

Melrose Public Schools

Discrimination and Harassment Grievance Procedures

The Melrose Public Schools is committed to maintaining school environments free of discrimination and harassment based on race, color, religion, national origin, gender, sexual orientation, gender identity, age or disability. Harassment or discrimination by administrators, teachers, certified and support personnel, students, vendors and other individuals at school or at school-sponsored events is unlawful and is strictly prohibited.

Definitions

For the purposes of this procedure:

- A. “Discrimination” means discrimination or harassment on the basis of race, age, color, national origin, sex, sexual orientation, gender identity, disability or religion by which an individual is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity of the school district.

- B. “Harassment” means unwelcome conduct on the basis of race, age, color, national origin, sex, sexual orientation, gender identity, disability or religion that is sufficiently severe, persistent or pervasive to create a hostile environment for the individual at school. Harassment may include insults, name-calling, off color jokes, threats, comments, innuendoes, notes, display of pictures or symbols, gestures, or other conduct which rises to the level of a hostile environment.

- C. “Sexual Harassment” means unwelcome, sexually offensive or gender-based conduct which is sufficiently severe, persistent or pervasive to create a hostile environment for the individual at school. Additionally, under M.G.L. c. 151C, § 1, the term “sexual harassment” may also include, but is not limited to, sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:— (i) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (ii) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.

When determining whether an environment is hostile as referenced in paragraphs B and C, the school district examines the context, nature, frequency, and location of the incidents, as well as the identity, number and relationships of the persons involved. The school district must consider whether the alleged harassment was sufficient to have

created such an environment for a reasonable person of the same age, gender, and experience as the alleged victim, and under similar circumstances.

Discrimination, Harassment and Retaliation Prohibited

Harassment and discrimination in any form or for any reason is prohibited. This includes harassment or discrimination by administrators, certified and support personnel, students, vendors and other individuals in school or at school related events. Retaliation against any individual who has brought harassment or discrimination to the attention of school officials or who has cooperated in an investigation of a complaint under this procedure is unlawful and will not be tolerated by the Melrose Public Schools.

Persons who engage in harassment, discrimination or retaliation may be subject to disciplinary action, including, but not limited to reprimand, suspension, termination/expulsion or other sanctions as determined by the school district administration, subject to applicable procedural requirements.

For the purpose of this Procedure, the term “Principal” shall mean “Principal or designee.”

How to make a complaint

The individual who experienced alleged discrimination or harassment will be referred to as the “alleged victim.” The individual who is alleged to have engaged in harassment or discrimination will be referred to as the “alleged offender.” When the alleged victim and the alleged offender are discussed collectively, they will be referred to as “the parties” and may be referred to as a “party.” There may be instances where another person, who has not experienced but is aware of the occurrence of prohibited conduct, may bring a complaint under this Procedure, and that person is referred to as the “reporter.” In those limited circumstances, the District will determine which of the protections provided to the alleged victim under the Procedure are also applicable to the reporter.

Any student or employee who believes that he/she has been discriminated against or harassed should report their concern promptly to the Principal. Students may also report incidents of harassing conduct to a teacher, administrator or other District official. Any complaint received by a school personnel should be promptly reported to the Principal or Civil Rights Coordinator. If the Principal receives the report, he or she will notify the Civil Rights Coordinator of the Complaint. Students or employees who are unsure whether discrimination or harassment has occurred are encouraged to discuss the situation with the Principal.

- A. Any District employee who observes discrimination or harassment must report the incident to the Principal or Civil Rights Coordinator, identified below. A failure to do so may result in remedial or corrective action. Any District employee who observes a discrimination or harassment against a student should intervene to stop the harassment. Upon receipt of a report of discrimination or harassment, the Principal shall promptly inform the relevant Civil Rights Coordinator of the report. If the report involves and

accusation against the Principal or Civil Rights Coordinator, the employee shall report the incident to the Superintendent or designee.

- B. **Anonymous Reports:** Alleged victims and reporters should be aware that although the District will often be able to maintain confidentiality of reporting persons, the District may sometimes be required to take actions to protect the safety of the school community that may result in the identity of the reporting person being disclosed (to the police, for example). When reporters or alleged victims seek to remain anonymous or have their identities kept confidential, they will be informed that honoring such a request may limit the ability of the District to respond fully to any reported event, including discipline against an alleged offender, that the retaliation against individuals who report discrimination or harassment is prohibited.
- C. **Informal Reports:** Individuals may wish to file a formal complaint of discrimination or harassment, or to report informally (i.e., without initiating a formal complaint). Such informal reports may be made to the Principal or Civil Rights Coordinator. The District shall inform anyone making an informal report that he or she may initiate a formal complaint at any time, regardless of what steps are being or have been taken in response to an informal report.
- D. **Informal Process:** If the District concludes that it is possible to resolve a matter, whether after formal complaint or an informal report, in a prompt, fair and adequate manner through an informal process involving and with the consent of the alleged victim and alleged offender, the District may seek to do so. The informal process is voluntary and the alleged victim and/or alleged offender may terminate or decline any informal process at any time, without penalty. No person reporting that he or she has been sexually assaulted will be asked to work out the problem directly with the individual alleged to be harassing him or her.
- E. **Formal Process:** A formal complaint shall state (if known to the reporter or alleged victim) the name(s) of the persons involved and witnesses to the conduct, describe the conduct, identify, to the extent possible, the dates and locations of the conduct. The complaint shall be signed and dated by the reporter and/or alleged victim. Complaints will be investigated promptly and equitably by the Civil Rights Coordinator or Principal. Investigations may be initiated whenever warranted, in the absence of a formal complaint, or after a formal complaint has been withdrawn. Where an alleged victim specifically requests that a complaint not be investigated, an investigation may be initiated if the Civil Rights Coordinator or Principal determines that the facts warrant an investigation. The Civil Rights Coordinator or Principal will take into account concerns articulated by the parties, the best interests of the community, fairness to all concerned, and the District's legal obligations under applicable state and federal laws.
- F. **Initial Assessments:** The Civil Rights Coordinator or Principal will make an initial assessment following a complaint. Based on that assessment, the Civil Rights Coordinator or Principal may act as follows: (a) if the conduct, even if substantiated,

would not constitute harassment or discrimination, the Civil Rights Coordinator or Principal may dismiss the complaint; (b) if the alleged conduct (or complaint) is could not, even if true, constitute discrimination or harassment, but is within the scope of another procedure, the Civil Rights Coordinator or Principal may refer the matter to the appropriate personnel; (c) if the Civil Rights Coordinator or Principal concludes that it is possible to resolve the complaint in a prompt, fair and adequate manner through an informal process involving and with the consent of both parties, the Civil Rights Coordinator or Principal may seek to do so in accordance with Section D, above; or (d) if the alleged conduct, if substantiated, would constitute discrimination or harassment, the Civil Rights Coordinator or Principal will initiate an investigation. The Civil Rights Coordinator or Principal may also identify and initiate any interim measures (see Section G, below).

- G. Interim Measures: The District will provide prompt and reasonable interim measures, if appropriate, to support and protect the safety of the parties, the educational environment, and the District and/or school community; to deter retaliation; and to preserve the integrity of the investigation and resolution process. Upon receipt of a complaint, the Civil Rights Coordinator or Principal will identify whether reasonable interim measures are appropriate. Interim measures may be provided regardless of whether a formal complaint is filed. Interim measures may include: (1) access to counseling services; (2) changes to class schedules; (3) no contact orders (administrative remedy designed to curtail or bar contact or communications among individuals); and (4) any measures consistent with law and the District's educational mission that can be used to achieve the goals of this Procedure. Interim measures should be designed in a fair manner to meet the goal stated in this section and so as to minimize the impact on all affected, including the alleged victim and alleged offender. Requests for interim measures should be directed to the Principal or Civil Rights Coordinator. As stated above, the Civil Rights Coordinator or Principal will identify whether reasonable interim measures are appropriate regardless of whether or not such measures are requested. Violations of the restrictions imposed by interim measures could be considered a violation of school rules and may be considered in determining whether discrimination or harassment has occurred.
- H. Leniency on Other Procedure or Rule Violations: To encourage reports of discrimination or harassment, the District may at any point in an investigation offer leniency with respect to violations of other District or school policies that may come to light as a result of such reports, depending on the circumstances.
- I. Timeframes: The District will seek to complete any investigation within twenty (20) school days after receipt of a complaint. The investigator may impose reasonable timeframes on all parties to allow the timely completion of the investigation. The investigator may extend the investigation period beyond the time period identified above because of extenuating circumstances, including but not limited to availability and

cooperation of witnesses, complexity of the investigation, school vacation periods, and the involvement of law enforcement and other outside agency investigations. If a complaint or report of discrimination or harassment is received after June 1 of a given school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the above-referenced time frame, but may extend the investigation period to account for the availability of witnesses during the summer vacation period. If the investigator extends the investigation, he or she will notify the alleged victim of the extension. Although cooperation with law enforcement may require temporary suspensions of an investigation, the District will promptly resume its investigation upon being advised that law enforcement's evidence gathering is completed. If appropriate, the District will continue to provide appropriate interim measures throughout the investigation, including during any suspension or extension of the investigation.

- J. Under the formal resolution procedure, the complaint will be investigated by the Principal, Civil Rights Coordinator or other individual designated by the Principal or Civil Rights Coordinator. Any formal complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. During the formal resolution procedure:
1. The alleged victim shall be provided with an opportunity to be heard and have the opportunity to identify witnesses and other relevant evidence to the investigator.
 2. The alleged offender will be provided with an opportunity to be heard as part of the investigation including the opportunity to provide relevant information and identify witnesses for the investigator's consideration.
 3. The privacy rights of the parties shall be maintained in accordance with applicable state and federal laws.
 4. The investigator will keep a written record of the investigation process.
 5. The investigation will be completed within twenty (20) school days of the date of receipt of the complaint.
 6. The notification of the outcome of the investigation, including a description of the remedies taken, will be provided to the parties within twenty-five (25) school days of the receipt of the complaint.
 7. Nothing in this Procedure will preclude the investigator, in his or her discretion, from completing the investigation sooner than the time period described above.
- K. Standard of Proof: The investigation shall made factual findings based on a preponderance of the evidence standard.
- L. If the investigator determines that discrimination or harassment has occurred, the school district administration shall take steps to eliminate the discriminatory or harassing environment, which shall include but is not limited to:

1. Identifying what steps are necessary to prevent recurrence of any discriminatory behavior, including but not limited to harassment, and to correct its discriminatory effects if appropriate; and
2. Informing the alleged victim and alleged offender of the results of the investigation (in accordance with applicable state and federal privacy laws) in accordance with the above timelines.

The school district administration may also refer the offender for disciplinary procedures to be conducted in accordance with federal and state law. Nothing in the Procedure shall be interpreted as limiting or prohibiting the District's ability to take appropriate disciplinary action against the offender in accordance with the applicable code(s) of conduct or employment contracts or policies, where appropriate, prior to completion of the investigation, in accordance with the due process rights of employees and students, as applicable.

M. Appeal: If the alleged victim or the accused is dissatisfied with the results of the investigation, an appeal may be made to the Superintendent or designee within seven (7) calendar days after receiving notice of the outcome of the investigation, except for the accused in cases in which the accused is subject to long-term suspension as a result of a finding of discrimination or harassment. In such an instance, the appeal rights of the accused will be provided in a manner consistent with the relevant disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, 37H, 37H ½ or 37H ¾). Appeals must be made in writing to the Superintendent, Melrose Public Schools, 360 Lynn Fells Parkway, Melrose, Massachusetts 02176. The Superintendent will decide the appeal within thirty (30) calendar days of the date of receipt of the written appeal.

N. Identification of Civil Rights Coordinator:

Amy Lindquist
Assistant City Solicitor for School and Labor
360 Lynn Fells Parkway
Melrose, Massachusetts 02176

Legal Ref: Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; the Age Act; M.G.L. c. 151B and c. 151C; and M.G.L. c. 76, § 5; SC Policy JICFB, Bullying Prevention; SC Policy AC, Nondiscrimination.