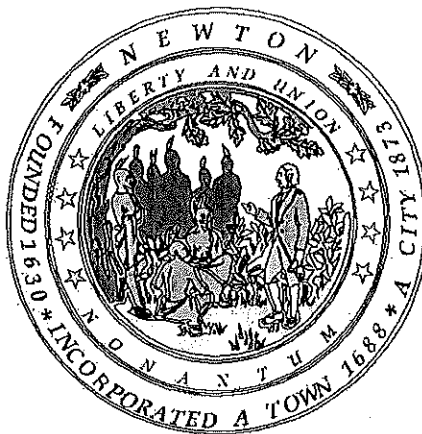


# PROTOCOL FOR REPORTING AND INVESTIGATING DISCRIMINATION, HARASSMENT AND RETALIATION



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# **PROTOCOL FOR REPORTING AND INVESTIGATING DISCRIMINATION, HARASSMENT AND RETALIATION**

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# PROTOCOL FOR REPORTING AND INVESTIGATING DISCRIMINATION, HARASSMENT AND RETALIATION<sup>1</sup>

## 1. General Statement of Non-Discrimination Policy, Including Harassment and Retaliation

### 2. Policy

The Newton Public Schools does do not discriminate against individuals on the basis of race, color, sex, sexual orientation, gender identity, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, homelessness, ancestry, ethnic background or national origin, or any other category protected by state or federal law, in the administration of its educational and employment policies, and in its administered programs and activities, and provides equal access to all designated youth groups. The Newton Public Schools is also committed to maintaining an educational and work environment free from all forms of discrimination, including harassment and retaliation. The Newton Public Schools requires all members of the school community to conduct themselves in an appropriate and respectful manner concerning all other members of the school community.

### 3. Goals

The Newton Public Schools and the Newton School Committee are committed to providing equal educational opportunities and a safe learning and workplace environment free from discrimination, including harassment and retaliation. The Newton Public Schools and the Newton School Committee will not tolerate any form of discrimination, including harassment and retaliation, within the school community. Newton Public Schools will promptly investigate and respond to all allegations of discrimination, including harassment and retaliation, to the fullest extent possible and take appropriate disciplinary, corrective, and remedial measures as necessary to ensure a safe and equitable learning and workplace environment for all school community members.

### 4. Definitions

**Complainant** is an individual who is the alleged victim of conduct covered by the Non-Discrimination Policy, or his/her parent(s) or guardian(s).

A **Complaint** is an oral or written, formal or informal, notification of an incident of discrimination, including harassment and discrimination, made by a complainant of alleged conduct that violates the Non-Discrimination Policy, Including Harassment and Retaliation (hereafter "the Non-Discrimination Policy"). For a student, his/her parent(s) or guardian(s) may also file a Complaint on behalf of their child.

**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

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<sup>1</sup> For questions or guidance regarding this Protocol or the Non-Discrimination Policy, please contact City of Newton Law Department at (617) 796-1240.

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.

**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 victim may include a person reasonably affected by conduct directed toward another individual.

### **Examples of Harassment**

**Disability Harassment** includes, but is not limited to, unwelcome, inappropriate, or illegal physical, verbal, written, graphic, or electronic conduct that denigrates, demeans, or stereotypes a person and/or group based on disability or perceived disability, such as damaging or interfering with use of necessary equipment, imitating manner of movement, using slurs, or invading personal space to intimidate.

**Gender Identity Harassment** includes, but is not limited to, unwelcome, inappropriate, or illegal physical, verbal, written, graphic, or electronic conduct that denigrates, demeans or stereotypes a person and/or group based on actual or perceived gender identity, such as derogatory remarks, slurs, taunting, or invading personal space to intimidate.

**National Origin, Ethnic Background and Ancestry Harassment** includes, but is not limited to, unwelcome, inappropriate, or illegal physical, verbal, written, graphic or electronic conduct that denigrates, demeans or stereotypes a person and/or group based on actual or perceived national origin, ethnic background, or ancestry, such as slurs, insults, or negative comments or graffiti about country of origin, surnames, customs, language, accents, immigration status, or manner of speaking.

**Race or Color Harassment** includes, but is not limited to, unwelcome, inappropriate, or illegal physical, verbal, written, graphic, or electronic conduct that denigrates, demeans or stereotypes a person and/or group based on actual or perceived race or color, such as racial slurs or insults, racial graffiti or symbols, hostile acts based on race, nicknames based on racial stereotypes, negative comments about appearance, imitating mannerisms, taunting, or invading personal space to intimidate.

**Religious Harassment** includes, but is not limited to, unwelcome, inappropriate, or illegal physical, verbal, written, graphic, or electronic conduct that demeans, denigrates or stereotypes a person and/or group based on actual or perceived religion, such as slurs or derogatory comments, graffiti or symbols about a religion, religious beliefs, traditions, practices (including non-belief), or religious clothing.

## **Sexual Harassment**

**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 victim'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 victim may include a person reasonably affected by conduct directed toward another individual.

**Quid pro quo sexual harassment** means any sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. 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
2. 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.

**Sexual Orientation Harassment** includes but is not limited to unwelcome, inappropriate, or illegal physical, verbal, written, graphic, or electronic conduct that denigrates, demeans or stereotypes a person and/or group based on actual or perceived sexual orientation, such as anti-gay slurs or insults, derogatory remarks, graffiti or symbols, taunting, or invading personal space to intimidate.

**Hate Crimes** are crimes motivated, at least in part, by hate or bias, or where the victim 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.<sup>2</sup>

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 perpetrator's protected class is different than the victim's;
- The incident occurs while the victim was promoting a racial, religious, ethnic or national origin, disability, gender, gender identity, or sexual orientation group, such

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<sup>2</sup> For further information on potential hate crimes, please see Memorandum of Understanding Between Newton Public Schools and Newton Police Department.

as attending an advocacy group meeting, participating in a students' gay-straight alliance, or a disability rights demonstration.

**Hostile Environment** is where physical, verbal, written, graphic or electronic conduct 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.

**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.

**Perpetrator** 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.

**Protected Classes** include classes, groups, members, or an individual of a race, color, sex, sexual orientation, gender identity, religion, disability, age, genetic information, active military or veteran status, marital status, familial status, homelessness, ancestry, ethnic background or national origin, whether actual or perceived, as protected by the Non-Discrimination Policy, or state or federal law.

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 victim of the alleged conduct (except for the parent/guardian filing on behalf of his/her child), that violates the Non-Discrimination Policy.

**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.

The **School Community** includes the Newton School Committee, administration, faculty, staff, students, and volunteers in a school(s), and parties contracted to perform work for the Newton Public Schools, subject to school authority.

**Target or Victim** is a member of the school community against whom discrimination, including harassment and retaliation, has been perpetrated.

**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 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 a 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. The Protocol will also apply to acts by third parties perpetrated at the above-referenced locations and/or during the above-referenced activities.

#### 4. Responsibilities

- a. Each Member of the School Community is responsible for:
  - i. Complying with the Non-Discrimination Policy and the Protocol For Reporting and Investigating Discrimination, Harassment and Retaliation.
  - ii. Ensuring that he/she does not discriminate against, harass, or commit a crime against another person on school grounds or in a school-related activity because of that person's race, color, sex, sexual orientation, gender identity, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, homelessness, ancestry, ethnic background or national origin.
  - iii. Ensuring that he/she does 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, including 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:
  - i. 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.

- ii. Cooperating with the Newton Public Schools' efforts to prevent, respond effectively to, and eliminate discrimination, including harassment and retaliation, and hate crimes.
- iii. Promptly reporting all information he/she knows concerning possible discrimination, including harassment and retaliation, or a hate crime, to a designated official when he/she witnesses or becomes aware of conduct occurring on school grounds or at a school-related activity, or any other circumstance defined in "Protocol Application."

## 6. Complaint and Reporting Processes

### 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 not later than 180 calendar days of the alleged incident. Such time limit, however, may be waived for good cause, as documented in the investigative file.

### b. Investigation Guidelines

The "designated official" will be in charge of overseeing an investigation. He/she 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, 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, student records, and other items and documents relevant to the allegations. In every investigation both parties (the alleged victim and the alleged perpetrator) 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 designated official should make reasonable efforts to regularly inform the complainant, the alleged perpetrator, and, if applicable, their parent(s) or guardian(s), of the status of the complaint.<sup>3</sup>

### c. Who is the Designated Official?

#### i. Issues involving **Two or More Students**

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<sup>3</sup> If an investigation concerns a potential civil rights violation involving physical injury or potential First Amendment issues, please contact City of Newton Law Department at (617) 796-1240.



In cases involving any incident between two or more students, the principal of the school or his/her designee will be the designated official for receiving complaints and reports, implementing the appropriate resolution and investigative procedures, determining appropriate disciplinary, corrective and remedial action, and documenting the implementation of this Protocol. The designated official will give notice of the complaint or report, and where requested, copies of all records and information throughout the resolution and investigative process to the Assistant Superintendent for Student Services.

ii. Issues involving **Two or More Non-Students**

In cases involving any incident between two or more non-student members of the school community, the principal of the school or his/her designee will be the designated official for receiving complaints and reports, implementing the appropriate resolution and investigative procedures, determining appropriate disciplinary and corrective action, and recording file entries throughout implementation of this Protocol. If a complaint or report involves an allegation against a staff member, the principal/designee will inform the Director of Human Resources and the staff member of the allegation and investigation, and will also consult with the Director of Human Resources prior to interviewing the staff member. In cases involving the principal or his/her designee, the designated official will be the Director of Human Resources. The designated official will give notice of the complaint or report, and where requested, copies of all records and information throughout the investigative and resolution process to the Director of Human Resources.

iii. Issues involving a **Student AND a Non-Student**

In cases involving any incident between a student and a non-student, the Assistant Superintendent for Student Services and the Director of Human Resources will both be designated officials for receiving complaints and reports, implementing the appropriate resolution and investigative procedures, determining appropriate disciplinary, corrective and remedial action, and documenting implementation of this Protocol. The designated official will give notice of the complaint or report, and where requested, copies of all records and information throughout the investigative and resolution process to the Superintendent.

iv. Issues involving **Central Office Administrators**

In cases where either the Assistant Superintendent for Student Services, Assistant Superintendent for Elementary Education, Assistant Superintendent for Secondary Education and Special Programs, Assistant Superintendent of Business and Finance, Assistant Superintendent of Teaching and Learning, Chief of Operations or the

Director of Human Resources is involved in the report or complaint, the Superintendent, or his/her designee, will be the designated official. In cases where the Superintendent is involved in the report or complaint, the Newton School Committee, or its designee, will be the designated official.

d. 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 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. Students are encouraged to file a written "Discrimination Complaint/Report Form," but its use is not mandatory. Where requested or needed, students, or their parent(s)/guardian(s), will be provided assistance in preparing a Complaint/Report Form. Although not preferred, students may file an anonymous complaint or report (the school community should be informed that anonymous filings will likely undermine the ability to investigate or address such alleged incident).

e. 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 designated official, 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.

f. Mandatory Reporting Guidelines

All non-student members of the school community are required to report to the appropriate designated official 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. All reports should include a completed "Discrimination Complaint/Report Form" and should be signed by the reporting party. No mandatory report may be filed anonymously. Failure to comply with the mandatory reporting requirement of this Protocol may lead to disciplinary action.

## **7. Investigation and Resolution Procedures**

### **Step One**

The designated official will notify the complainant and alleged perpetrator of a time and date at which each will have a separate interview to discuss the incident. The interviews shall take place as soon as practicable. Except for good cause, as documented in the investigative file, interviews of the parties must be completed within three (3) school days from the initiation of the Resolution Procedures.

Notification of Parents/Guardians: Within three (3) school days of receiving a complaint or report under this Policy, the designated official shall notify the parents/guardians of a student complainant or victim and the parents/guardians of a student who has been alleged as a perpetrator. Such notification may be made by telephone, writing or in-person. The date, time, method, and location (if applicable) of such notification and communication shall be noted in the investigative report. All notifications shall be consistent with the student privacy rights under the applicable provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).

During the designated official's interview with the complainant, the designated official should notify a student complainant and his/her parents/guardians that the school will, to the extent practicable, keep the complainant's identity confidential throughout the investigation, unless there is a need to know to investigate and/or resolve the complaint, or needed to provide corrective or remedial measures for the complainant. In addition, the designated official should explain to the complainant and, if applicable, the complainant's parent(s)/ guardian(s), that the school may release, at the very least, the complainant's name to the alleged perpetrator, to ensure a fair investigation.

After the interviews of the parties, the designated official may suggest a resolution to the parties, if he/she deems a speedy resolution appropriate (but may not use this process when it involves allegations of severe, persistent or pervasive forms of harassment or retaliation.) If the resolution is agreed to, the designated official should proceed to Step Four. However, if the resolution is not agreed to, the designated official should continue to Step Two.

### **Step Two**

The designated official will conduct an investigation following the Investigation Guidelines outlined in this Protocol. The investigation should be completed within ten (10) school days of the interviews discussed in Step One, except for good cause, as documented in the investigative file. If the designated official determines it necessary at any time during the investigation, he/she may take emergency protective or disciplinary measures to ensure the complainant's safety or the safety of the school community. The

designated official will also make appropriate referrals for complainant assistance, including counseling and crisis intervention, if requested, or as needed.

Extension: If the designated official deems it necessary, due to the severity of the allegations or the need for discovery of further information, an investigation may be extended beyond the ten (10) school day limit. However, as soon as it is determined that more time is necessary, the designated official must notify the complainant, alleged perpetrator, any parent/guardian, if applicable, and the Assistant Superintendent for Student Services, if the victim is a student, or the Director of Human Resources, if the complainant is a non-student member of the school community.

### **Step Three**

Upon completion of the investigation, the designated official will prepare a written report summarizing the key factual findings and stating whether, by a preponderance of the evidence,<sup>4</sup> the allegations were proven in the course of the investigation, and whether the Non-Discrimination Policy has been violated. This written report shall be completed no later than 30 days (unless there is a reasonable cause for delay) after the completion of the investigation. If the allegations are proven and are considered violations of the Non-Discrimination Policy, the designated official will determine the appropriate disciplinary and corrective action for the perpetrator and the appropriate corrective action (i.e., protective measures) and remedial measures for the victim and/or school community. The designated official will keep a copy of his/her report documenting all action taken, and also send a copy to the Assistant Superintendent for Student Services, if the victim is a student, or the Director of Human Resources, if the victim is a non-student member of the school community.

Basis For Determining Whether Policy Violated: In making a determination of whether, by a preponderance of the evidence, a violation of the Non-Discrimination Policy has occurred, the designated official(s) shall consider all the facts and surrounding circumstances, including, for example, the context, nature, frequency and severity of the behavior, how long the wrongful conduct continued, where the incident(s) occurred, the number of persons involved in the wrongful conduct, the ages of and relationships between the parties, consideration of special needs or status of the individual, past incidents or patterns of behavior,

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<sup>4</sup> Preponderance of the evidence means the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other. Black's Law Dictionary 1301 (9<sup>th</sup> ed. 2009).

and the extent to which the conduct adversely affected the education, school or work environment of the complainant and other school community members.

Taking Appropriate Action For Students: Such action shall include imposing discipline and/or corrective and remedial action reasonably calculated to end the conduct, deter future conduct, and remedy the effects of the discrimination, including harassment or retaliation, or other prohibited conduct, on the student victim(s) and the school community, as applicable.

#### **Step Four**

The designated official will close the file, and within two (2) school days of making the determination, notify all parties, and if a student, their parent(s)/guardian(s), of the results of the investigation and any action taken that pertains to them, and provide the parties with a list of further steps available for the parties to take, including, but not limited to, the appeal process and other legal recourse. The designated official will attempt notification of a student's parents/guardians via telephone, with a notification letter sent to the parties, and if a student, their parents(s)/guardian(s). The designated official will follow-up with the victim and perpetrator no less than weekly for ninety (90) school days from closing the file in order to ensure retaliation does not occur and that the issue has been resolved. In addition, the designated official will prepare a brief written report after each follow-up.

#### **8. Non-Cooperation of Student Victims**

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

#### **9. Disciplinary Action, Corrective Action, and Remedial Measures**

##### **a. Available Disciplinary Actions**

Upon a finding of discrimination, including harassment and retaliation, the designated official will determine and apply such disciplinary action as deemed appropriate, to stop the behavior and prevent its reoccurrence. Disciplinary action will not be disclosed to the victim, unless it specifically pertains to the victim (For example: a "stay away" order). Disciplinary actions may include, but are not limited to:

##### **i. Disciplinary Action for Students**

Possible disciplinary action could include a written warning, in-school suspension, short or long-term suspension, involuntary transfer, revocation of bus privileges, and/or any other action authorized by 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. For harassment and other civil rights violations, the District will apply processes and carry out disciplinary hearings that provide the victim any rights it provides the alleged perpetrator, as required by federal civil rights laws.<sup>5</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.

ii. Action concerning School Committee, employees, administration, faculty, and staff

Can include but not limited to counseling, awareness training, a written warning, a last chance agreement, involuntary transfer, suspension, and/or termination.

iii. Action for Parties contracted to perform work for the Newton Public Schools

Notification to the employer, request for warning, suspension, or termination, limitation of access to Newton Public Schools property, and/or termination of the contract.

iv. Action Concerning Volunteers or Third Parties.

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.

b. Corrective Action and Remedial Measures for Students

The designated official will determine if corrective action and remedial measures are necessary to end the conduct, deter future conduct, and remedy the effects of the discrimination, including harassment or retaliation, on the victim 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 remedial measures must be documented in

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<sup>5</sup> With regard to victim’s rights and participation, please contact the City of Newton Law Department at (617) 796-1240.

the investigative file and must not interfere with or violate any other school or District Policies and Practices.

Corrective Action concerning a student victim may include, but is not limited to, adopting a written safety plan to implement protective measures. Corrective action for the perpetrator may include, but is not limited to, classroom transfer; 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 victim; an essay discussing their behavior and its consequences, counseling for the perpetrator; awareness training (to help the student perpetrator understand the impact of the behavior); and/or any other action consistent with the student code of conduct.

Remedial action may include providing or referring the student victim for counseling or victim assistance services, and providing tutoring or other educational supports or accommodations. Remedial 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.

## **10. Availability of an Appeal**

### **a. Appeal from Designated Official's Decision**

Any party may appeal the determination of a designated official to the Superintendent, or his/her designee. The Superintendent, or his/her designees, will have ten (10) school days to determine whether or not to reopen the file. If the file is reopened, the Superintendent, or his/her designee, will become the designated official and perform further investigation pursuant to the Resolution Procedures, as he/she deems necessary and appropriate. If the file is not reopened, the Superintendent, or his/her designee, will provide notice to the appealing party and file the notice accordingly. The Superintendent or his/her designee's decision is not appealable at the school district level, but may be appealed pursuant to Massachusetts and Federal laws.

### **b. Options available at any time**

At any time, whether or not an individual files a complaint or report 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.

- i. 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
- ii. 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
- iii. Massachusetts Commission Against Discrimination (“MCAD”)  
One Ashburton Place, Boston, MA 02108  
Tel: (617) 994-6000; Fax: (617) 994-6024
- iv. Massachusetts Department of Elementary and Secondary Education  
Program Quality Assurance Services  
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.

## **11. 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 data base for tracking and analysis. In addition, copies of all investigative reports must be maintained in the offices of the Superintendent, Director of Human Resources, and Assistant Superintendent for Student Services. All files should be kept confidential.

## **12. Additional Provisions**

### Law Enforcement Involvement

Police involvement in situations that involve students of the Newton Public Schools is governed by the “Memorandum of Understanding, Between Newton Public Schools and Newton Police Department” (“MOU”). This MOU is meant to promote a safe and nurturing environment in the school community. This joint effort will focus on incidents that take place on school property, at school-related activities, and at other locations in which students of the Newton Public Schools are involved or affected.

## **13. Forms**

See attached.



**Newton Public Schools  
Discrimination Complaint/Report Form**

Name of Person filling out this complaint/report (can be anonymous): \_\_\_\_\_

Your contact information/telephone number: \_\_\_\_\_

Name(s) of Complainant/Reporter	School _____	Age _____	Grade/Position _____
If reporter, name of 'victim'	School _____	Age _____	Grade/Position _____

Name(s) of Alleged Perpetrator(s) School \_\_\_\_\_ Age \_\_\_\_\_ Grade/Position \_\_\_\_\_

Name(s) of Witness(es) and contact information

Date of Incident: \_\_\_\_\_ Time of Incident: \_\_\_\_\_ Location of Incident: \_\_\_\_\_

Is this incident discrimination, harassment, or retaliation? (Please circle all that apply.)

Please describe the details of the incident, being as specific as possible. Please use additional space on the back, if necessary.

Give any background information that may help explain how or why the incident occurred.

Signature of Person Filing this Complaint/Report: \_\_\_\_\_ Date: \_\_\_\_\_

Form Given to: \_\_\_\_\_ Position: \_\_\_\_\_ Date: \_\_\_\_\_

**For Office Use Only**

Designated Official Receiving Report:

Date:

<b>Newton Public Schools Investigation Findings Form</b>
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Name(s) of Complainant(s) and/or Protected Class(es) School _____ Age _____ Position _____
---

Name(s) of Perpetrator(s) School _____ Age _____ Position _____
--

Date of Incident: _____ Time of Incident: _____ Location of Incident: _____
---

Is this investigation for discrimination, harassment, or retaliation? (Please circle all that apply)
--

Were the allegations proven?    Yes    No    Will disciplinary action be taken?    Yes    No
Will corrective action be taken?    Yes    No    Will remedial action be taken?    Yes    No

Please state the findings of this investigation in as much detail as possible, including all action to be taken. Please use additional space on the back if necessary.
--

Signature of Designated Official: _____ Date: _____
Printed Name of Designated Official: _____ Position: _____

<b>For Office Use Only</b>
Administrator Receiving Report: _____ Date: _____