

HARASSMENT- PROCEDURES

The Acton-Boxborough Regional School District (ABRSD) is committed to maintaining a school environment that values civil discourse and diversity and in which all individuals are treated with dignity and respect. ABRSD will not tolerate harassment of staff or students. Harassment of staff or students based on race, color, sex, sexual orientation, gender identity, religion, disability, age, active military/veteran status, ancestry, or national or ethnic origin in the administration of ABRSD's educational policies, employment policies, and other administered programs and activities is prohibited. In addition, students who are homeless or of limited English-speaking ability are protected from discrimination in accessing the courses of study and other opportunities available through the District.

Definition of Harassment

Harassment includes verbal or physical conduct which may offend, denigrate, or belittle any person because of, or due to, any of the categories or characteristics set forth above. Harassment includes pictures, jokes, comments, innuendoes, slurs, derogatory remarks based on a protected category, and any other behavior which creates an environment that is intimidating, hostile, or offensive.

Prohibition Against Retaliation

It is unlawful to retaliate against, or discipline, any individual who files a complaint of harassment or discrimination, or who cooperates in the investigation of such a complaint. The Schools will not tolerate any such retaliation, and individuals who engage in retaliation will be subject to termination/expulsion or other sanctions determined by the School Administration and/or School Committee, subject to applicable policies and procedures, as well as applicable contractual requirements.

Staff or Student Complaints

Any individual wishing to file a complaint alleging harassment may inform any trusted staff member or a supervisor. If an employee does not wish to discuss the issue with a supervisor or feels that the problem is not addressed in an effective manner, the employee should contact the Employee Title IX Coordinator:

Assistant Superintendent for Diversity, Equity, and Inclusion
Acton-Boxborough Regional School District
15 Charter Road, Acton, MA 01720
978-264-4700 x3265

The Assistant Superintendent for Diversity, Equity, and Inclusion and the Deputy Superintendent as listed above are also available to provide information about procedures applicable to this policy.

Investigation, Corrective Action & Closure of a Harassment Complaint

The Assistant Superintendent for Diversity, Equity, and Inclusion and/or the Deputy Superintendent will coordinate all investigations. Typical investigative steps include separate interviews with those involved, reducing statements from all parties to writing, identifying and questioning witnesses, and taking other appropriate actions. The investigation will be conducted with as much confidentiality and privacy for all parties as possible without compromising the thoroughness of the investigation.

The Schools/District will endeavor to complete the investigation within thirty (30) school days of receiving the complaint, unless the nature of the investigation or exigent circumstances dictate otherwise, in which case the investigation will be completed as quickly as practicable. Additionally, if the respondent is subject to a collective bargaining agreement that sets forth a specific timeline for notice and/or investigation of a complaint, such timeline will be followed.

If after investigation, a determination is made that harassment, participation in harassment, or retaliation for complaining about harassment has occurred, the Schools/District will promptly take appropriate action to end the offending conduct and ensure that it is not repeated. Depending on the severity of the incident(s), such corrective action may include counseling, training, a verbal or written warning, suspension, or termination/expulsion.

The District will comply with all legal requirements governing the reporting of suspected cases of child abuse.

When the Schools/District have completed the investigation, school personnel will, to the extent appropriate, inform the person filing the complaint of the results of that investigation and will file a report with the Coordinator for Title IX/Section 504 of the Rehabilitation Act/Chapter 622.

PROCEDURE FOR REPORTS OF SEXUAL HARASSMENT

Pursuant to Title IX of the Education Amendments of 1972, ABRSD has a Grievance Procedure for investigating and resolving allegations of Sexual Harassment. ABRSD will promptly respond to all reports alleging sexual harassment to ensure a fair and equitable resolution to the report, provide support to the victim, eliminate harassment, and impose discipline if necessary pursuant to District policies.

According to Title IX, sexual harassment is conduct on the basis of sex that satisfies one or more of the following:

1. An ABRSD employee conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to ABRSD's education programs or activities; or
3. Sexual assault, dating violence, domestic violence, or stalking (all as defined by Federal laws.)

While it is not possible to list all circumstances that may constitute sexual harassment, the following are examples of prohibited conduct at ABRSD:

- Unwelcome sexual advances - whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences, and
- Discussion of one's sexual activities
- Taking or posting of photographs, videos or images of a sexual nature without consent

Complaints of Sexual Harassment

Any individual wishing to file a complaint alleging harassment may inform any trusted staff member, a supervisor, or the Assistant Superintendent for Diversity, Equity, and Inclusion. Any staff member who receives such a report is required to report it to an administrator. If an employee does not wish to discuss the issue with a supervisor or feels that the problem is not addressed in an effective manner, the employee should contact the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the District's proper response to sexual harassment, compliance with Title IX and overseeing the Grievance Process.

ABRSD's Title IX Coordinator is:

Assistant Superintendent for Diversity, Equity, and Inclusion
15 Charter Rd., Acton, MA 01720
978-264-4700 x3265

Response to Sexual Harassment

A student or any individual wishing to report sexual harassment may inform the Title IX Coordinator or any other employee. Any District employee with knowledge of an allegation of sexual harassment, must report it, whether they personally witness the sexual harassment, learn of it from a third party or the alleged victim themselves.

Once the Title IX Coordinator learns of an allegation of sexual harassment, they will contact the alleged victim, or “the Complainant,” to gather preliminary information, offer “Supportive Measures,” and inform that person of the right to file a “Formal Complaint” against the alleged perpetrator, or “the Respondent,” that initiates the Title IX “Grievance Process.”

A “Formal Complaint” is a document filed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that ABRSD investigate the allegation of sexual harassment and initiate the Grievance Process. Formal Complaints may be filed with the Title IX Coordinator in person, by mail, or electronic mail. To file a Formal Complaint, the alleged sexual harassment must have occurred in the school’s district educational programming or activity, and within the United States.

In some circumstances, the District will dismiss a Formal Complaint. The District has discretion to dismiss a Formal complaint where the passage of time results in an inability to gather sufficient evidence for a determination of responsibility, the district lost responsibility over the Respondent. The District must dismiss the Formal complaint if it does not constitute sexual harassment as complicated by Title IX. However, the school may investigate the conduct as it pertains to other school policies.

“Supportive Measures” are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has filed. Such Measures are designed to restore or preserve equal access to ABRSD education and activities, including measures designed to protect the safety of all or the educational environment, or deter sexual harassment.

ABRSD will maintain the confidentiality of any Supportive Measures to the extent possible and document the supportive measures offered by the Title IX Coordinator to the Complainant and Respondent. Examples of supportive measures include, but are not limited to the following: counseling, deadline extensions, course adjustments, work or schedule modifications, and increased security.

Grievance Process

Once the Formal Complaint is filed, the “Grievance Process” commences. ABRSD is committed to treating all parties equitably during the Grievance Process. ABRSD is committed to completing the Grievance Process as soon as possible with the goal of completion within 60 days. However, if required, by good cause, such as the absence of a party, a party’s advisor, or a witness; law enforcement or DCF involvement; or the need for accommodations, the parties will be notified of the need for delay.

ABRSD will provide the Complainant and Respondent with written notice of the allegations and the Grievance Process. This notice will include specific detail of the allegations against the Respondent. The parties will be informed at this time of their right to have an advisor of their choice, who may be, but is not required to be, an attorney, and may accompany them at any point during the process. They will also be informed of their right to inspect and review evidence. ABRSD will remind the parties of the school's prohibition against knowingly making false statements during this process. The Respondent is presumed not responsible for the alleged conduct until a determination of responsibility has been made. Supportive measures are available to all parties during the Grievance Process.

The Title IX Grievance Process requires the involvement of several different employees that fulfill separate roles. As noted earlier, the Title IX Coordinator oversees Title IX compliance and the Grievance Process. Additionally, each Formal Complaint will be assigned an "Investigator," who could be a Principal, Vice-Principal, or other employee that is properly trained in investigations. Each Title IX investigation will be assigned a "Decision-Maker," which similarly could be a Principal, Vice-Principal, or other employee that is properly trained. All appeals will be reviewed by someone who was involved in the underlying Title IX investigation.

ABRSD will ensure that Title IX coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process, receives training on Title IX policy and procedure and his or her respective role.

Informal Resolution of Sexual Harassment

If appropriate, the Title IX Coordinator will offer the parties the option of an informal resolution process, but, pursuant to Title IX, not until a Formal Complaint has been filed and the parties have been fully advised of their Title IX rights. Before beginning an informal resolution process, ABRSD will obtain written consent from the Complainant and Respondent. At any time, the parties can withdraw from the informal resolution and the Grievance Process will resume. Informal Resolution shall not be offered in the event the Respondent is an ABRSD employee.

Investigation of Sexual Harassment

A properly trained Investigator will complete an investigation into the Formal Complaint. Both the Respondent and Complainant, will have an equal opportunity to present witnesses and other evidence. Prior to any interviews with a witness, ABRSD will provide the witness with notice of the date, time, location, participants, and sufficient time to prepare for that interview. Both parties will have an equal opportunity to examine and inspect evidence. Unless waived by one of the parties, the investigation will not intrude on any information legally protected as privileged. Questions and evidence about a person's sexual predisposition or prior sexual behavior are not relevant, unless it is offered to prove that someone other than the Respondent committed the alleged

act, or the questions and evidence concern specific incidents of sexual behavior between the parties and it is offered to prove consent. At the conclusion of the investigation, the Investigator will create an Investigative Report that summarizes the relevant evidence and send it to each party and the party's advisor.

The parties will have 10 days before any hearing or determination of responsibility to review and respond to the report if they so choose. Time periods may be extended or delayed for good cause, including the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodations of disabilities.

The designated Decision-Maker will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions. The Decision-Maker, who will first evaluate the relevancy of each question. In the event that the Decision-Maker decides to exclude a question, they will provide a written decision explaining their reasoning.

Hearings

Though it is not required, ABRSD reserves the right to conduct a full-live hearing as part of the Grievance Process. At such a hearing, the Decision-Maker will permit each party's Advisor to ask the other party and any witnesses relevant questions. If a party does not have an advisor, ABRSD will provide one at no cost. Upon the request of the Complainant or Respondent, the ABRSD will utilize technology to separate the parties during the hearing process. If a party or witness does not submit to cross-examination at the live hearing, the Decision-Maker will not consider any statement of that party or witness in determining responsibility.

Finding of Responsibility

Any Respondent found, by a preponderance of the evidence, to have committed Sexual Harassment shall be subject to a range of discipline, including, but not limited to: detention, exclusion of extracurricular activities, suspension, and expulsion, or in the case of an employee discipline, suspension, or termination of employment.

The Decision-Maker will simultaneously issue a written determination of responsibility that includes a description of the allegations, the procedural steps of the grievance process, the findings of facts, the conclusions reached, and a statement and rationale of responsibility and related discipline. If applicable, it will also include remedies designed to restore or preserve equal access to education and activities at ABRSD.

Appeal

Both the Complainant and Respondent shall have the right to appeal the decision of the Grievance Process by notifying the Title IX coordinator in writing within 10 business days of receiving the

decision. The grounds for appeal are limited to: procedural irregularity, new evidence that was not reasonably available at the time of the determination or dismissal, or an alleged conflict of interest. Both parties shall have an opportunity to provide a written statement supporting their position on Appeal. The Appeal shall be reviewed by a person who is not the original decision-maker, investigator, or Title IX Coordinator. That person shall issue a written decision and rationale simultaneously to the parties.

Retaliation

ABRSD strictly prohibits retaliation in any form against persons seeking protection under or participating in an investigation related to this policy. As such, the District will investigate any reports of retaliation and take separate disciplinary action against those found to have retaliated against someone.

LEGAL REF.: M.G.L. 151B:3A
Title IX of the Education Amendments of 1972
BESE 603 CMR 26:00
34 CFR 106.44 (a), (a)-(b)
34 CFR 106.45 (a)-(b) (1)
34 CFR 106.45 (b)(2)-(b)(3,4,5,6,7) as revised through June 2020

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