

PROHIBITION ON HARASSMENT, SEXUAL HARASSMENT, HAZING & BULLYING

It is the policy of the New Salem/Wendell School District to provide a learning and working atmosphere for students, employees and visitors free from intimidation generally and harassment, sexual harassment, bullying, and hazing. These terms are referenced herein as “acts of intimidation.” Such actions may occur on the basis of race, color, religion, national origin, ethnicity, age, political beliefs, gender identity, sexual orientation or disability, or for any other reason.

It is the responsibility of every employee or representative of the school district, student, parent/guardian, or volunteer to be alert to acts of intimidation and to take every action necessary to ensure that the applicable policies and procedures of the New Salem/Wendell School District are implemented. It is critical that all actions be immediately taken to stop the alleged behavior. Anyone who observes or is aware of acts of intimidation is expected to report incidents to the appropriate district personnel. It is a violation of the New Salem/Wendell School District policy for any administrator, teacher, district employee, district representative, student, parent/guardian, or volunteer to engage in or condone intimidation in school or to fail to report or otherwise take reasonable appropriate measures when they become aware of an incident of intimidation.

Any employee, district representative, volunteer, or student who believes that he or she has been subjected to any intimidating act has the right to file a complaint and to receive prompt and appropriate handling of the complaint. Further, all reasonable efforts shall be made to maintain confidentiality and protect the privacy of all parties, but proper enforcement of this policy may require disclosure of any or all information received. Maintaining safety for individuals will be a priority in handling cases of intimidation. Specific procedures for harassment, sexual harassment, hazing and bullying may be outlined in district guidelines that are approved by the School Committee.

Definitions

Harassment means conduct of a verbal or physical nature that is designed to embarrass, distress, agitate, disturb or trouble someone. Harassment has the effect of creating an intimidating, hostile, or offensive work or learning environment that takes place under any of the following circumstances:

- a. When submission to such conduct is made, explicitly or implicitly, a term or condition of employment, instruction, or participation in school activities or programs;
- b. When submission to or rejection of such conduct by an individual is used by the offender as the basis for making personal or academic decisions affecting the individual subjected to sexual advances;
- c. When such conduct has the effect of unreasonably interfering with the individual's work, attendance at school or participation in academic or curricular activities, or
- d. When such conduct has the effect of creating an intimidating, hostile, or offensive work or learning environment.

“Sexual Harassment” means unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, written, electronically transmitted, or physical conduct of a sexual nature, including but not limited to unwelcome comments, touching, written notes, pictures/cartoons or other inappropriate conduct, such as leering, whistling, brushing up against the body, commenting on sexual activity or body parts or other activity referred to by the Model MCAD policy prohibiting such behavior.

Bullying may take a variety of forms. Bullying and cyber bullying means unwelcome written, electronic, verbal or physical acts or gestures where a student or employee feels coerced, intimidated, harassed or threatened and under the circumstances (1) may cause a student or employee to suffer physical or emotional harm, (2) may cause damage to another student's or employee's property, or (3) may cause a disruptive or hostile school environment. The behavior must interfere with an employee's ability to perform his or her duties or with a student's academic performance or ability to learn, or interfere with a student's ability to participate in or benefit from services, activities, or privileges:

- a. That are being offered through the school district; or
- b. During any education program or activity; or
- c. While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, at school-sanctioned events.

Cyber bullying, in particular, means bullying through the use of data, telephone or computer software that is accessed through a computer, computer system, or computer network ~~or~~ of any public education institute. As used in this policy, “electronic communication” means any communication through an electronic device including a telephone, cellular/smart phone, computer, pager or similar electronics communications device.

Hazing means any conduct or method of initiation, even if consented to, into any organization or group, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student, employee or other person. Such conduct shall include, but is not limited to, whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

Perpetrator means the person who engages in harassment, sexual harassment, hazing, bullying or retaliation.

School grounds means property on which a school building or facility is located; or property that is owned, leased or used by a school district, commonwealth charter school or non-public school for any school-sponsored activities, functions, programs, instruction or training.

Victim means the student who has been the subject of harassment, sexual harassment, hazing, bullying or retaliated against.

Adult: school employee, school representative, volunteer, parent/guardian, or visitor to the school who is of legal age (18 years of age).

Child: person who is a minor

Investigation of Acts of Intimidation (Bullying, Cyber bullying, Harassing, Hazing)

In school systems, acts of intimidation may take many forms and cross many lines. The situation may be an instance of staff member to staff member, staff member to student, student to staff member, or student to student or involve volunteers, parents/guardians or district representatives.

By law, acts of intimidation are defined by the victim’s perception in combination with objective standards or expectations. What one person may consider acceptable behavior may be viewed as intimidation by another person. Therefore, in order to protect the rights of both parties, it is important that the victim make it clear to the intimidating party that the behavior is objectionable.

Guidelines for dealing with any charge of acts of intimidation are as follows:

The Principal or his/her designee shall be responsible for assisting employees or representatives of the school district, parents/guardians, or volunteers and students seeking guidance or support in addressing matters relating to any form of harassment, sexual harassment, bullying, or hazing. Additional information about these guidelines or additional help with any form of intimidation is available from the New Salem/Wendell School District’s designated Harassment Coordinator – the Superintendent for the District.

Reporting Incidents (Bullying, Cyber bullying, Harassing, Hazing)

Whoever knows that another person is the victim of intimidation, and is at the scene of such activity, shall, to the extent that such person can do so without danger or peril to her/himself or others, report such activity to an appropriate official as soon as reasonably practicable. Whoever fails to report such behavior shall be subject to discipline.

Any employee or representative of the school district, student, parent/guardian or volunteer that has reliable information that would lead a reasonable person to suspect that a person is a target of harassment, sexual harassment, bullying, or hazing shall immediately report it to the appropriate party. Students should report to a teacher or school employee. All school employees or representatives, volunteers, parents/guardians shall immediately report it to the administration. Each school shall document any prohibited incident that is reported and confirmed, and report all incidents of intimidation, including, harassment, sexual harassment, bullying (or cyber bullying), hazing and the resulting consequences, including discipline and referrals, to the Superintendent's office as they occur.

In all charges of intimidation, the victim should provide an oral, or if possible a written, description of the specifics of the intimidation to ensure that the subsequent investigation is focused on the relevant facts. Oral and anonymous complaints will be reviewed. However, no disciplinary action shall be taken on anonymous complaints unless verified by clear and convincing evidence. In all cases, any complaint will be reviewed based upon a preponderance of evidence standard and a report will be filed.

- If an instance of child to child intimidation is reported to a school employee or school representative other than an administrator, that person must inform the Principal.
- If a situation involving a charge of an adult to child intimidation is brought to the attention of another school employee or school representative, that person should notify the Principal immediately.
- In a situation involving a charge of child to adult intimidation, the victim should notify the Principal.
- In a situation involving a charge of an adult to an adult intimidation, the victim should notify the Principal.
- If the alleged perpetrator is responsible for conducting an investigation, the victim should contact either the Superintendent or the School Committee and they shall designate an alternative Harassment Coordinator.

A good faith report from a staff member renders the staff member immune from discipline for making a report and is considered to have been made in the course of the staff member's employment for purposes of M.G.L. c. 258. As a result, the school district shall indemnify staff members from any cause of action arising out of a good faith report of harassment or the district's subsequent actions or inaction in connection thereto.

Investigation (Bullying, Cyber bullying, Harassing, Hazing)

Once a charge of harassment has been made, including charges of mental, emotional or physical intimidation, as well as threats to a person's safety or position in the school or work environment, the following course of action should be taken:

The Principal should investigate the charge through discussions with the individuals involved. In situations involving allegations against a staff member, he/she should be informed of his/her rights to have a third party present at the time of the discussion. In situations involving students, the Principal should engage the appropriate classroom or special subject area teacher. Parents will be informed of the situation and invited to participate in resolution discussions. It is important that the situation be resolved as confidentially and as quickly as the circumstances permit.

Reports of cyber bullying by electronic or other means, occurring in or out of school will be reviewed and, when a nexus to work or school exists, this will result in disciplinary action.

The rights and safety of the victim are paramount in any efforts of resolutions.

Efforts at Resolution (Bullying, Cyber bullying, Harassing, Hazing)

Child-to-Child: A face-to-face resolution meeting will never be required. The victim will decide if he/she wants to meet with the perpetrator, but such a meeting is not recommended. Instead, the Principal will meet with the perpetrator (and his/her parents/guardians) and provide him/her with the known facts of the situation. A plan of repentance, resolution and reconciliation will be discussed and created.

Child-Adult: If the perpetrator is a child and the victim an adult, a resolution meeting may be helpful. However, if the victim is not comfortable with such a meeting, it will not be required. Instead, the Principal will meet with the perpetrator (and his/her parents/guardians), to describe the offending behavior. A plan for repentance, resolution and reconciliation will be developed with the perpetrator. If the adult victim is willing to meet, he/she may want an advocate or union representative to be present.

Adult-Child: If the perpetrator is an adult and the victim a child, the perpetrator, if a staff member, should have Massachusetts Teacher's Association/Union representation at the meeting. The child victim is never required to attend such a meeting. If the child's parents or guardians want to meet with the Principal, a separate meeting shall be scheduled. At the meeting, the Principal will describe the offending behavior. A plan for repentance, resolution, and reconciliation will be developed. The Department of Children and Families (or a relevant state agency) should be notified of the situation.

Adult-Adult: A face-to-face resolution meeting will never be required. The victim can choose not to meet with his/her perpetrator. The Principal will meet with the perpetrator and identify the offending behavior. A plan for repentance, resolution and reconciliation will be developed. An MTA or Union representative will be present for the meeting if the perpetrator is an employee of the school district.

Parents of students alleged to have engaged in cyber harassment will be asked to attend a due process hearing at which time the activity, words or images subject to the complaint will be reviewed.

Disciplinary Action (Bullying, Cyber bullying, Harassing, Hazing)

If after a resolution meeting with the involved parties, the Building Principal determines that further disciplinary action must be taken, the following could occur:

- a. In instances involving child to child or child to adult, the student may be subject to discipline including but not limited to counseling, suspension, and in appropriate cases expulsion in accordance with Chapter 222 of the Acts of 2012 (603 CMR 53.00).
- b. In instances involving adult to child, and adult to adult intimidation, findings will be reported to the Superintendent of Schools for further action. Personnel action may also be initiated at this point, consistent with the applicable law and collective bargaining agreement.
- c. In all cases, a referral to law enforcement will be considered by the Principal or Superintendent based on the circumstances. School officials will coordinate with the Police Department to identify a police liaison for intimidation cases.
- d. There may be cases in which incidents are required to be reported to the Department of Children and Families or responsible state agency.

A student disciplined for cyber bullying will not be re-admitted to the regular school program, in accordance with Chapter 222 of the Acts of 2012 (603 CMR 53.00) until his or her parent(s) attend such meeting, meet with the principal and develop an action plan for restitution.

Retaliation: (Bullying, Cyber bullying, Harassing, Hazing)

Retaliation in any form against any person who has made or filed a complaint relating to harassment is forbidden. If it occurs, it could be considered grounds for dismissal of staff personnel and/or removal from the educational setting for a student in accordance with Chapter 222 of the Acts of 2012 (603 CMR 53.00). A referral to law enforcement may be made.

Confidentiality: (Bullying, Cyber bullying, Harassing, Hazing)

Reports of harassment should be kept completely confidential, consistent with necessary investigation procedures, with the goal of protecting the victim and stopping the behavior.

The goal of confidentiality is to protect the victim and all persons at Swift River School. It is not to provide protection for the perpetrator.

Appeal Process:

If the decision that is arrived at is believed to be incorrect due to a misunderstanding of the facts, a perceived lack of evidence, or for any logical reason, the aggrieved party may appeal that decision. It is the Committee's desire that the procedures for hearing and addressing the appeal occur promptly at the lowest possible administrative level, and that each person be assured opportunity for timely, orderly and respectful presentation, review and communication regarding that request.

Unless otherwise defined by law or current policy, the School Committee shall ensure that all procedures established for identifying and addressing the appeal within the district provide that in regards to decisions regarding harassment, sexual harassment, hazing, intimidation, cyberbullying and bullying:

- All students or district employees may appeal a ruling of a Principal to the Superintendent.
- All students or district employees may appeal a ruling of a central office staff person serving the district to the Superintendent.
- All students or district employees may appeal a ruling of the Superintendent to the School Committee, except in those areas where the law has specifically assigned authority to the Principal and/or the Superintendent and School Committee action would be in conflict with that law.
- All formal hearings of appeal before the Superintendent or the School Committee shall be conducted in the presence of the administrator who made the ruling that is the subject of the appeal, unless otherwise prohibited by Massachusetts Open Meeting Law or other pertinent law.

STATE AND FEDERAL EMPLOYMENT ENFORCEMENT DISCRIMINATION AGENCIES:

An employee may file a complaint of discrimination with the appropriate state and/or federal employment enforcement discrimination agencies. Please note the following information:

Massachusetts Commission Against Discrimination
1 Ashburton Place
Boston, MA 02108
(617) 727-3990
or
424 Dwight Street, Room 220
Springfield, MA 01103
(413) 739-2145

The United States Equal Employment Opportunity Commission
1 Congress Street – 10th Floor
Boston, MA 02114
(617) 565-3200

LEGAL REFERENCES

1. Title VII of the 1964 Civil Rights Act, Section 703
2. Title IX of the 1972 U.S. Civil Rights Act.
3. Chapter 151C, Massachusetts General Laws
4. M.G.L. Chapter 76 § 5
5. M.G.L. Chapter 269 § 17, 18, 19
6. M.G.L. Chapter 71, §§82, 84

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