



HOPKINTON
PUBLIC SCHOOLS

**Protocol for
Reporting and Investigating
Sexual Harassment & Retaliation
Pursuant to Title IX**

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1. INTRODUCTION

New Title IX regulations, issued by The Secretary of Education and taking effect on August 1, 2024, amend the regulations implementing Title IX of the Education Amendments of 1972 (Title IX). The final regulations specify how recipients of Federal financial assistance covered by Title IX, including elementary and secondary schools, must respond to allegations of sexual harassment consistent with Title IX's prohibition against sex discrimination. The revised regulations are intended to effectuate Title IX's prohibition against sex discrimination by requiring recipients to address sexual harassment as a form of sex discrimination in education programs or activities. The final regulations obligate recipients to respond promptly and supportively to persons alleged to be victimized by sexual harassment; resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment; and effectively implement remedies for victims.

2. POLICY STATEMENT

From Hopkinton Public Schools Policy ACAB (October 2024):

The Hopkinton School Committee and Hopkinton Public Schools are committed to maintaining an education and work environment for all school community members that is free from all forms of harassment, including sexual and sex-based harassment and other discrimination on the basis of sex (e.g. sexual orientation, gender identity, and pregnancy or pregnancy-related conditions) as provided under Massachusetts and Federal law. Sexual harassment is unwelcome conduct of a sexual nature. The definition under Title IX includes unwelcome conduct based on the totality of the circumstances, is subjectively and objectively offensive on the basis of sex that is so severe or, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity (e.g. creates hostile environment) A hostile environment is based on a fact specific inquiry including: (i) degree to which conduct affects Complainant's ability to access education program or activity; (ii) type, frequency and duration of conduct, (iii) parties ages and roles within program or activity; (iv) location of the conduct and context in which it occurred; (v) other sex based harassment.

The District shall respond promptly and meaningfully to every known report of sexual harassment and sex-based harassment and shall investigate every complaint of harassment including sexual and sex-based harassment as well as retaliation. Following an investigation, if it is determined that such inappropriate conduct has occurred, the District shall act promptly to eliminate the conduct and impose corrective action, including disciplinary action where appropriate. It is the expectation of the District that incidents that may constitute a Title IX violation shall be reported to building administration.

The complainant does not have to be the person at whom the unwelcome sexual conduct is directed.

Please note that while this policy sets forth the District's goals of promoting an environment that is free of harassment including sexual and sex-based harassment, the policy is not designed or intended to limit the District's authority to discipline or take remedial action for conduct which the District deems unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment as defined by Title IX.

Students whose behavior is found to be in violation of this policy will be subject to disciplinary action up to and including suspension or expulsion pursuant to disciplinary codes. Harassment by administrators, certified and support personnel, students, vendors and other individuals at school or at school-sponsored events is unlawful and is strictly prohibited. The Hopkinton Public School System requires all employees and students to conduct themselves in an appropriate manner with respect to their fellow employees, students and all members of the school community.

While the District's harassment policy prohibits harassment on the basis of the protected classes described above, this document only addresses sexual harassment in violation of Title IX.

3. GOALS

The Hopkinton Public Schools and the Hopkinton School Committee are committed to providing equal educational opportunities and a safe learning and workplace environment free from discrimination, including sex-based discrimination, sexual harassment, and retaliation. The Hopkinton Public Schools and the Hopkinton School Committee will not tolerate any form of discrimination, including sexual harassment and retaliation, within the school community. Under this Protocol, the Hopkinton Public Schools will promptly and fairly investigate and respond to all reports and complaints of sexual harassment and retaliation. During the grievance process, the District will provide equitable treatment to complainants and respondents, ensure objective evaluation of all relevant evidence, and designate investigators and decision-makers who are free from bias or conflict of interest. The District will institute a safety plan to keep all parties physically and emotionally safe. Following an investigation where it is determined that sexual harassment has occurred, the District will take prompt, 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

Knowledge: Notice of sexual harassment or allegations of sexual harassment made to any employee of the District. Complaints will be addressed whenever the District has knowledge of conduct that reasonably may constitute sex discrimination in a District program or activity.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Complaint: A document filed by a complainant (or the complainant's parent or guardian if the complainant is a student or minor) or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation(s) of sexual harassment. A complaint can also be filed by a third party who was participating in or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination. A complaint can be filed either verbally or in writing

Report: Notification, either verbal or written, of an alleged incident of sex discrimination, including sexual harassment, to the Title IX Coordinator or any district employee. Reports may be made by any person, whether or not the person reporting is the person alleged to be the victim of the conduct that could constitute sex discrimination or sexual harassment.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation: 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 complaint 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 believed to be prohibited by the Non-Discrimination Policy.

Sexual Harassment (Title IX): Sexual harassment under Title IX means verbal, physical, or other conduct that targets a person based on their sex, and that satisfies one or more of the following:

- A school employee conditioning educational benefits or services on participation in unwelcome sexual conduct (i.e., quid pro quo);
- Any unwelcome conduct based on the totality of the circumstances, that a reasonable person would find so severe or pervasive, and objectively and subjectively offensive that it limits or denies a person equal access to the school's education program or activity;
- Any instance of "sexual assault", "dating violence", "domestic violence", or "stalking", as those terms are defined by the Clery Act and the Violence Against Women Act.

Supportive Measures: Individualized services, available to the complainant or respondent, designed to restore and ensure equal educational access, protect the safety, or deter sexual harassment. Supportive measures are non-punitive, non-disciplinary, and cannot unreasonably

burden the other party. Supportive measures are available before or after the filing of a complaint, or where no complaint has been filed, and are coordinated and implemented by the Title IX Coordinator. Supportive measures are generally kept confidential. Supportive measures may include, but are not limited to:

- Counseling
- Extension of deadlines
- Modifications to work or class schedule
- Increased security/monitoring in parts of a school campus
- Mutual restrictions on contact between the parties

School Community: The School Community includes the Hopkinton School Committee, administration, faculty, staff, students, volunteers in schools, and parties contracted to perform work for the Hopkinton Public Schools, subject to the school authority.

5. PROTOCOL APPLICATION

Title IX covers sexual harassment in the District's or a school's "education program or activity." This includes locations, events, and circumstances where the District or a school exercises substantial control over the context of the alleged sexual harassment and the person accused of committing the alleged sexual harassment. Title IX applies to all of the District's or school's education programs and activities, whether such programs or activities occur on-campus or off-campus.

While Title IX covers the above definition of "sexual harassment," HPS recognizes that the Title IX standard does not capture all conduct that may amount to sexual harassment under HPS policy, Student Handbook and/or other state or federal laws. Therefore, while HPS prohibits "sexual harassment" as defined in Title IX, it also prohibits sexually harassing conduct that may fall outside the scope of the Title IX definition. If HPS determines that alleged conduct falls outside of the Title IX scope, but still may constitute sexual harassment under other school policies, HPS will investigate each allegation of such conduct and may implement appropriate remedial and/or disciplinary action in accordance with those policies.

6. RESPONSIBILITIES

Each member of the school community is responsible for:

- Complying with the HPS Non-Discrimination Policy and this Protocol for Reporting and Investigating Sexual Harassment Pursuant to Title IX.
- Ensuring that they do not discriminate against, harass, or commit a crime against another person in a school's "education program or activity" because of that person's sex, gender, sexual orientation, gender identity or gender expression.
- Cooperating in the investigation of reports or complaints of sexual harassment, discrimination, and retaliation.

- Ensuring that they do not retaliate against any other person for reporting or filing a complaint, for aiding or encouraging the filing of a report or complaint, for cooperating in an investigation of sexual harassment and retaliation, or for opposing any act or practice reasonably believed to be prohibited by the HPS Non-Discrimination Policy.

Each non-student member of the School Community is responsible for:

- Responding when witnessing discrimination based on sex, sexual orientation, gender, gender identity or expression, including sexual harassment or retaliation, taking place in a school's "education program or activity."
- Cooperating with the Hopkinton Public Schools' efforts to prevent, respond effectively to, and eliminate discrimination on the basis of sex, sexual orientation, gender, gender identity or expression, including sexual harassment and retaliation.
- Promptly reporting all information they know concerning possible discrimination on the basis of sex, sexual orientation, gender, gender identity or expression, including sexual harassment and retaliation, to any district employee when they witnessed or become aware of conduct occurring in a school's "education program or activity," or any other circumstance defined in Section 5 entitled "Protocol Application." (See Section 7 for "Mandatory Reporting Guidelines).

7. COMPLAINT AND REPORTING PROCESS

Reporting Sexual Harassment

All Staff members are required to report to the appropriate Title IX Coordinator any incident of sexual harassment or retaliation that they witness or become aware of, as soon as practicable, but no later than 24 hours after becoming aware of the incident.

Any person (whether or not they are the victim of the alleged conduct) may report suspected sexual harassment to any HPS staff member, including the Title IX coordinators. Reports may be made in any manner, including in-person, by email, by telephone, or by email, at any time, including during non-business hours. To ensure integrity, promote fairness, and facilitate an effective investigation, every effort should be made to report all instances of alleged sexual harassment or retaliation, as promptly as possible. The Title IX Coordinators' contact information is as follows:

For conduct involving students:

Jeffrey LaBroad

Assistant Superintendent for Curriculum, Instruction, Assessment & Professional Development

89 Hayden Rowe Street

Hopkinton, MA 01748

508-417-9360

jlabroad@hopkinton.k12.ma.us

For conduct involving employees:

Sheena Martin
Director of Human Resources
89 Hayden Rowe Street
Hopkinton, MA 01748
508-417-9360
smmartin@hopkinton.k12.ma.us

For conduct involving both employees and students, or conduct involving third parties, reports may be made to either Title IX Coordinator.

Mandatory Reporting Guidelines

All staff members and members of the school community are required to report to the appropriate Title IX Coordinator any incident of sexual harassment or retaliation that they witness or otherwise become aware of, as soon as practicable, but no later than 24 hours after becoming aware of the incident. All reports are requested in writing and encouraged to use the "Discrimination Complaint/Report Form," signed by the reporting party. While the District prefers reports made in writing, verbal reports to an administrator are accepted. Failure to comply with this mandatory reporting requirement or this Protocol may lead to disciplinary action.

Responding to Reports of Sexual Harassment

HPS shall respond promptly and meaningfully to reports of conduct that may constitute Title IX sexual harassment. HPS shall investigate every complaint of sexual harassment and respond meaningfully to every known report of sexual harassment. Any staff member who receives a report of sexual harassment must immediately contact the appropriate Title IX Coordinator so that prompt measures can be taken.

Upon receiving any report of sexual harassment, the Title IX Coordinator must contact the alleged victim (known as the "complainant") confidentially regarding: 1) the availability of supportive measures (even if no complaint is filed); 2) the complainant's wishes concerning supportive measures; 3) the right to file a complaint; 4) the purpose of filing a complaint (including initiation of an investigation); and 5) the process by which to file a complaint.

Supportive measures must also be offered to the respondent, even if no complaint is filed. Only upon a final determination that the respondent is responsible for the alleged conduct may disciplinary sanctions be imposed upon the respondent.

The Title IX Coordinator must document in writing the supportive measures offered/provided (or why no supportive measures were offered/provided) to the complainant and respondent.

Initiation and Investigation of a Complaint

Form, Preparation, and Timeliness of Complaints

Complainants are encouraged, but not required, to file a complaint using the [HPS Discrimination Complaint Form](#). Where requested or needed, assistance may be provided in preparing the Discrimination Complaint Form. The complaint may be filed with the Title IX Coordinator or another administrator electronically, in person, by mail, phone or email.

If the complainant declines to file a complaint, the Title IX Coordinator must consider whether to sign a complaint to initiate an investigation against the complainant's wishes. This decision may be appropriate when safety or other similar concerns lead the Title IX Coordinator to conclude that a non-deliberately indifferent response to actual knowledge of Title IX sexual harassment could reasonably require the District to investigate and potentially sanction a respondent. The decision to sign a complaint must be documented in writing, along with the rationale for initiating the complaint. Attempts will be made to obtain the cooperation of any individual who is an alleged victim of sexual harassment; however, where the cooperation of the alleged individual victim is not received, the school shall investigate the allegations, to the extent feasible.

If a complaint is not made by either the complainant or the Title IX Coordinator, the District may still investigate the report of sexual harassment in accordance with its Non-Discrimination Policy.

There is no time limit for filing a complaint; however, at the time of filing a complaint, an alleged victim must be participating or attempting to participate in the District's or school's program or activity.

Timeline for Completing the Grievance Process

Except for good cause, as documented in the investigative file, the grievance process should be completed no later than 90 days from the date a complaint is filed with or signed by the Title IX Coordinator. If circumstances require that the timeline be extended, the final report should indicate the reasons.

8. TITLE IX PERSONNEL

Complaints Involving Two or More Students	
Title IX Coordinator	Assistant Superintendent for Curriculum, Instruction, Assessment and Professional Development
Investigator/Decision-Maker	Principal/Designee
Appeal/Decision-Maker	Superintendent

Complaints Involving Students and Non-Student/Staff	
Title IX Coordinator	Assistant Superintendent for Curriculum, Instruction, Assessment and Professional Development (Students) AND Director of Human Resources (Non-Student/Staff)
Investigator/Decision-Maker	Principal/Designee AND Director of Human Resources
Appeal/Decision-Maker	Superintendent

Complaints Among Staff and Non-Students		
	School-Based	District
Title IX Coordinator	Director of Human Resources	
Investigator/Decision-Maker	Principal/Designee AND Director of Human Resources	Director of Human Resources
Appeal/Decision-Maker	Superintendent	

Complaints Involving Central Office Administration (unless any of the below is involved in the complaint)	
Title IX Coordinator	Director of Human Resources
Investigator/Decision-Maker	Director of Human Resources
Appeal/Decision-Maker	Superintendent

For complaints that involve any member of the Title IX personnel responsible for the investigation of an allegation, the superintendent would assign another qualified investigator. In the event that a complaint involved the superintendent, the appeal would be to the School Committee or an outside appeals person.

9. INVESTIGATING AND DECISION MAKING

Step 1: Interim Measures

When it becomes aware of a possible instance of harassment or discrimination, the District will provide interim measures to ensure that both the victim and respondent are safe and supported during the investigation. Interim measures are offered to the target even if no complaint is filed. The District will work to mitigate the educational impact, will advise both parties against retaliation, and will separate the target and respondent if appropriate.

Step 2: Notification

Administrators who become aware of a potential Title IX violation will notify the appropriate Title IX Coordinator immediately. HPS staff will report potential Title IX violations to the appropriate Title IX Coordinator or to their direct supervisor, who will notify the appropriate Title IX Coordinator.

Step 2A: Students with Disabilities

When a Title IX investigation is opened involving one or more students known to have a disability, the building administrator will notify the Director of Student Services. The Director will work with the appropriate Team Chair, and may reconvene the IEP or 504 team of any student involved in the report who is eligible for IEP or 504 services to determine any potential disability-related considerations or impact.

Step 3: Title IX Coordinator must issue written notice to both parties.

Upon receipt of a complaint, the Title IX Coordinator will issue written notice of the complaint to both parties before an initial interview of the respondent. The written notice must include written notice of the allegations (including the identities of both parties), the grievance process, the appeal process (if applicable), and offer a meeting to discuss supportive measures. The written notice must also include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility is made after the grievance process. The written notice must also inform the parties that they have the right to an advisor of their choice (who may, but need not be, an attorney at their own expense), and the right to inspect and review the District's evidence. If applicable, the written notice must also inform the parties that they are prohibited from making false statements or knowingly submitting false information during the grievance process. If additional allegations are added during the investigation, supplemental written notice must be provided.

Step 3(A): Dismissals

- **Mandatory Dismissals:** If the Title IX Coordinator determines that the complaint alleges conduct that does not meet the Title IX definition of Sexual Harassment, the Title IX

Coordinator must dismiss the allegations for the purposes of Title IX. The school may still address the allegations in any manner deemed appropriate.

- **Discretionary Dismissals:** If the complainant notifies the Title IX Coordinator in writing that they wish to withdraw the complaint (or some allegations contained therein), or the respondent is no longer employed by or enrolled in the school, or specific circumstances prevent the school from gathering sufficient evidence to reach a determination, the school may dismiss the allegations.
- **Dismissal Procedures:** In the event of a dismissal (mandatory or discretionary), the Title IX Coordinator will send prompt written notice of the dismissal, including the underlying reasons for the dismissal and the right to appeal a dismissal to both the complainant and respondent.

Step 3(B): Informal Resolution (applicable for staff only)

In cases that do not involve an allegation of sexual harassment between students or a student and a district employee, the Title IX Coordinator may offer for the parties to engage in informal resolution at the District's discretion. In order to proceed with the informal resolution process, both parties must enter the process voluntarily; participation in informal resolution may not be imposed upon a party as a condition for students or staff returning to or participating in school activities. If the parties are not satisfied with the outcome of the informal resolution process, or if they do not agree to participate in informal resolution, the investigation procedures outlined below should continue.

Step 4: Gathering Evidence

- All good faith efforts will be made to complete the investigation within 45 days of the initiation of the formal complaint, except for good cause, as documented in the investigative file. If the investigator deems an extension necessary, the investigator must notify the parties in writing of the delay.
- During the investigation, the burden of gathering evidence and the burden of proof remains with the District. The investigation may include personal interviews with the complainant(s), the respondent(s), and others who have knowledge of the alleged incident(s) or circumstance(s) giving rise to the complaint. The investigation may also consist of other methods deemed pertinent by the investigator, including gathering physical evidence. As stated above, the parties must receive written notice of any investigative interviews, meetings, or hearings. A party's medical, psychological, and medical treatment records cannot be accessed or used by the school, unless the school obtains the party's voluntary, written consent to do so and waives privilege or confidentiality.
- The school must provide an equal opportunity for the parties to present facts and expert witnesses and other inculpatory and exculpatory evidence. The school must not restrict the ability of the parties to discuss the allegations or to gather evidence and must afford the parties the same opportunity to select an advisor of the party's choice (who may be but need not be, an attorney at their own expense). All parties will be informed of the prohibition against taking any retaliatory action.

Step 5: Inspection of Evidence and Investigative Report

- The Investigator must fairly summarize the evidence gathered by the school in a written investigative report and make findings concerning whether sex discrimination occurred. Any credibility determinations may not be based on an individual's status as a complainant, witness, or respondent.
- All parties will be provided with an equal opportunity to review all relevant and not impermissible evidence gathered during the investigation and the investigative report.
- Once the investigative report is finalized, the Investigator will send it to the complainant, respondent and Title IX Coordinator.

Step 6: Standard of Review; Determination of Responsibility

The investigator is tasked with objectively evaluating and weighing the relevant evidence and reaching conclusions about whether the respondent is responsible for the alleged sexual harassment by a preponderance of the evidence.

After carefully weighing the evidence, the investigator will issue a written decision regarding the responsibility, including a description of the procedural steps, findings of fact, conclusions about whether the alleged conduct occurred, the rationale for the result as to each allegation, and any remedies to the extent permissible. The report must also advise the parties of their right to appeal the decision. The written decision must be issued to both parties simultaneously.

The investigator will notify the appropriate Title IX Coordinator at the conclusion of the investigation with the conclusion(s) reached.

10. DISCIPLINARY ACTION, CORRECTIVE ACTION, AND REMEDIAL MEASURES

If the respondent is determined to be responsible for the conduct, the complainant will be made aware of any corrective action imposed on the respondent that directly relates to the complainant (such as a safety plan or stay away order), although the District will adhere to federal and state student record privacy laws as appropriate. The respondent will not be notified of any individual remedies offered or provided to the complainant. The District will effectively implement remedies for the respondent, complainant, and where appropriate, for the broader school community. The remedies will be designed to restore or preserve equal access to the educational program or activity for a complainant, stop the harassment and/or hostile environment, prevent its recurrence, and remedy its effects. Any disciplinary action will be in accordance with due process rights under state law and any applicable collective bargaining agreement.

These procedures do not limit the District from removing a student or employee from a program or activity on an emergency basis, based on an imminent and serious threat to the

health or safety of a complaint of any other persons arising from allegations of sex discrimination or placing an employee on administrative leave during the pendency of the grievance process.

11. OPTIONS AVAILABLE AT ANY TIME

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

Office for Civil Rights, U.S. Department of Education ("OCR") 5 Post Office Square, Suite 900, 8th floor, Boston, MA 02109 Website: www.ed.gov/ocr; Email; OCR.Boston@ed.gov Tel: (617) 289-0111; Fax: (617) 289-0150; TTY/TDD: (877) 521-2172

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

Massachusetts Commission Against Discrimination ("MCAD")
One Ashburton Place Boston, MA 02108
Tel: (617) 994-6000
Fax: (617) 994-6024

Massachusetts Department of Elementary and Secondary Education (DESE)
Program Quality Assurance Services
135 Santilli Highway, Everett, MA 02149
Email: 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.

13. FILE KEEPING

All records of the school's investigation, including the written determinations; records of any appeal and associated materials; records of any informal resolution process; materials used to train Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators; and records of supportive measures provided in response to a complaint or report of sexual harassment, must be maintained by the District for 7 years. In addition, copies of all written decisions must be maintained in the office of the Superintendent. All files should be kept confidential.

14. RETALIATION PROHIBITED

Retaliation against any person for exercising their rights under Title IX is strictly prohibited and is a violation of the Title IX Sexual Harassment Policy. Any member of the school community who believes they, or another school community member, has been the victim of retaliation, should report the conduct or file a complaint with the Title IX Coordinator. Students may make a report or complaint to any school faculty, staff, or administrator. Reports or complaints of retaliation by any other member of the school community should be to the appropriate Title IX Coordinator. Hopkinton Public Schools will investigate all reports or complaints promptly and in an impartial and as confidential a manner as possible, to ensure prompt and appropriate action. Nothing in this section shall limit the exercise of rights protected under the First Amendment of the United States Constitution.

15. ADDITIONAL PROVISIONS

Law Enforcement Involvement

Police involvement in situations that involve students of the Hopkinton Public Schools is governed by the "Memorandum of Understanding Between Hopkinton Public Schools and Hopkinton 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 Hopkinton Public Schools are involved or affected. In appropriate circumstances, the Department of Children and Families will be notified.

Protected Free Speech

Nothing in this Protocol is intended to abridge an individual's right to exercise free speech pursuant to the First Amendment of the United States Constitution.