

HOPKINTON SCHOOL COMMITTEE POLICY

NON-DISCRIMINATION and CIVIL RIGHTS NOTICE TO STUDENTS, PARENTS and EMPLOYEES

1) Statement

It is the role of the Hopkinton Public Schools to provide a safe and secure learning environment for all its students without distinction based on race, religion, ethnicity, disability, gender, genetic information, or sexual orientation. Discrimination, sexual and bias-motivated harassment, and violations of civil rights disrupt the educational process and will not be tolerated. Because of the importance of this issue, this policy provides explicit definitions clarifying the scope and intent of the policies and procedures for its implementation.

It shall be a violation for any pupil, teacher, administrator or other school personnel to engage in sexual or bias-related harassment (referred to as “wrongful harassment”) or to violate the civil rights of any pupil, teacher, administrator, or other school personnel. A failure of such personnel to address conduct, which violates this policy, also constitutes a violation of civil rights. Conduct amounting to a hate crime is a particularly serious infraction that will result in referral to law enforcement agencies.

Each school will act to investigate all complaints, whether formal or informal, verbal or written, of sexual or bias-related harassment or violations of civil rights and will take appropriate action against any pupil, teacher, administrator, or other school personnel who is found in violation.

2) Commitment to Prevention

The Hopkinton Public Schools is committed to prevention, remediation, and accurate reporting of bias incidents and civil rights violations, to the end that all students can enjoy the advantages of a safe and tolerant learning environment where individual differences are respected. The Hopkinton Public Schools regularly conducts activities and programming such as training of all school personnel, intended to foster respect for diversity, civil rights, and non-violence in school settings.

3) Zero Tolerance for Known Civil Rights Violations: Required Reporting and Intervention to Stop Harassment

a) School employees must intervene in ongoing civil rights violations and episodes of wrongful harassment whenever witnessed or reported, to the extent intervention can be done safely. School employees must report a civil rights violation or episode of wrongful harassment to the school civil rights administrator. Designated administrators must intervene in ongoing matters of civil rights violations and episodes of wrongful harassment, summoning assistance as necessary.

b) The primary objective of school intervention in a civil rights matter is to put a swift end to, and prevent any recurrence of, any wrongful conduct, so as to ensure the safety of all students and a school environment free of wrongful harassment and civil rights violations. Intervention should be undertaken immediately, as needed on a short-term basis, and more comprehensively once a

civil rights violation has been found to have occurred. Each school will take all necessary steps within its authority to implement the objective of stopping continuing civil rights violations and wrongful harassment, and restoring and preserving an environment free of such conduct.

c) Effective, and if need be, escalating measures should be used to definitively stop harassment and violence. School officials should immediately consider and use regular administrative actions to defuse a civil rights situation wherever possible: separating victim or complainant and offender, ordering the offender to stay away from the victim, or assigning additional security. Relevant school disciplinary hearings should begin and proceed on an expedited basis where there is a threat of ongoing interference with civil rights. Disciplinary action appropriate to the offender's conduct should be taken when a violation is found. Potential criminal conduct should be reported to law enforcement authorities, and legal remedies pursued as necessary to protect civil rights.

4) Designation of Civil Rights Administration

The principal of each school in the Hopkinton Public Schools, or at least one employee designated by the principal, will have the responsibility to respond to matters of civil rights that arise in the school setting. The principal or designee shall be given a title and be prominently identified as available to receive reports and complaints of civil rights violations from students, faculty, and staff. The designee will receive specialized civil rights training and take responsibility for upholding school civil rights and safety policies. The designee will also serve as a liaison to law enforcement agencies, and assist the principal and superintendent in making referrals of possible criminal matters to law enforcement authorities.

5) Identification of Prohibited Conduct

a) Definitions:

i) *BIAS INCIDENT* means any act, including conduct or speech, directed at or which occurs to a person or property because of actual or perceived race, religion, ethnicity, disability, gender, or sexual orientation. A bias incident may or may not be a criminal act.

ii) *BIAS INDICATORS* are objective facts and circumstances that suggest an action was motivated in whole or in part by a particular type of bias.

iii) *BIAS MOTIVES* recognized by Massachusetts law as causing hate crimes include prejudice based on race, religion, ethnicity, disability, gender, and sexual orientation.

iv) *CIVIL RIGHTS VIOLATION* includes discrimination in access to the advantages and privileges of the public school programs, sexual harassment and bias related actions as specifically defined in this Section 5. Massachusetts law defines a civil rights violation as interference with an individual's statutory or constitutional rights by threats, intimidation or coercion.

v) *DISCRIMINATION* consists of actions taken against others that treat them unequally because of race, religion, national origin, disability, sexual orientation, or gender bias.

vi) HARASSMENT consists of unwelcome verbal, written or physical conduct targeting specific person(s), which is sufficiently severe, persistent, or pervasive to create an intimidating, hostile, humiliating, or offensive school environment, or to substantially interfere with the progress of a student's education.

- (1) **BIAS-RELATED HARASSMENT** will present bias indicators, most commonly epithets: name-calling derogatory to a particular racial, religious, or sexual orientation group.
- (2) **SEXUAL HARASSMENT** covers instances of physical or verbal conduct of a sexual nature, not limited to but including sexual advances, which foster a hostile educational environment for the victim.

vii) HATE CRIMES include any criminal acts to which recognized types of bias motives are an evident contributing factor. Criminal bias-motivated conduct entails, at a minimum, threats. Criminal conduct includes acts putting someone in fear of immediate physical harm (assaults), and actual physical violence (assault and battery), and grows most serious if a victim suffers any bodily injury. Repeated threatening or menacing actions like following someone can amount to the crime of stalking.

viii) HOSTILE ENVIRONMENT exists when a student has been or is subjected to threats, intimidation, or coercion by another (or others) or is reasonably in fear for his or her safety. Whether a school environment has become hostile must be evaluated based on the totality of the circumstances. Repeated instances of bias-related and sexual harassment create a hostile environment for the victim.

ix) STALKING, a felony, consists of intentional conduct involving 1) two or more acts directed at a specific person, 2) which would cause an average person substantial distress, 3) where the perpetrator has made threats causing the targeted person fear of death or injury.

b) Common bias

- i) Bias-related oral comments or epithets
- ii) Bias-related markings, drawings, or graffiti
- iii) Use of bias-related symbols
- iv) No clear economic motive for an assault and battery
- v) Crime involving disproportionate cruelty or brutality
- vi) Offender history of crimes with similar modus operandi and victims of the same group See G.L. 22c, Sec. 33; 501 CMR 4.04 (1) the Hate Crimes Reporting Act. Classification Criteria.)

c) Examples of Civil Rights Violations and Bias Incidents:

- i) Unwelcome verbal, written, or physical conduct directed at the characteristics of a person's race or color, such as nicknames emphasizing stereotypes, racial slurs, comments on manner of speaking, and negative references to racial customs (*racial and color harassment*).
- ii) Unwelcome verbal, written, or physical conduct, directed at the characteristics of a person's religion, such as a derogatory comment regarding surnames, religious tradition, or religious clothing, or religious slurs, or graffiti. (*religious harassment*)

iii) Conduct directed at the characteristics of a person's national origin, such as negative comments regarding surnames, manner of speaking, customs, language, or ethnic slurs (*national origin harassment*).

iv) Conduct directed at the characteristics of a person's sexual orientation— actual, perceived, or asserted—such as negative name-calling and imitating mannerisms (*sexual orientation harassment*).

v) Conduct directed at the characteristics of a person's disabling condition, such as imitating manner of speech or movement, or interference with necessary equipment (*disability harassment*).

vi) Physical conduct putting someone in fear of imminent harm, coupled with name-calling of a bigoted nature (*crime of assault*).

vii) Repeated, purposeful following of someone, coupled with evident bias against the victim's actual or perceived group status (*civil rights violation or crime of stalking*).

viii) Painting swastikas on walls or other public or private property (*crime of vandalism*)

ix) Hitting someone because of his/her actual or perceived group status (*crime of battery*).

x) Use of genetic information, such as BRCA testing for breast cancer, in hiring decisions. (*discrimination based on genetic information*).

d) Scope of Information

This information applies to bias crimes, civil rights violations, bias incidents, and bias-related harassment occurring on school premises or property, or in the course of school-sponsored activities, including those outside of school if there is a detrimental effect on the school or educational climate

6) Procedures for Responding to and Investigating Incidents

- a) Whenever a staff person witnesses, or some third party reports a possible civil rights violation, the school's designated civil rights administrator must be notified. The school's civil rights designee, in conjunction with school safety personnel and the principal's office, should immediately begin an investigation. In an emergency 911 must be called.
- b) A student coming forward to report a civil rights violation she/he has experienced should be directed to the school's designated civil rights administrator, after any emergency needs are attended to. Consideration should be given to whether any immediate or interim steps are necessary to ensure the safety of and to avert retaliation against the complainant.
- c) The investigation must determine whether a civil rights violation has in fact occurred. An immediate aim of the investigations should be preservation and gathering of evidence from the scene of an incident. Bias-related graffiti should be photographed then removed. The investigator

should seek to interview all victims and witnesses at the scene, or as soon thereafter as possible, then interview others who may have relevant knowledge as well. The investigation may also utilize any other methods and gather any other documents deemed relevant and useful.

- d) All the circumstances as found should be carefully evaluated for the presence of bias indicators that would characterize the matter as a civil rights violation. The investigation should make a finding as to whether a civil rights infraction in violation of this policy has occurred based on the definitions of wrongful conduct supplied at Section 6.

7) Consequences for Civil Rights Violations and Failures to Act as Required

a) Non-disciplinary corrective actions

Potential civil rights violations can be addressed with steps that are not punitive in character, without the necessity of disciplinary proceedings. These steps generally lie within the ordinary discretion of principals and school officials. Examples of non-disciplinary actions that may be appropriate in some instances include counseling, assignment to participate in diversity awareness training programs, separating offender and victim, parent conferences, and special work assignments such as a composition on a civil rights-related subject.

b) Disciplinary Proceedings

Violations of the civil rights of a student or school employee which are found to have occurred after a hearing warrant the imposition of sanctions up to and including suspension and expulsion (for student), and suspension or termination (for employees). Disciplinary actions will be taken with the goals of eliminating the offending conduct, preventing reoccurrence and reestablishing a school environment conducive to the victim's learning. The school may consider completion of a youth diversion program as a sanction for student violators, standing alone or in conjunction with other disciplinary actions, for violations of civil rights.

c) Failure to Act by Administrators and Teachers

Upon completion of information dissemination, administrators and teachers have a duty to act to stop witnessed sexual or bias harassment and hate crimes, as safely as can be done, and to report occurrences to the civil rights administrators and sometimes the police. Sanctions administered for a clear failure to act as this policy would direct will result in sanctions as determined by either the Principal or Superintendent. The Superintendent of Schools will develop sanctions and actions to address instances of a failure to act in accordance with this policy. Failure of school staff to address violations of this policy may result in either individual and/or school district liability for civil rights violations.

8) Commitment to Non-Retaliation

To secure the unimpeded reporting of bias activity called for in this policy, the Hopkinton Public Schools will deal seriously with any and all threats or acts of retaliation for the good faith filing of a complaint. Actual or threatened retaliation for the reporting of a civil rights matter constitutes a separate and additional disciplinary infraction warranting corrective action. If conduct amounts to

stalking, a mandatory referral to law enforcement will be made. Staff will monitor the situations of victims/ complainants carefully to ensure that no threats or acts of reprisal are made. Appropriate and immediate non-disciplinary administrative actions to mitigate possible or actual retaliation may also be taken, to the extent administrators have discretion to act.

9) Referral to Law Enforcement

Whenever a school employee has reason to believe that a potential hate crime has been, or is about to be committed, she/he should notify the school civil rights designee and, especially in an emergency, the local police. The civil rights designee has chief responsibility for notifying the police of potential hate crimes in non-emergency situations; the referral is mandatory whenever a probable hate crime is at issue.

10) Documentation Requirements

a) Record keeping

The designated civil rights administrator will be responsible for keeping records of all civil rights violations and hate crimes reported for the school. These records shall be grouped according to school year and grade. In addition to recording the particulars of the incident itself, the system should record the actions taken in response and the results of the investigation and intervention. The civil rights administrator shall keep this information gathered at a central place designated by the principal.

b) Monitoring and Tracking to Identify Patterns

Records should be maintained so as to permit administrators to detect patterns in civil rights violations, repeat offenders, and problem locations. Responsive actions should be tailored based on the pattern information that records reveal. Records will be maintained according to state and federal confidentiality laws and regulations.

11) Dissemination of Information and Training of Staff

- a) This policy shall be conspicuously posted throughout each school building in areas accessible to pupils and staff members.
- b) This policy shall appear in the faculty and student handbook
- c) The Hopkinton Public Schools will provide instruction in the provisions of this policy to teachers, other employees, and students.
- d) The policy shall be reviewed at least annually for compliance with state and federal law.

12) Additional Information: SECTION 504 OF THE REHABILITATION ACT

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with a disability in any program receiving federal financial assistance. In order to fulfill obligations under Section 504, the Hopkinton Public Schools has the responsibility to avoid discrimination in policies

and practices regarding its personnel and students. No discrimination against any person with a disability should knowingly be permitted in any of the programs and practices of the school system.

The Hopkinton Public Schools has the responsibility under Section 504 to identify, evaluate, and if the student is determined to be eligible under section 504, to afford access to appropriate educational services.

If the parent or guardian disagrees with the determination made by the professional staff of the school district, she/he has the right to a hearing with an impartial officer.

Questions should be directed to the designated Building Section 504 Coordinator or to the District Section 504 Coordinator designated by the Superintendent.

The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This Act gives a parent/guardian the right to: (1) inspect and review his/her child's educational records; (2) make copies of these records; (3) receive a list of the individuals having access to those records; (4) ask for an explanation of any item in the records; (5) ask for amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights, and (6) request a hearing on the issue if the school refuses to make the amendment. (See School Committee Policies *JRA* and *JRCA*.)

First Reading	
Second Reading	
Third Reading	
Adopted	November 15, 2001
Policy Amended	December 17, 2009
Legal References	Title IX of the Education Act Amendments of 1972 Age Discrimination Act of 1975 Title VII of the Civil Rights Act of 1964 Title VI of the Civil Rights Act of 1964 Section 504 of the Rehabilitation Act of 1973 Family Educational Rights and Privacy Act (FERPA) - (20 U.S.C. § 1232g; 34 CFR Part 99) Section 504 Of The Rehabilitation Of 1973 M.G.L. 22c, Sec. 33; 501 CMR 4.04 (1) the Hate Crimes Reporting Act
Policy Cross Reference	JRA – Student Records JRCA – E1 - Access to Student Records by Non Custodial Parents
Procedure Reference	ACER - Grievance Procedure For Complaints Alleging

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