



## NON-DISCRIMINATION PROTOCOL

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## 1. Introduction/General Statement

As established in our [Non-Discrimination Policy](#), the Newton School Committee and Newton Public Schools are committed to maintaining an education and work environment for all school community members that is free from all forms of [discrimination](#), [harassment](#) and [retaliation](#). Using the protocol outlined below, NPS will respond promptly to any reports or complaints of discrimination, including harassment and retaliation, or other violations of civil rights. Where it is determined that discrimination has occurred, NPS will act promptly to address the conduct and will take developmentally-appropriate restorative, corrective, and/or disciplinary action.

## 2. Protocol Summary

All members of the [school community](#) are responsible for reporting any incident that they believe to be discrimination. Any school staff member can receive a [complaint](#), and ultimately the school principal, or the designated investigator, will be notified of the complaint in order to begin the investigation. Complaints will be thoroughly investigated and a finding will be made whether discrimination has been substantiated.

The principal or other administrator who investigates the report of discrimination will follow the specific steps of this protocol, using the detailed processes in the appendix sections to ensure that all parties are aware of what is happening and have a chance to share any relevant experiences. There are specific expectations for communication during and after an investigation so that anyone impacted or involved can be aware of the process and the outcomes that are relevant to them.

[Corrective](#), [restorative](#) and/or [disciplinary](#) measures will be implemented to address the behavior and support the individuals or groups impacted with the intention to:

- Provide protection and support for those harmed by understanding their needs,
- Promote accountability and learning for the aggressor(s) through intentional and restorative action, and
- Facilitate/foster healing for all involved, as possible and appropriate

Restorative or corrective action may be implemented regardless of whether the non-discrimination policy has been violated in to order support any students, families or other community members involved.

### 2.1 Philosophy on Student Discipline

NPS is invested in supporting each student's right to access education by preventing and responding effectively to any acts of discrimination, and also by limiting the use of suspensions and other punitive measures that remove students from instruction. We are committed to taking a holistic approach to discipline that is supportive and reparative. While prioritizing the physical and emotional safety of all members of our community, we are committed to considering the cognitive, social, emotional and physical capacity and task expectations for each stage of development and encouraging developmentally-appropriate opportunities for learning, growth, and repair. The goal of our disciplinary interventions is to increase adaptive behavior while building and maintaining our relationships with students and staff in service of seeking to create strong, caring and healthy communities as a whole.

Following Massachusetts' Department of Elementary and Secondary Education [State Advisory](#) on Student Discipline under Chapter 222 of the Acts of 2012, NPS seeks to limit the use of long-term suspension as a consequence for student misconduct except under very limited situations.

In addition to those due process protections afforded to all students, the [Individuals with Disabilities Education Act](#) and related regulations require additional protections for students who have been found eligible for special education services or if the school district has knowledge that a student is a child with a disability.

## 2.2 Confidentiality

NPS is committed to transparent communication that appropriately maintains the confidentiality of the involved parties. When a discrimination complaint is reported, the parents/guardians of the involved parties will be notified within 48 hours when possible. To the extent possible, reports will be kept confidential at a reporter's request; however, restrictions on disclosure often inhibit the investigation process and confidentiality cannot always be guaranteed. For more information about confidentiality of investigation reports and outcomes, see Section 7.5 (File Keeping). Any specific disciplinary consequences for staff and/or students are confidential by law.

## 3. Complaint & Reporting

This protocol is initiated when a [complaint](#) of discrimination, harassment or retaliation is reported and an [investigator](#) is assigned.

All members of the [school community](#) are responsible for reporting any incident that they believe to constitute discrimination as soon as possible, typically the same school day. Any member of the school community can initiate a complaint verbally with a school principal, any NPS staff member, or online by submitting a discrimination complaint form.

When a complaint of discrimination has been initiated, an administrator will be assigned to investigate further and will record the complaint on the [Discrimination Complaint Acknowledgement](#). This person may be a principal, assistant principal, dean, or a central office administrator. The chart below displays possible reporting pathways and potential investigators.

In cases involving the principal and/or assistant principal, the investigator will be the Director of Human Resources. In other circumstances of supervisor/supervisee conflicts, either the Director of Human Resources, Asst Superintendent, Superintendent, or an identified outside investigator, will be assigned.

**Chart of Reporting Pathways & Possible Investigators**

| Target/ Complainant       | Aggressor                 | Possible reporting Pathways  | Investigator to be Assigned   |
|---------------------------|---------------------------|--|---|
| Student(s)                | Student(s)                | <ul style="list-style-type: none"> <li>Tell an adult, i.e. counselor, teacher, dean, vice/asst. principal, coach, parent who can then report to the Principal, Asst. Principal, or Dean(s), or</li> <li>Complete <a href="#">Online Discrimination Complaint Form</a></li> </ul>                             | Principal, Asst. Principal, or Dean   |
| Non-Student(s), NPS Staff | Student(s)                | <ul style="list-style-type: none"> <li>Tell the Principal, Vice/Asst. Principal, or Dean directly.</li> <li>Tell a colleague, who can then report to a supervisor or to the Principal, Vice/Asst. Principal or Dean(s), or</li> <li>Complete <a href="#">Online Discrimination Complaint Form</a></li> </ul> | Principal, Asst. Principal, or Dean   |
| Student(s)                | Non-Student(s), NPS Staff | <ul style="list-style-type: none"> <li>Tell an adult, i.e. counselor, teacher, dean, vice/asst. principal, coach, parent who can then report to the Principal, Asst. Principal, or Dean(s), or</li> <li>Complete <a href="#">Online Discrimination Complaint Form</a></li> </ul>                             | Principal, Building/Program Administrator or Designee, and if necessary, in consultation with Asst. Supt. for Student Services, or Director of HR |
| Non-Student(s), NPS Staff | Non-Student(s), NPS Staff | <ul style="list-style-type: none"> <li>Report complaints to the Principal or supervisor, or</li> <li>Complete <a href="#">Online Discrimination Complaint Report</a></li> </ul>  | Principal, Building/Program Administrator or Designee, Asst. Supt(s); Director of HR; Supt.   |

## 4. Investigation & Finding

### 4.1 Investigation

Once the complaint is received and the investigator has been assigned, the below steps are followed:

1. The investigator will fill out the Discrimination Complaint Acknowledgement with the information they are provided.
2. The investigator will then:
  - a. Notify the parties involved within 48 hours when possible, and document the date, time, and means of communication.
  - b. Interview all parties, including the person making the complaint, the alleged aggressor and any identified witnesses, typically within 5 school days, depending upon the circumstances. The investigator will remain in communication with all parties, as appropriate, throughout the investigation process.
  - c. If indicated by the [NPS & NPD Memorandum of Understanding](#), notify the Newton Police Department school resource officer ([Department of Children and Families](#) if necessary) if a possible crime has occurred or for additional guidance regarding whether to file a police report.
  - d. Consider any known or disclosed information regarding cognitive, social, emotional, physical capacity and/or impairment to ensure a comprehensive and equitable approach to the investigation and resolution.

### 4.2 Community Notification

In the case of a serious incident of discrimination, the district may decide to notify an entire school community of an incident. When notifying a whole school community, following guidance from the Massachusetts' Attorney General, Newton Public Schools is committed to "issuing prompt and clear communication to the school community when a hate incident occurs, particularly when dealing with incidents that are serious, public, or likely to be the subject of rumors and gossip." In collaboration with the appropriate central administrators and the DEI office, the building principal determines if whole school community communication is warranted and typically issues it within 3 school days of the incident.

The purpose of the whole school communication is to inform of the incident, uphold NPS' core nondiscrimination values, and to explain the school community's restorative practices to address the harm, while maintaining confidentiality of the involved parties.

### 4.3 Finding and Initial Resolution

Next, the investigator will make a finding of whether, by a preponderance of the evidence, a violation of the NPS Non-Discrimination policy has occurred, and recommend an initial resolution to all parties in alignment with our confidentiality standards.

The investigator will confirm the resolution by following the below steps:

1. Complete a [Discrimination Investigation and Findings Report](#) to document findings and resolution, which may include possible developmentally-appropriate corrective, restorative and/or disciplinary action, and any support/safety plans for the target/complainant. (See Response and Repair section below). If disciplinary action is indicated for the aggressor, applicable disciplinary procedures will be followed, and will be documented as a part of the student's or employee's record.
2. Notify all parties and their parents/guardians, via email and/or USPS mail, of the findings. The notification letter/and or report will summarize the findings and actions described above. It will also include information about their right to appeal. Confidentiality standards

may prohibit the distribution of information containing specific consequences, therefore general outcomes and actions will be provided on an individual basis.

3. In the event of an incident that impacts a larger group of people or the community as a whole, in consultation with supervisor and/or Dept. of DEI, there will be notification by the building principal which will include a description of the incidents and steps taken (excluding specifics about individual disciplinary actions).
4. If parties do not agree to a resolution at this stage, or if the harassment is persistent, pervasive, and/or severe, the investigator will investigate further as necessary. Factors such as these might influence the timeline of resolution.

## 5. Response & Repair

Following a finding of discrimination, including harassment or retaliation, a plan for corrective and/or disciplinary action will be developed and implemented. Failure to satisfactorily participate in the corrective action could lead to additional disciplinary measures. In collaboration with all parties involved, a plan for a restorative process will be developed with consideration of developmentally-appropriate opportunities for learning, growth, and repair. Repair work occurs when appropriate and with consideration of the specific individuals involved. These additional steps to respond and repair harm may also be taken even when a finding of discrimination is not determined.

A report of discrimination or harassment triggers immediate investigation and processes focused on ensuring the safety and necessary support of all involved, as detailed below. While the details of each individual case require a tailored response, our processes are designed to:

- a. Act in alignment with our philosophy of discipline and uphold our core values as detailed in our [Rights and Responsibilities Handbook](#)
- b. Provide protection and support for those harmed by understanding their needs. Actions may include:
  - i. Meeting(s) with school administration and, as needed, a school mental health professional (e.g., counselor, social worker, psychologist). Meetings may include those harmed and/or their families.
  - ii. Development of a support/safety plan that addresses the needs of those harmed, which may include:
    1. Increased vigilance for the target/complainant's sense of safety and security throughout all parts of their school experience
    2. Short- or long-term counseling support with a mental health professional
    3. Additional adult oversight in part or all of the target/complainant's school day, as determined by school administration and the target/complainant and their family
    4. Separation of target/complainant and aggressor during parts or all of the school day
- c. Promote accountability and learning for the aggressor through intentional and restorative action, which may include:
  - i. Goals and/or activities related to learning about the history and impact of racism, sexism, homophobia, anti-semitism, xenophobia, etc.
  - ii. Structured reflection on why the behavioral choice they made harmed the target/complainant
  - iii. Meetings with school staff, supervisor and/or parent/guardians
  - iv. Counseling support with a school mental health professional
  - v. Development of a behavioral plan with input from both target/complainant and aggressor if possible
  - vi. Mediated meetings between target/complainant and aggressor

- vii. Required professional development course, supervision sessions with the DEI department and/or an evaluator
- d. Facilitate/foster healing for all involved, which may include:
  - i. A follow-up response to the community impacted, denouncing the act/s and planned efforts to repair harm
  - ii. Facilitated conversations in classrooms, advisories and/or after-school programs to share accurate information and assess individual and community needs for ongoing safety and reparations
  - iii. Affinity spaces for students and/or staff to process the impact of harm and share experiences in an emotionally safe and supported environment
  - iv. Student-led activities to respond, acknowledge harm and/or honor targets of discriminatory acts
  - v. Restorative activities, i.e., community-building circles, setting norms and agreements, use affective statements, etc.

## 6. Appeal/Legal

### 6.1 Availability of an Appeal

1. Appeal from the Investigator's Decision - Any party may appeal the determination of a designated investigator to the Superintendent within ten (10) school days. The Superintendent, or their designee, will then have ten (10) school days to determine whether or not to reopen the file. If the file is reopened, the Superintendent, or designee, will become the investigator and perform further investigation pursuant to the Resolution Procedures, as they deem necessary and appropriate. If the file is not reopened, the Superintendent, or designee, will provide notice to the appealing party. The Superintendent or designee's decision is not appealable at the school district level but may be appealed pursuant to Massachusetts and Federal laws.
2. Options available at any time - At any time, whether or not an individual files a complaint or report or appeal under this Protocol, an individual may file a complaint with the Office for Civil Rights, U.S. Department of Education, or with other governmental agencies, or may initiate a civil action. If a complaint is filed with the Office for Civil Rights, U.S. Department of Education, it must be filed in writing no later than 180 days after the alleged act(s) of discrimination. OCR may waive its 180-day time limit based on OCR policies and procedures.
  - a. Office for Civil Rights, U.S. Department of Education ("OCR")  
5 Post Office Square, Suite 900, 8<sup>th</sup> floor, Boston, MA 02109  
Website: [www.ed.gov/ocr](http://www.ed.gov/ocr); Email; [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)  
Tel: (617) 289-0111; Fax: (617) 289-0150; TTY/TDD: (877) 521-2172
  - b. Equal Employment Opportunity Commission ("EEOC")  
John F. Kennedy Federal Building  
475 Government Center, Boston, MA 02203  
Tel: (800) 669-4000; Fax: (617) 565-3196; TTY: 1-(800) 669-6820
  - c. Massachusetts Commission Against Discrimination ("MCAD")  
One Ashburton Place, Boston, MA 02108  
Tel: (617) 994-6000; Fax: (617) 994-6024
  - d. Massachusetts Department of Elementary and Secondary Education  
Problem Resolution System Office  
75 Pleasant Street, Malden, MA 02148  
Email: [compliance@doe.mass.edu](mailto:compliance@doe.mass.edu)  
Tel: (781) 338-3700; Fax: (781) 338-3710; N.E.T. Relay: 1-(800) 439-2370

Notwithstanding any other remedy, any person may contact the police or pursue a criminal complaint or prosecution under state or federal criminal law.

## 6.2 Newton Police Department

In accordance with the [Memorandum of Understanding between NPS and NPD](#), any allegation containing the following conduct will be reported to NPD:

- any incident involving an actual or suspected hate crime or violation of civil rights, including but not limited to an assault or battery upon a person or damage to the real or personal property of a person with the intent to intimidate such person because of such person's race, color, national origin, sexual orientation, or disability;
- any act of bodily injury or attempt to cause bodily injury against a person due to actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability and/or any sexual assault, including but not limited to rape, assault with the intent to rape, indecent assault and battery;
- any lewd and lascivious behavior, open and gross lewdness, indecent exposure, or incident of gender-based harassment, "sexting", "sextortion" or possession or dissemination of sexually explicit photographs of a student.

It may be appropriate for school administrators rather than the police/SRO to address low-level offenses.

## Part II: Additional Provisions

### 7. Appendices

#### 7.1 Definitions

- a. **Complainant** is an individual who is the alleged target/complainant of conduct covered by the Non-Discrimination Policy, or their parent(s) or guardian(s).
- b. A **Complaint** is an oral or written, formal or informal, notification of an incident of discrimination, including harassment and discrimination, made by a target/complainant of alleged conduct that violates the [Non-Discrimination Policy, Including Harassment and Retaliation](#) (hereafter "the Non-Discrimination Policy"). For a student, their parent(s) or guardian(s) may also file a Complaint on behalf of their child.
- c. **Corrective Action** is steps taken to address factors that contributed to the issue at hand to prevent recurrence. Corrective action will be used when possible and practicable in light of the duty to maintain safe and orderly school environments conducive to student learning.
- d. **Designee** refers to the administrator that is assigned by the Superintendent to facilitate a request for an appeal of the findings of an investigation. **Disciplinary Action** refers to traditional disciplinary responses such as punitive consequences issued for violative student or employee conduct, including violations of policies, that has been determined appropriate by educators and administrators under the circumstances. This could include ranging from extra-curricular or in-school consequences to suspension, or employee termination.
- e. **Discrimination** includes, but is not limited to excluding from participation, denying the benefits of, or otherwise discriminating against individuals on the basis of a Protected Class, or any other category protected by state or federal law, in the administration of its educational and employment policies, or in its programs and activities, or in failing to provide equal access to designated youth groups
- f. **Harassment** includes, but is not limited to, unwelcome, inappropriate, or illegal physical, verbal, written, graphic, or electronic conduct that relates to an individual's actual or perceived Protected Class, that has the purpose or effect of creating a hostile education or work environment, or, if the conduct were to persist, would likely create a hostile education or work environment. A target/complainant may include a person reasonably affected by conduct directed toward another individual.

- g. **Hate Crimes**<sup>1</sup> are crimes motivated, at least in part, by hate or bias, or where the target/complainant is targeted, selected, or chosen for the crime, at least in part, because of a person's actual or perceived race, color, religion, gender, sexual orientation, gender identity, national origin, ancestry, or ethnic background, or because the targeted person has a disability. A hate crime may involve, but is not limited to, an act of bodily injury, attempt to cause bodily injury, threat of bodily harm, physical or mental intimidation, or damage to another's property. Indicators that a crime may constitute a hate crime include, but are not limited to:
- Use of racial, ethnic, religious, or anti-gay slurs;
  - Use of symbols of hate, such as a swastika or burning cross;
  - Similar behavior towards others who are members of the same Protected Class;
  - The aggressor's protected class is different than the target/complainant's;
  - The incident occurs while the target/complainant was promoting a racial, religious, ethnic or national origin, disability, gender, gender identity, or sexual orientation group, such as attending an advocacy group meeting, participating in a students' gay-straight alliance, or a disability rights demonstration.
- h. **Hostile Environment** is where physical, verbal, written, graphic or electronic conduct that relates to a person's protected class is sufficiently severe, persistent or pervasive so that it interferes with or limits the ability of a student to participate in or benefit from the district's programs or activities, or the ability of an individual to work in the Newton Public Schools.
- i. **Investigator** is the administrator assigned to investigate a complaint of discrimination. This may be a principal, vice principal, assistant principal, dean or central office administrator. The investigator receives complaints and reports, implements the investigative procedures, (in collaboration) determines the appropriate corrective, restorative and/or disciplinary action and concludes investigation with a findings report.
- j. **Other Prohibited Conduct** means any unwelcome or inappropriate physical, verbal, written, graphic, or electronic conduct relating to a person's actual or perceived Protected Class that does not involve severe, persistent or pervasive conduct that creates a hostile environment, but will likely create a hostile educational or work environment if the conduct persists.
- k. **Aggressor** is a member of the school community or any third party who engages in, aids with, encourages, or creates an environment of discrimination, including harassment and retaliation.
- l. **Protected Class** - A group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. Protected classes include: race (to include traits historically associated with race, including, but not limited to, hair texture, hair type, hair length and protective hairstyles),, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, gender expression, sexual orientation, pregnancy, or pregnancy-related condition, or any other category protected by state or federal law.
- m. **A Report** is an oral or written, formal or informal notification of an incident of discrimination, including harassment and retaliation, made by a third party, and not the target/complainant of the alleged conduct (except for the parent/guardian filing on behalf of their minor child), that violates the Non-Discrimination Policy.
- n. **Restorative Practices** are formal and informal processes on a continuum from prevention to intervention and from proactive to responsive action with the goal of building positive community and addressing harm constructively when it occurs. Restorative practices are centered on the 5Rs (Relationship, Respect, Responsibility, Repair & Reintegration) and seek to create strong, caring and healthy communities within our schools.
- o. **Retaliation** includes, but is not limited to, coercion, intimidation, interference, punishment, discrimination, or harassment against any member of the school community in response to that member's oral or written, formal or informal, reporting or filing a complaint of discrimination, including harassment or retaliation, cooperating in an investigation, aiding or encouraging another member of the school community to report or file a complaint, or for opposing any act or practice reasonably believed to be prohibited by the Non-Discrimination Policy.

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<sup>1</sup> Hate crimes are defined as crimes motivated by bias, while hate incidents are bias related incidents that are not associated with a crime. For further information on potential hate crimes, please see Memorandum of Understanding, Between Newton Public Schools and Newton Police Department.

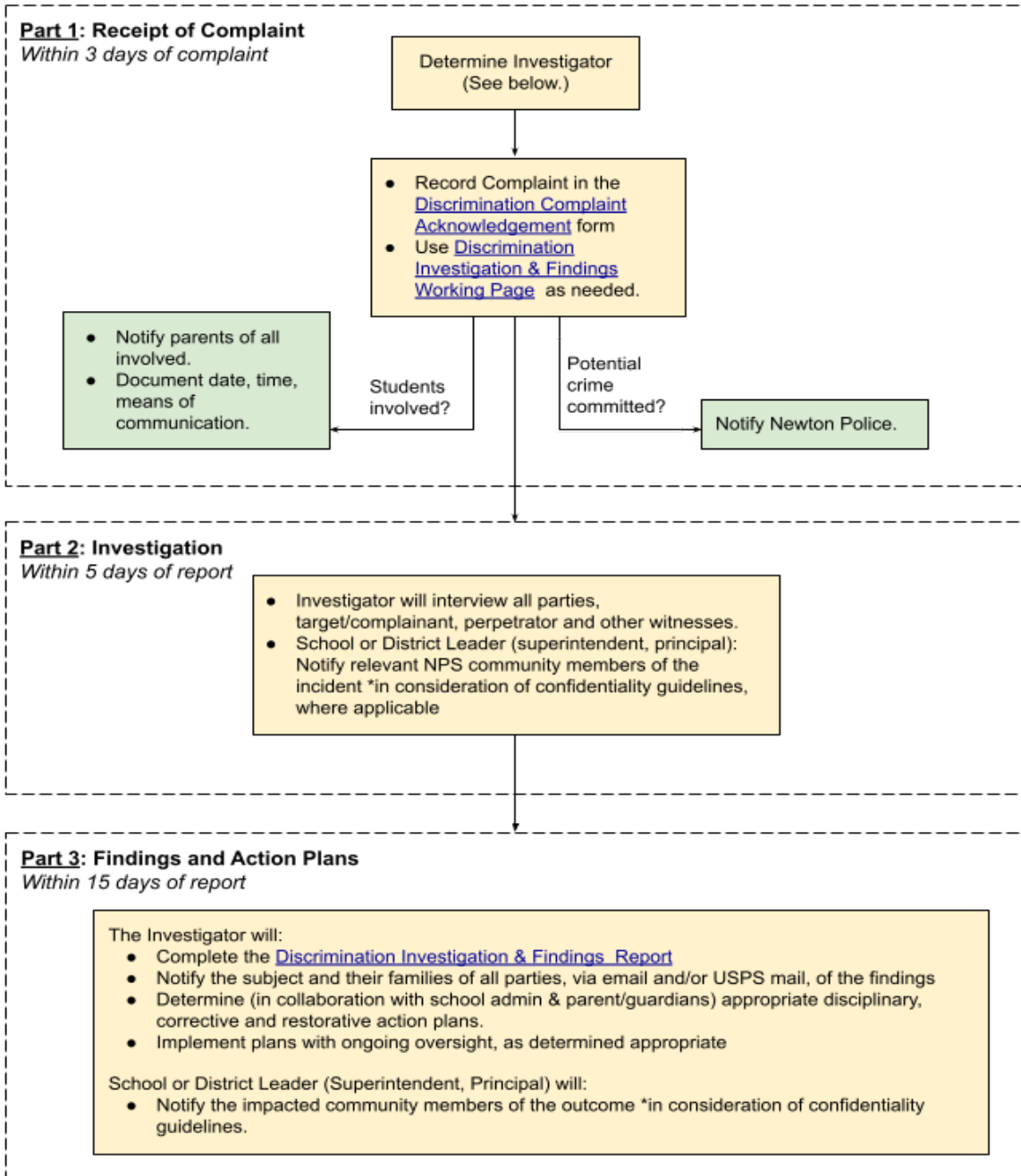


- p. **School Community** includes School Committee, employees, administration, faculty, staff, students, volunteers in the schools, family members participating in school meetings or school sponsored activities, and parties contracted to perform work for the Newton Public Schools.
- q. **Sexual Harassment**
  - i. **Hostile environment sexual harassment** occurs when unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature by a member of the school community is sufficiently severe, persistent, or pervasive so as to interfere with or limit the target/complainant's ability to participate in or benefit from the district's programs or activities, or to interfere with or limit an individual's education or employment, by creating a hostile, humiliating, intimidating, or offensive educational or work environment. A target/complainant may include a person reasonably affected by conduct directed toward another individual.
  - ii. **Quid pro quo sexual harassment** means any sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
    - o Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of or a basis for decisions affecting a student's education or participation or placement in a District's programs or activities; or
    - o Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions.
- r. **Target or Complainant** is a member of the school community against whom discrimination, including harassment and retaliation, has been perpetrated.

## 7.2 Responsibilities

- a. **Each Member of the School Community is responsible for:**
  - i. Complying with the [Non-Discrimination Policy](#) and the [Non-Discrimination Protocol](#).
  - ii. Ensuring that they do not discriminate against, harass, or commit a crime against another person on school grounds or in a school-related activity.
  - iii. Ensuring that they do not retaliate against any other person for reporting or filing a complaint, for aiding or encouraging the filing of a report or complaint, for cooperating in an investigation of discrimination, harassment, and retaliation, or a hate crime, or for opposing any act or practice reasonably believed to be prohibited by the [Non-Discrimination Policy](#).
  - iv. Cooperating in the investigation of reports or complaints of discrimination, including harassment and retaliation, or a hate crime.
- b. **Each Non-Student Member of the School Community is also responsible for:**
  - v. Responding appropriately, and intervening if able to take action safely, when witnessing discrimination, including harassment and retaliation, or a hate crime, on school grounds or at a school-related activity.
  - vi. Cooperating with the Newton Public Schools' efforts to prevent, respond effectively to, and eliminate discrimination, including harassment and retaliation, and hate crimes.
  - vii. Promptly reporting all information they know concerning possible discrimination, including harassment and retaliation, or a hate crime, to an investigator when they witness or become aware of conduct occurring on school grounds or at a school-related activity, or any other circumstance defined in "Protocol Application."

### 7.3 Detailed Reporting & Investigation Process



**Protocol Application:** This Protocol applies to all sites and activities the Newton Public Schools supervises, controls, or where it has jurisdiction under the law, including on school grounds; on the property immediately adjacent to school grounds; at school-sponsored or school-related activities; at functions or programs whether on or off school grounds; at school bus stops; on school buses or other vehicles owned, leased or used by the school district; or through the use of technology or an electronic device owned, leased or used by the Newton Public Schools. This Protocol also applies to conduct at a location, activity, function, or program that is not school-related or through the use of technology or an electronic device that is not owned, leased, or used by the Newton Public Schools if the act or acts in question create a hostile environment at school; infringe on the rights of others at a school; and/or materially and substantially disrupts the education process or the orderly operation of a school or school-sponsored activity or event.

a. Timeliness

In order to ensure integrity, promote fairness, and facilitate an effective investigation, all complaints or reports, oral or written, formal or informal, must be made as promptly as possible, but no later than 180 calendar days of the alleged incident. Such a time limit, however, may be waived for good cause, as documented in the investigative file.

b. Investigation Guidelines

The “investigator” will be in charge of overseeing an investigation. They will gather and preserve all evidence feasible and will contact the appropriate law enforcement authorities if the allegations involve a potential crime, consistent with the MOU with the Newton Police Department. Investigative activities may consist of, as appropriate and available, interviewing the parties and others who have witnessed or may have knowledge about the alleged incident(s) or the circumstances giving rise to the complaint or report, review of video recordings, voice mails, e-mails, instant messages, social media postings, student records, and other items and documents relevant to the allegations. In every investigation, both parties (the alleged target/complainant and the alleged aggressor) will have the right and option to present witnesses and evidence to support their respective positions. Privacy and confidentiality should be maintained to the extent that is practicable under the circumstances. The investigator should make reasonable efforts to regularly inform the complainant, the alleged aggressor, and, if applicable, their parent(s) or guardian(s), of the status of the complaint.<sup>2</sup>

c. Receipt of Student Complaints/Reports

Students are strongly encouraged to file a complaint or report, written or oral, formal or informal, of any incident of discrimination, including harassment or and retaliation, that they are subjected to, witness, or otherwise become aware of, and may do so to any school faculty, staff member, or administrator. Where requested or needed, students, or their parent(s)/guardian(s), will be provided assistance in writing their report. Although not preferred, students may make an anonymous complaint or report, and should be aware that anonymous filings may undermine the ability to investigate or address an alleged incident.

d. Receipt of Complaints/Reports of Non-Student School Community Members

All non-student members of the school community are encouraged to file a complaint or report, oral or written, formal or informal, of any act of discrimination, including harassment and retaliation, which they are subjected to, witness against or otherwise become aware of concerning another non-student member of the school community. Complaints or reports should be given directly to an appropriate investigator, a supervisor, or the Director of Human Resources. The anonymous complaint process available to students is also available to all other members of the school community.

e. Mandatory Reporting Guidelines

All NPS employees must report to the appropriate investigator any incident of discrimination, including harassment and retaliation, against any student that they witness, that they are notified of through a student’s report or complaint, or that they otherwise become aware of, as soon as practicable, but no later than 24 hours of becoming aware of the incident.

f. Non-Cooperation of Student Target/Complainants

After receipt of a complaint or report, the investigator will attempt to identify and obtain the cooperation of any student who is an alleged target/complainant of discrimination, including harassment or retaliation. Even where the investigator does not obtain the identity of or cooperation by the alleged student target/complainant, the investigator shall still investigate the allegations, to the extent feasible.

g. Corrective Action and Restorative Measures for Students

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<sup>2</sup> If an investigation concerns a potential civil rights violation involving physical injury or potential First Amendment issues, please contact Newton Public Schools’ General Counsel and/or City of Newton Law Department.

Upon a finding of discrimination, including harassment and retaliation, the investigator will determine if corrective action and restorative measures are necessary and possible to end the conduct, deter future conduct, and remedy the effects of the discrimination, including harassment or retaliation, on the target/complainant and/or the school community as a whole. This decision is appealable per the appeal processes listed in this Protocol. All corrective action and/or restorative measures must be documented in the investigative file and must not interfere with or violate any other school or District Policies and Practices.

- Corrective Action concerning a target/complainant may include, but is not limited to, adopting a written support/safety plan to implement protective measures, additional supervision throughout the school day and/or scheduled check-ins with the investigator to monitor safety plans. Corrective action for the aggressor may include, but is not limited to, separation plan, exclusion from participation in school sponsored functions, after-school programs, and/or extracurricular activities; limiting or denying access to a part or area of a school; increased adult supervision on school premises; complying with a non-contact or Harassment Prevention Order, parent/guardian conferences; a voluntary apology to the target/complainant; an essay discussing their behavior and its consequences, counseling for the aggressor; awareness training (to help the student aggressor understand the impact of the behavior); and/or any other action consistent with the student code of conduct.
- Restorative action may include providing or referring the target/complainant for counseling or target/complainant assistance services, and providing tutoring or other educational support or accommodations. Restorative action may also include modifying school-wide policies or practices and sponsoring anti-harassment, anti-discrimination, or related training for school staff or students. It may also include informing the broader school community of issues that affect it as a whole.

h. Disciplinary Action

Per our Philosophy on Student Discipline, our response will attempt to limit the use of exclusionary or other punitive measures, yet in some cases, disciplinary action is required to ensure the safety of the target/complainant and/or the school community. In accordance with applicable student privacy laws, disciplinary actions will not be disclosed to the target/complainant or their parent(s)/guardian(s), unless such actions specifically pertain to the target/complainant (For example: implementation of a “stay away” order).

Disciplinary actions may include, but are not limited to the following:

- Disciplinary Action for Students - Possible disciplinary action could include a written warning, in-school suspension, short or long-term out-of-school suspension, involuntary transfer, revocation of bus privileges, and/or any other action authorized by the Rights and Responsibilities Handbook and consistent with the Protocol for Reporting and Investigating Discrimination, Harassment and Retaliation. Students facing discipline will be afforded due process as required by law. Suspensions will follow the procedures under G.L. Chapters 71, Section 37H, Section 37H ½ and Section 37H ¾, and Chapter 76, Section 21, and applicable state regulations. Expulsions are only permitted under G.L. Chapter 71, Section 37H or Section 37H½ for the certain types of serious misconduct outlined in those statutes. For harassment and other civil rights violations, the district will apply processes and carry out disciplinary hearings that provide the target/complainant any rights it provides the alleged aggressor, as required by federal civil rights laws.<sup>3</sup>
- Discipline For Students with Disabilities - The District complies with federal and state law requirements that apply to disciplining students with disabilities, including the federal “Individuals with Disabilities Education Act” and Section 504 of the Rehabilitation Act of 1973.

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<sup>3</sup> For questions regarding the target/complainant’s rights and participation, school personnel should contact the Newton Public Schools General Counsel and/or the City of Newton Law Department.

- Action concerning School Committee members, employees, administration, faculty, and staff can include but are not limited to paid administrative leave, counseling, awareness training, a written warning/reprimand, and/or termination.
- Action for Parties contracted to perform work for the Newton Public Schools include notification to the employer, request for warning, suspension, or termination, limitation of access to Newton Public Schools property, and/or termination of the contract.
- Action Concerning Volunteers or Third Parties include written warning, restriction of activities, termination or suspension from position, limitation of access to Newton Public Schools property, and/or denial of attendance to Newton Public Schools' activities or functions, as appropriate.

#### 7.4 NPS Statement on School Discipline

U.S. Department of Education Office for Civil Rights data released in 2014, showed significant disparities in school discipline with adverse impact on black students who are suspended and expelled from school at a rate three times greater than white students. In addition, students with disabilities are twice as likely to receive out of school suspension than their peers without disabilities. Time out of school has significant implications for student achievement and success. We therefore join efforts with districts across the nation to reduce, and in some cases, eliminate inequitable disciplinary practices which unfairly and disproportionately impacts specific subgroups of our student population.

We are invested in supporting each students' opportunity to access education, by preventing and responding effectively to any acts of discrimination, and also by limiting the use of suspensions and other punitive measures that remove students from instruction. Instead, we are committed to taking a holistic approach to discipline that is supportive and reparative. While always prioritizing the physical and emotional safety of all members of our community, we are also committed to considering the cognitive, social, emotional and physical capacity and task expectations for each stage of development and encouraging developmentally-appropriate opportunities for learning, growth and repair. The goal of our disciplinary interventions is to modify behavior while building and maintaining our relationships with students in service of seeking to create strong, caring and healthy communities as a whole.

For additional articles on the impact of restorative practices in school communities:

- [Reducing conflicts in school environments using restorative practices: A systematic review](#)
- [Restorative practices and the integration of social emotional learning as a path to positive school climates](#)
- [The Starts and Stumbles of Restorative Justice in Education: Where Do We Go from Here?](#)

#### 7.5 File Keeping

All files, forms, written findings, evidence, determinations, or any other material gathered related to a complaint, report, or investigation must be kept in a file in the individual school's administrative offices, with key complaint/report data entered into the district and school's confidential database for tracking and analysis. In addition, copies of all investigative reports will be maintained in the Office of Diversity, Equity and Inclusion.

- The investigator will file a copy of the report with the school and send a copy to the Office of Diversity, Equity and Inclusion (DEI), which will be maintained in accordance with student record laws by NPS. Only central office administrators and school leaders from schools that are involved in a report will have access to reports and files.

- A copy of relevant support/safety plans, restorative responses and similar documents will be kept on file by the relevant school administrator to ensure implementation of such plans and responses.
- If discipline is involved, the student discipline notices may remain in student's temporary school files, and instances involving suspensions (in-school and out of school) are reported in the student information system (ASPEN) and to DESE per student discipline reporting requirements. Consistent with laws, collective bargaining agreements and past practice, discipline and similar documents may be placed in an employee's personnel file.
- The Office of DEI and/or central administration may use data from investigations and reports, excluding student and staff identifying information, for analysis, and reporting to the School Committee, state and federal agencies. Additionally, reports may be subject to public record requests; however, consistent with governing law, all reports that are responsive to public record requests will be redacted to remove all personally identifying information.

## **8. Forms**

All formal reports and investigations of discrimination are to be completed and submitted through the forms below. Newton Public Schools will collect and archive all information submitted via reporters, investigators, witnesses and/or additional documentation throughout the investigation and in conclusion.

### **8.1**     [Online Discrimination Complaint Form](#)

This form is accessible online for members of the school community who wish to make a report of alleged discrimination by a member of the school community. The information provided will be forwarded to the NPS Department of Diversity, Equity and Inclusion for follow-up and potential investigation.

### **8.2**     [Discrimination Complaint Acknowledgement](#)

This form is to be submitted by an NPS Administrator when a complaint of discrimination and/or harassment toward or by a member of the school community has been reported or observed. Once submitted, an investigator will be designated to follow the Non-Discrimination Protocol and begin the investigation process inclusive of all parties involved. Any findings and conclusion regarding this complaint will be documented in the Discrimination Investigation & Findings Report typically within 15 school days of submission.

### **8.3**     [Discrimination Investigation & Findings Report](#)

In accordance to the NPS Non-Discrimination Protocol, this form is to be completed by the assigned Investigator at the conclusion of a thorough investigation, prompted by a complaint of discrimination (including harassment and/or retaliation) toward or by a member of the school community. Once completed, it is submitted to the Central Administration and Office of Diversity, Equity and Inclusion for filing purposes.