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# Haverhill Public Schools

## *Title IX Coordinator*

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### **Title IX Grievance Procedures**

(effective August 1, 2024)

The Haverhill Public Schools (“District”) is committed to maintaining school environments free of discrimination based upon sex. Sex discrimination in any form or for any reason is prohibited. This includes sexual discrimination by administrators, personnel, students, vendors, and other individuals or at school related events.

The District, in accordance with the Title IX of the Education Amendments of 1972 (“Title IX”), declares that the school district does not and will not discriminate on the basis of sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, marital status, familial status, pregnancy or pregnancy-related conditions and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

Retaliation against any individual who has brought sexual discrimination to the attention of school officials, or against an individual who has participated, or refused to participate, in the investigation thereof is unlawful and will not be tolerated. Conduct that may reasonably constitute retaliation is subject to this Grievance Procedure.

Inquiries about Title IX may be referred to the District’s Title IX Coordinator. The District Title IX Coordinator is:

#### **Title IX Coordinator for Students:**

**Maureen Irons, Safe and Supportive Schools Liaison, Title IX Coordinator**

137 Monument Street, Haverhill, MA 01832

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#### **Title IX Coordinator for Employees:**

**Sandra McArthur, Director of Human Resources, Title IX Coordinator**

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## **Scope**

The Title IX Sexual Discrimination Grievance Procedure (“Grievance Procedure”) has been developed in accordance with the Title IX Regulations, 34 CFR Part 106, effective August 1, 2024, which mandates specific procedures for responding to and investigating allegations of sexual discrimination under Title IX. This Grievance Procedure applies to all allegations of sexual discrimination under Title IX, including sex-based harassment which is further defined in the Definitions section below. For the purposes of this procedure the term “sexual discrimination” shall include the terms “sex-based harassment” and “sexual harassment” except as may otherwise be distinguished.

Allegations of conduct that meet the definition of sexual discrimination, including sex-based harassment and sexual harassment under Title IX, will be addressed through the Grievance Procedure. Allegations of conduct that meet the definition of sexual discrimination, including sex-based harassment and sexual harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual Discrimination Harassment Grievance Procedure. Nothing in the District’s Grievance Procedure and guiding policies, shall limit the District’s ability to take disciplinary action or exercise its managerial rights consistent with local policy, state & federal law.

## **Grievance Procedure**

In responding to allegations of sexual discrimination, the District is committed to the following:

- 1) The District will treat complainants and respondents equitably.
- 2) The District requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.
- 3) The District presumes that the respondent is not responsible for the alleged sexual discrimination until a determination is made at the conclusion of its grievance procedures.
- 4) The District will maintain, with exception of good cause for delay, timeframes for each stage of the grievance procedures. Parties shall be notified in the event the District identifies a need to delay.
- 5) The District will take reasonable steps to protect the privacy of the parties, witnesses, and participants confidential, except as permitted by the Family Education Rights and Privacy Act (“FERPA”), Massachusetts Student Records & Privacy Law, as otherwise required by law, and/or as necessary during its grievance procedures. This shall not restrict the ability of parties to obtain and present evidence including by speaking to witnesses; consult with their

family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.

- 6) The District will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Inculpatory evidence refers to evidence tending to indicate responsibility and exculpatory evidence refers to evidence tending to indicate non-responsibility. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
- 7) The following types of evidence, and questions seeking that evidence, are impermissible, regardless of their relevance:
  - a. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
  - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the District obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
  - c. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.
- 8) In the course of implementing supportive measures, informal resolution, and/or a grievance procedure, and throughout the same, if either a complainant or respondent is identified as an elementary or secondary student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

## **Definitions**

### **Complainant:**

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

Complaint: an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or this part.

### **Confidential Employee:**

- (1) An employee of a recipient whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
- (2) An employee of a recipient whom the recipient has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.

**Disciplinary Sanctions:** consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

**Party:** a complainant or respondent.

**Peer retaliation:** retaliation by a student against another student.

### **Pregnancy or related conditions:**

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

**Relevant:** related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

**Remedies:** measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

**Respondent:** a person who is alleged to have violated the recipient's prohibition on sex discrimination.

**Retaliation:** intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process. Nothing in this definition or this part precludes the District from requiring an employee or other person authorized by the District to provide aid, benefit, or service under the recipient's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.

**Sex-based Harassment:** a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the bases described, that is:

(1) Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;

(ii) The type, frequency, and duration of the conduct;

- (iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - (iv) The location of the conduct and the context in which the conduct occurred; and
  - (v) Other sex-based harassment in the recipient's education program or activity; or
- (3) Sexual Assault, Dating Violence, Domestic Violence, and Stalking as defined by federal law.

**Supportive measures:** individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- (2) Provide support during the recipient's grievance procedures

Supportive measures available to complainants and respondents include but are not limited to: counseling; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the building and/or campus; and other similar measures. Violations of the restrictions imposed by supportive measures may be considered a violation of school rules and may also be considered in determining whether sexual discrimination.

### **Responding to Allegations of Sexual Discrimination**

**Reporting.** The Title IX Coordinator shall be responsible for coordinating the District's response to all allegations of sexual discrimination. The Title IX Coordinator may designate another staff member this responsibility depending on the needs of the District. All employees of the District must promptly report allegations of sexual discrimination to their supervisor (e.g., building based Principal) or the Title IX Coordinator / or designee directly. Allegations against an employee's direct supervisor may be directed to the office of the Superintendent.

**Informal Resolution.** At any time prior to determining whether sex discrimination occurred, the District may offer to a complainant and respondent an informal resolution process, unless the complaint includes allegations that an employee engaged in sex-based discrimination against a student or such a process would conflict with Federal, State or local law. The District may decline to offer informal resolution if it does not believe it to be appropriate (ex: There is a risk

of future harm to others). The District must not require or pressure the parties to participate in an informal resolution process. The District must obtain the parties' voluntary consent to the informal resolution process.

Prior to initiation of informal resolution, the District will notify the parties of the nature of the allegations, any requirements of the informal resolution process, and the right to presume/initiate the grievance procedures. The facilitator for the informal resolution process will be trained and will not be the same person as the investigator or the decisionmaker in the grievance procedures. Parties will be notified that a resolution at the conclusion of such informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations. Informal Resolution is only binding on those parties that consent to participating in it.

Potential terms that may be included in an informal resolution agreement include but are not limited to:

- (i) Restrictions on contact; and
- (ii) Restrictions on the respondent's participation in one or more of the District's programs or activities or attendance at specific events, including restrictions the District could have imposed as remedies or disciplinary sanctions had the District determined at the conclusion of the District's grievance procedures that sex discrimination occurred.

***Initiating the Grievance Procedures.*** Upon receiving notice of alleged discrimination, the Title IX Coordinator shall meet with the Complainant, or alleged victim, to gather additional information about the allegations, explain the Grievance Procedures, informal resolution, offer supportive measures, and act promptly and effectively to end any ongoing discrimination. If the Complainant chooses to initiate the Grievance Procedures, the Title IX Coordinator will provide written notification to the Complainant and Respondent. That notice shall include:

- The District's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s) (if known);
- A statement prohibiting retaliation; and
- A statement prohibiting knowingly submitting false information

In absence of a complaint, the Title IX Coordinator may determine whether to initiate a complaint of sex discrimination on behalf of the district. In doing so, they must consider the complainant's requests, safety concerns, risks of additional misconduct, the nature scope, and severity of the allegations, the age and relationship of the parties, the availability of evidence,

and the districts ability to end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the recipient from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

**Investigation.** The Title IX Coordinator /or designee will assign an Investigator to each Complaint of discrimination based upon sex. This person may be the Title IX Coordinator themselves. The Investigator shall be responsible for seeking and gathering evidence relative to the investigation.

The Investigator may may impose reasonable timeframes on all parties as required to facilitate the timely completion of the investigation. The investigator may extend any of the timeframes beyond the time periods identified in this Procedure for good cause. As a general rule, the Investigator will complete the investigation within thirty (30) days of the parties being notified of the Complaint.

Each party has equal opportunity to access evidence upon request and respond to such evidence. Parties may submit evidence and/or provide information they believe to be relevant to the investigation. However, the District shall not require, allow, rely upon, or otherwise use evidence that constitutes information protected from disclosure by a legally recognized privilege, unless it has been waived by the holder of the privilege.

**Determination.** Upon completion of the investigation, a Decision-Maker, who may be the same person as the Investigator or the Title IX Coordinator, shall issue a written determination to be submitted to both parties. The determination shall be based on an objective review of all relevant evidence. The standard of proof utilized shall be a preponderance of the evidence. Except where the parties have agreed to an extension of the timeline or where the process is otherwise reasonably delayed, the written determination shall be issued within sixty (60) school days of receipt of the Formal Complaint.

If the decision-maker determines that sexual discrimination occurred, they will make recommendations on sanctions and remedies to restore / ensure access to education. Persons who violate said policy may receive to disciplinary action, including but not limited to, reprimand, suspension, and/or termination, subject to state & federal law (e.g., MGL Chapter 71, §§ 37H 3/4).

No discipline may be imposed on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination. Notwithstanding this, the District shall not be precluded from addressing the allegations under other relevant District policies or procedure(s), including, but not limited to: the student Code of Conduct, Collective Bargaining Agreements, or the Bullying Prevention and Intervention Plan.



**Appeals.** Either party may appeal a determination of responsibility or dismissal of a Complaint for the following reasons:

- procedural irregularity that affected the outcome of the matter;
- newly discovered evidence that could affect the outcome of the matter; and/or
- Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

An appeal must be submitted in writing to the Superintendent within five (5) calendar days after receiving a determination of responsibility or notice of dismissal, unless the Superintendent, in their discretion, grants an extension. The Superintendent shall notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent and implement appeal procedures equally for the parties. Both parties will be provided a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome and will be notified of the result of the appeal and the rationale for the result.

The Superintendent and/or their designee shall issue a decision no later than thirty days of the date of the receipt of the appeal.

**Dismissal.** The District may dismiss a complaint of sex discrimination if:

- The District is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the District's education program or activity and is not employed by the District;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the District determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX.

Upon dismissal, the District will promptly notify the complainant, or both parties in the event the Respondent has been notified, in writing the basis for the dismissal. Dismissals may be appealed on the following grounds:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

When a complaint is dismissed, the District will, at a minimum:

- Offer supportive measures to the complainant as appropriate;

- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the District's education program or activity.

***Emergency Removal.*** Nothing shall preclude the District from removing a respondent on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

***Administrative Leave.*** Nothing in this part precludes the District from placing an employee respondent on administrative leave from employment responsibilities during the pendency of the recipient's grievance procedures.

***Records.*** Records related to this procedure will be maintained for a period of seven (7) years.