



## Superintendent's Circular

School Year 2011-2012

NUMBER:  
EQT-2

DATE:  
September 1, 2011

### EMPLOYEE GRIEVANCES OF DISCRIMINATION OR HARASSMENT – UNIFORM PROCEDURES

#### PURPOSE

The uniform procedures are designed to facilitate a prompt and expeditious internal review and a fair and equitable resolution of grievances against the Non-discrimination policy statement EQT – 2. This internal review will resolve matters alleging discrimination or harassment based on race, color, age, disability, sex/gender, religious beliefs, national origin, ancestry, retaliation, sexual orientation genetics or military status. The intent of these uniform procedures is to assure that, to the greatest extent possible, grievances of discrimination or harassment are resolved in a positive spirit.

#### COVERAGE

The uniform procedures cover only grievances explicitly alleging discrimination or harassment based on race, color, age, disability, sex/gender, religious beliefs, national origin, ancestry, retaliation, sexual orientation, genetics or military status. Please refer to EQT – 2 for specific guidance on each of these protected categories.

#### GENERAL POLICIES

- a. Retaliation against any employee for processing a grievance or participating in any way in the grievance procedure is strictly prohibited.
- b. Whenever possible, conferences should be scheduled during a mutually convenient time that does not conflict with regularly scheduled school programs.
- c. The filing of a complaint shall not be construed as reflecting unfavorably on an employee or applicant's good standing, performance, loyalty, or desirability to the Boston Public Schools.
- d. Personal information regarding the complainant, the alleged harasser, and the witnesses will be protected from disclosure to the extent permitted by the investigative process and the nature of the complaint.
- e. In determining whether alleged conduct constitutes discrimination or harassment, the Superintendent or his or her designee will consider the surrounding circumstances, the nature of the behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances.

#### PROCEDURES

##### I. Informal Complaints

Employees or applicants are encouraged, where appropriate, to attempt to resolve any complaint regarding an alleged discriminatory practice on an informal basis before initiating a formal complaint. An employee or applicant who seeks informal resolution of his or her complaint should present the complaint

to the immediate Supervisor, who shall attempt, within his/her authority, to work with the employee or applicant to resolve the complaint fairly and expeditiously.

An employee or applicant who does not wish to seek informal resolution of a discrimination complaint, or who is dissatisfied with attempts at informal resolution, may also present his or her complaint directly to the Office of Equity pursuant to the formal complaint procedures delineated below. Nothing in this policy shall prevent an employee or applicant from reporting discrimination or harassment directly to the Office of Equity.

## **II. Formal Complaints**

**Section A.** An employee or applicant who is dissatisfied with the attempts to resolve his or her complaint informally, or who wishes to bypass the informal complaint procedures entirely, may also seek formal resolution of his or her complaint. Nothing in this policy shall prevent an employee or applicant from reporting discrimination or harassment directly to the Office of Equity.

**Section B.** An employee or applicant may file a formal complaint with the Office of Equity by filling out a Discriminatory Practice Review/Employee Grievance Form (the last 2 pages of this document) after the alleged discriminatory practice occurred. It is advised to file this complaint as close to the incident as possible, as complaints are more easily resolved at the time of the incident. The Discriminatory Practice Review/Employee Grievance Form asks a complaining employee or applicant to state the name of the individual against whom the complaint is being filed, the location of the department where the alleged discriminatory practice occurred, the basis for the complaint, and the corrective action that the employee or applicant is seeking. In the event an employee is unable to complete this form, a staff member in the Office of Equity shall take such information in person.

**Section C.** After the filing of the formal written complaint, the Office of Equity shall, within ten (20) school days, notify the appropriate department identified in the complaint and the individual against whom the complaint has been filed.

The Office of Equity shall make a thorough and expeditious investigation of the complaint. The investigation will include a private interview with the person filing the complaint. The Office of Equity shall also contact those individuals that have been identified as having pertinent information related to the complaint and shall conduct private interviews with any witnesses. If further documentation is necessary, the Office of Equity shall request, in writing, that these individuals provide the Office of Equity with specific information pertaining to the complaint. Individuals receiving requests for further documentation must provide responses within ten (10) school days from receipt of the request. Individuals who are unable to prepare the requested documentation within the specified time should request additional time with the Office of Equity.

**Section D.** After completing the formal investigation of the complaint, the Office of Equity may request a meeting with the person against whom the complaint was filed and/or the supervisor or appropriate authority involved, to discuss the findings and recommended resolutions from the Office of Equity. The results of the Office of Equity's investigation shall be reduced to written findings of fact. *Upon completion of the investigation, to the extent appropriate, the person filing the complaint and the person alleged to have committed the conduct will be informed of the results of that investigation in writing. Minimally, a copy of the final determination as to whether a discriminatory act has occurred shall be furnished to the complainant, the individual named in the complaint, and the appropriate administrator/supervisor, and where appropriate, the Superintendent.*

**Section E.** *Most complaints are resolved* within thirty (30) school days after the formal complaint is received. If more than thirty (30) school days is required for the investigation, the Office of Equity shall inform the complainant of the need for extended time and of the reason why additional time is required to complete the investigation. If additional extended time is needed this step will be repeated every (30) school days until the complaint is resolved.

**Section F.** If the Office of Equity finds that there is reasonable cause for believing that a discriminatory practice has occurred the Senior Officer of the Office of Equity will determine ways to resolve the matter.

The Office of Equity shall:

1. Take seriously all complaints of discrimination or harassment
2. Take necessary steps to end any discrimination or harassment that is determined.
3. Take necessary steps to prevent this discrimination or harassment from happening again in the future.
4. When appropriate, individuals found at fault of discrimination or harassment may be referred for disciplinary action. Such action may include written warning, suspension, termination or another action deemed appropriate under the circumstance (For more information on Employee Discipline Procedures see HRS-PP10).

**Section G.** If the Office of Equity judges that there is not sufficient cause to believe that the employee or applicant has been discriminated against, and there is no basis for corrective action, the Office of Equity will give written notification of that determination to the employee or applicant at that point. If the employee or applicant is not satisfied with the Office of Equity's response, he/she may take the complaint to the Massachusetts Commission against Discrimination or other appropriate agency.

**Section H.** The Office of Equity will maintain records of all complaints of discrimination and harassment made to the Office of Equity, noting the school or department in which the complaint occurred, the person accused, and the results of the investigation of any such complaints.

The Office of Equity will annually review its records to identify any patterns or issues for future training and take appropriate action as necessary. The Office of Equity will report the results of its annual reviews to the Superintendent of Schools.

## **STATE AND FEDERAL REMEDIES**

Using the BPS' complaint process does not prohibit you from also filing a complaint with a state or federal agency. Most of these agencies have a short time period for filing a claim (OCR – 180 days; MDOE – within same school year; MCAD – 300 days).

### **United States Department of Education Office for Civil Rights ("OCR")**

John W. McCormack Post Office and Courthouse  
Post Office Square, Suite 800  
Boston, MA 02109  
(617) 223-9662

### **Massachusetts Department of Education ("MDOE")**

350 Main Street  
Malden, MA 02108  
(781) 388-3300

### **Massachusetts Office of Attorney General ("MAG")**

Civil Rights Division  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200 ext. 2691

**Massachusetts Commission Against Discrimination ("MCAD")**

Boston Office: One Ashburton Place, Room 601 Boston, MA 02108 (617) 994-6000	Springfield Office: 436 Dwight Street, Suite 220 Springfield, MA 01103 (413) 739-2145
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For more information about this circular, contact:

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Carol R. Johnson, Superintendent

Attachment

**BOSTON PUBLIC SCHOOLS  
OFFICE OF EQUITY**

**DISCRIMINATORY/HARASSMENT REVIEW/EMPLOYEE GRIEVANCE FORM**

NAME \_\_\_\_\_ DATE \_\_\_\_\_

ADDRESS \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone # \_\_\_\_\_ Cell Phone # \_\_\_\_\_

Work Phone # \_\_\_\_\_ E-mail address \_\_\_\_\_

Employee ID # \_\_\_\_\_ Title/Position Held \_\_\_\_\_

School/Department Name \_\_\_\_\_

School/Department Address \_\_\_\_\_

Cause of  Discrimination or  Harassment (check appropriate item(s))

- Race       Color       Age (Date of Birth: \_\_\_\_\_)       Disability  
 Sex/Gender       Religious Beliefs       National Origin       Ancestry       Retaliation  
 Sexual Orientation       Genetics       Military Status

Date Most Recent or Continuing Discrimination/Place (month, day, year – time if applicable):

\_\_\_\_\_  
\_\_\_\_\_

Person(s) the allegation is against (include position and/or title if applicable): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness(es) to the allegation (include position and/or title if applicable): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

