formal procedure described below.

The Civil Rights Coordinator shall handle the investigation of a formal complaint, unless the Superintendent chooses to investigate the complaint or designates another person to investigate it on his/her behalf. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the chairperson of the school board, who should consult with legal counsel concerning the handling and investigation of the complaint.

ii. Disciplinary Action

If it is determined that harassment or discrimination has occurred by a student or employee, then disciplinary action may be taken appropriate to the circumstances regardless if it is handled through the informal or formal resolution process. Such action may include consequences up to and including termination of employment for staff and up to and including suspension or expulsion for students.

iii. Internal Grievance Procedure

1. Informal Resolution of Discrimination and Harassment Complaints

Before initiating the formal procedure, the student/parent/employee may wish, if possible, to resolve the complaint on an informal basis through discussion.

A student or parent can discuss the issue with the building Principal. An employee can discuss the issue with his/her immediate supervisor or the building Principal.

The person receiving the complaint shall attempt, within his/her authority, to work with the individual to resolve the issue fairly and expeditiously within ten (10) working days of receiving the complaint. If the complainant is not satisfied with the resolution from the informal process, or if he/she does not choose informal resolution, then he/she can begin the formal complaint procedure described below.¹

Any resolution or disciplinary action taken by a Principal as a result of an investigation or discussion during the informal resolution process should be put to writing and forwarded to the District Civil Rights Coordinator.

2. Formal Resolution of Discrimination and Harassment Concerns:

A student, parent or employee who is not satisfied with the informal resolution process or who chooses not to participate in the informal resolution process may

¹ Informal resolution may not be appropriate in all cases, including but not limited to more severe or egregious allegations of discrimination or harassment.

initiate the formal complaint procedure at any time by putting the complaint in writing to the Principal or District Civil Rights Coordinator. An employee, at the request of the student, may put the complaint in writing for the student. Principals who receive written formal complaints should immediately forward the complaint to the District Civil Rights Coordinator.

a. What the complaint should include

The student/parent/employee's written complaint should include: the name of the individual making the complaint, the name of the individual aggrieved, the name of the individual(s) accused of committing the harassing or discriminatory practice, the location of the school/department where the alleged discriminatory practice occurred, the basis for the complaint, witnesses (if any) and the corrective action the student is seeking.

If the written complaint does not contain this information, the Principal or District Civil Rights Coordinator will ask the complainant for this information.

b. When to file a complaint

Efforts should be made to file such complaint within twenty (20) calendar days after the alleged discriminatory practice occurred in order for an expeditious investigation to be conducted, unless extenuating circumstances exist. However, the Acushnet Public Schools will investigate any complaint no matter when it is filed.

c. What will happen after the complaint is filed

Promptly after receiving the complaint, the District Civil Rights Coordinator or designee, as permitted pursuant to Section III(B)(i) of this section) will conduct the necessary investigation, including making good faith efforts to gather all relevant evidence for consideration. In the course of his/her investigation, the District Civil Rights Coordinator or designee shall contact those individuals that have been referred to as having pertinent information related to the complaint. This process shall include, at a minimum, contacting the complainant; and the person against whom the complaint was filed and/or the appropriate authority involved; interviewing witnesses; and considering relevant documentation. During this process, complainants will have the opportunity to present witnesses and other relevant evidence to the District Civil Rights Coordinator or designee conducting the investigation.

The District Coordinator or designee should use appropriate interim measures during the investigation of a complaint to ensure that the student is free from discrimination and/or harassment during the pending investigation.

Barring extenuating circumstances, the District Coordinator or designee, will complete the investigation as soon as practicable and normally not later than thirty (30) working days. When more than thirty (30) working days is required for the investigation, the District Civil Rights Coordinator or designee shall inform the complainant that the investigation is still ongoing.

After completing the formal investigation of the complaint, the District Civil Rights Coordinator or designee shall make a decision on the complaint and shall inform the complainant and the person(s) against whom the complaint was made, of the results of the investigation in writing. In the case of a student who is found to have violated this policy, the District Civil Rights Coordinator or designee will take appropriate action. In the case of an employee who is found to have violated this policy, the District Civil Rights Coordinator or designee will refer the matter to the Principal or Superintendent for appropriate action.

d. What you can do if you are not satisfied with the outcome of the formal complaint procedure

If the complainant is not satisfied with the decision, he/she can appeal this finding to the Superintendent within five working days.

The Superintendent will review the information considered by the District Civil Rights Coordinator or designee, collect any additional information he/she believes is necessary to make an informed decision and shall issue a written decision to the complainant and the person against whom the complaint was made. Again, strict timelines cannot be set for conducting the investigation because each set of circumstances is different. However, the Superintendent will make sure that the complaint is handled as quickly as feasible and will strive to complete the investigation within ten (10) working days.

If the complainant is not satisfied with the Superintendent's decision, or if he/she does not choose either of the internal resolution processes, he/she may follow the external grievance procedure described below.

Contact information for the Superintendent is:

Superintendent of Schools- 708 Middle Road, Acushnet, MA 02743 (508) 998-0260

iii. External Grievance Procedure

Any student, parent or employee who chooses not to use the district's internal grievance procedures or who is not satisfied with the district's internal grievance procedures may file a complaint of discrimination or harassment with an appropriate state or federal agency.

1. For complaints related to discrimination/harassment of students:

The Office for Civil Rights US Department of Education 8th Floor
5 Post Office Square, Suite 900 Boston, MA 02109-3921 Telephone: 617-289-
0111 FAX: 617-289-0150 TDD: 877-521-2172

OR

The Massachusetts Commission Against Discrimination
One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
Phone:617-994-6000
TTY: 617-994-6196

2. For complaints related to discrimination/harassment of parents:

The Office for Civil Rights US Department of Education
8th Floor
5 Post Office Square, Suite 900
Boston, MA 02109-3921
Telephone: 617-289-0111
FAX: 617-289-0150
TDD: 877-521-2172

3. For complaints related to discrimination/harassment of employees:

The Office for Civil Rights
US Department of Education 8th Floor
5 Post Office Square, Suite 900
Boston, MA 02109-3921
Telephone: 617-289-0111
FAX: 617-289-0150
TDD: 877-521-2172

OR

The Massachusetts Commission Against Discrimination
One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
Phone: 617-994-6000
TTY: 617-994-6196

OR

The Equal Employment Opportunities Commission
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: 1-800-669-4000

IV. General Policies

1. No reprisals or retaliation shall be invoked against any person for processing, in good faith, a complaint, either on an informal basis or formal basis, or for participating in any way in these complaint procedures.
2. No reprisals or retaliation shall be invoked against any person who, in good faith, has testified, assisted or participated in any manner in any investigations, proceeding, or hearing of a complaint or for otherwise participating in any way in these complaint procedures.
3. Whenever possible, a conference should be scheduled during a time that does not conflict with regularly scheduled work and/or school programs.
4. The Acushnet Public Schools will work with an individual who files a complaint of discrimination or harassment; including conducting an investigation and holding conferences, in order to fairly and expeditiously resolve the complaint.

LEGAL REFS: Title VI, Title IX, Section 504, ADA, Age Discrimination Act, M.G.L. c. 76 §5, M.G.L. c.151C, 603 C.M.R. §26.08

CROSS REFS: GBAA EQUAL EMPLOYMENT OPPORTUNITY; JB EQUAL EDUCATIONAL OPPORTUNITIES; JICFB BULLYING; JFCF HAZING

Adopted: 8/17/10