



**Superintendent's
Circular**
School Year 2013-2014

NUMBER:
EQT-1
DATE:
September 1, 2013

EMPLOYEES WITH DISABILITIES – RIGHTS AND RESPONSIBILITIES

The Boston Public Schools is committed to the policy of nondiscrimination against qualified persons with disabilities, in accordance with Section 504 of the Rehabilitation Act of 1973, as amended, and its regulations, and with the Americans with Disabilities Act (ADA). This policy of nondiscrimination against qualified handicapped persons applies not only to education programs but also to the employment practices of the school system. The purpose of this circular is to acquaint you with some of the specifics of this policy of equal employment opportunity for qualified individuals with disabilities. A person with a disability is any person who (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such impairment, or (3) is regarded as having such impairment. Many of the terms in this definition require legal interpretations. Persons requiring greater detail may obtain a copy of the Regulations from the Office of Equity. Although not all-inclusive, examples of the range and variety of disabilities included are provided below:

Non-ambulatory Disabilities – Physical impairments, regardless of cause, that require an individual to use a wheelchair. In this category are individuals who are paraplegic, quadriplegic, hemiplegic, or who have had a limb or limbs amputated, etc.

Semi-ambulatory Disabilities – Physical impairments that cause a person to walk with difficulty, perhaps with the assistance of crutches, walkers or braces.

Coordination Disabilities – Impairments of muscle control to the limbs, resulting in faulty coordination.

Sight Disabilities – Impairments affecting vision totally or partially.

Hearing Disabilities – Impairments affecting hearing totally or partially.

Speech Impairments – Impairments affecting totally or partially the ability to communicate orally.

Learning Disabilities – Impairments that impede the normal learning processes.

Mental or Psychological Disorders – Impairments affecting normal mental processes or emotional stability.

Section 504 defines a "Qualified Disabled Person" for employment purposes as a person who meets legitimate skill experience, education, or other requirements of an employment position, and who can perform the "essential functions" of the position with or without reasonable accommodation. If the individual is qualified by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation.

The ADA does not generally apply to individuals with minor, non-chronic conditions of short duration, such as a sprain, infection or broken limb.

Section 504 Regulations require that public school systems make all decisions concerning employment in a manner which ensures that discrimination on the basis of disability does not occur in any aspect of the employment relationship including:

1. Recruitment, advertising, and the processing of applications;
2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
3. Rates of pay or any other form of compensation and changes in compensation;
4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
5. Leaves of absence, sick leave, or any other leave;
6. Fringe benefits available by virtue of employment, whether or not administered by the institution;
7. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leave of absence to pursue training.

Accompanying this circular are copies of the voluntary self-identification form which Headmasters, Principals and Other Administrative Heads must make available to every employee in the school building or department. This includes teaching and administrative personnel and paraprofessionals of all types, as well as custodial, clerical and lunchroom personnel.

Any employees of the Boston Public Schools who have disabilities are requested to respond to this "Voluntary Self-Identification of Disabled Employees" form.

Responding to this self-identification is VOLUNTARY; even if an employee has a disability that is apparent to others, he/she is under no obligation to participate in this self-identification and failure to do so will not result in any adverse action.

Any information an employee chooses to provide will be held in strictest confidence and will be known only to the BPS's Office of Equity. This information will NOT become part of regular personnel records.

Your cooperation in implementing a policy of nondiscrimination against qualified persons with disabilities will assist the Boston Public Schools in ensuring equal opportunity to all employees and potential employees.

STATE AND FEDERAL REMEDIES

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using BPS' complaint process does not prohibit you from also filing a complaint with these agencies. 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:

Name:	Monique Carter
Department:	Office of Equity
Mailing Address:	26 Court Street, 7 th Floor
Phone:	617-635-8305
Fax:	617-635-7940
E-mail:	mcarter3@boston.k12.ma.us or BPSequity@boston.k12.ma.us

John P. McDonough, Interim Superintendent

Enclosure

**SECTION 504 COMPLIANCE:
VOLUNTARY SELF-IDENTIFICATION OF EMPLOYEES WITH DISABILITIES**

Superintendent's Circular #EQT-1 Employees with Disabilities – Rights and Responsibilities, details the commitment of the Boston Public Schools to a policy of non-discrimination against qualified disabled persons. As part of that resolve, all employees of the Boston Public Schools are requested to respond to a "Voluntary Self-Identification of Disabled Employees form."

Providing this information is VOLUNTARY – even if you have a disability that is apparent to others, you are under no obligation to participate in this self-identification, and failure to do so will not result in any adverse action.

Be assured that any information you choose to provide will be held in strictest confidence, and will be known only to the BPS's Office of Equity. This information will NOT become part of your regular personnel file.

Please complete the form and return it promptly to the Office of Equity, 26 Court Street, Boston, MA 02108, 635-8305, fax 635-7940.

Examples of the range of disabilities covered by Section 504 and the Americans with Disabilities Act are:

1. non-ambulatory disabilities (i.e., those that require a person to use a wheelchair);
2. semi-ambulatory disabilities (i.e., those that cause a person to walk with difficulty or with the assistance of crutches, braces, etc.);
3. coordination disabilities;
4. sight, hearing or speech impairments;
5. learning disabilities;
6. mental or psychological disorders;
7. other conditions including heart disease, diabetes, epilepsy, cancer, acquired immune deficiency syndrome, alcoholism and drug addiction;
8. a history of any of the above disabilities.

BOSTON PUBLIC SCHOOLS
CONFIDENTIAL EMPLOYEE WITH A DISABILITY VOLUNTARY SELF-IDENTIFICATION 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/Phone Number/Department Head _____

1. How long have you worked in the Boston Public Schools?

_____ 0-3yrs. _____ 3-6yrs. _____ 6-10 yrs. _____ more than 10 years

2. What is your disability? Please describe the nature of your disability in as much detail as possible.

3. Is there any accommodation that the Boston Public Schools could provide that would assist you in performing your job responsibilities? Yes

No

4. If "yes" to question #3, what accommodation(s) would be helpful to you?

make office/work area accessible

provide ASL interpreter

restructure job duties

provide assistive devices

modify work schedule

other: please specify

Please be specific: _____

5. Please explain how this accommodation would enable you to perform your job functions better.

6. Have any of these accommodations already been provided for you by the Boston Public Schools?
Yes No

7. If "yes" to #6, please indicate the accommodation(s):

8. If "no" to #6, have you requested any accommodations which have NOT been provided? Yes
No

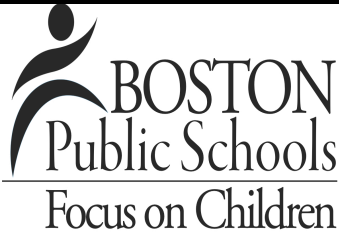
9. To whom was your request directed? Please describe the results.

10. If filing for an accommodation, please submit a recent letter/statement from your physician indicating the nature of your disability which necessitates a reasonable accommodation. This letter must be signed by a medical doctor and will not be accepted from other medical staff (i.e. nurse practitioner, counselor). Also, it must clearly answer the following questions:

1. What is the individual's disability?
2. How long have they been diagnosed with this disability and under the care of a doctor?
3. What are the limitations of the disability/impairment as it pertains to the person's job? (A job description can be provided for the doctor if necessary).
4. How long will this accommodation need to be in place?

ANY ADDITIONAL COMMENTS:

PLEASE SUBMIT TO THE CHIEF EQUITY OFFICER BY USPS: BPS OFFICE OF EQUITY, 26 COURT STREET, 7TH FLOOR, BOSTON, MA 02108; BY FAX: 617-635-7940; OR BY EMAIL: BPSEQUITY@BOSTON.K12.MA.US



Superintendent's Circular

School Year 2013-2014

NUMBER:
EQT-2

DATE:
September 1, 2013

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, gender identity, 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, gender identity, 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 twenty (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 determines 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")

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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:

Name:	Tanisha M. Sullivan, Esq.
Department:	Office of Equity
Mailing Address:	26 Court Street, 7 th Floor
Phone:	617-635-9650
Fax:	617-635-7940
E-mail:	bpsequity@boston.k12.ma.us

John P. McDonough, Interim 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 _____

Manager's Name and Contact Number _____

School/Department Address _____

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

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

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): _____



Superintendent's Circular

School Year 2013-2014

NUMBER:
EQT-3

DATE:
September 1, 2013

STUDENT, FAMILIES AND OTHER THIRD PARTY 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. This internal review will resolve matters alleging discrimination or harassment based on race, color, age, disability, sex/gender, gender identity, 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, gender identity, 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. The uniform procedures cover allegations of such discrimination or harassment in any activity under the auspices of the School, including, but not limited to, admission to courses of study, availability of services, program accessibility, guidance practices, sporting events or other extracurricular activities.

GENERAL POLICIES

- a. Retaliation against any student, family member or other third party 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 a student, family or other third party'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

Students, families and other third parties are encouraged, where appropriate, to attempt to resolve complaints regarding an alleged discriminatory practice on an informal basis. A student who chooses to seek informal resolution of his or her complaint should present the complaint to the principal or headmaster, or to any appropriate department or school administrator with the authority to resolve the complaint. Upon receiving an informal complaint regarding an allegedly discriminatory practice, the school official shall attempt, within his/her authority, to work with the individual to resolve the complaint fairly and expeditiously.

Students, families or other third parties who do not wish to seek informal resolution of their discrimination complaints, or who are dissatisfied with attempts at informal resolution, may also present their complaints directly to the Office of Equity, pursuant to the formal complaint procedures delineated below. Nothing in this policy shall prevent a student from reporting discrimination or harassment directly to the Office of Equity.

II. Formal Complaints

Section A. A student, family or third party 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 a student from reporting discrimination or harassment directly to the Office of Equity.

Section B. A student, family or third party may file a formal complaint with the Office of Equity by filling out a Discriminatory Practice Review/Student 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/Student, Family, Other Third Party Grievance Form asks the complainant to state the name of the individual against whom the complaint is being filed, the location of the school/department where the alleged discriminatory practice occurred, the basis for the complaint, and the corrective action that the student is seeking. In the event a student is unable to complete the form, a staff member in the Office of Equity shall take such information in person.

Section C. After a student files a formal written complaint, the Office of Equity shall, within twenty (20) school days, give written notification to the appropriate school/department identified in the complaint and to 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 Chief Equity 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.

For employees such action may include written warning, suspension, termination or another action deemed appropriate under the circumstance (For more information on Employee Discipline Procedures see Superintendent Circular HRS-PP10)

For students such action may include suspension, expulsion or another action deemed appropriate under the circumstance (For more information on Student Discipline please see the Code of Discipline for Students and Students with Disabilities – Superintendent Circulars' SUP-05 and SPE-15).

Section G. If the Office of Equity determines 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).

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Boston, MA 02108	Springfield, MA 01103
(617) 994-6000	(413) 739-2145

For more information about this circular, contact:

Name:	Tanisha M. Sullivan, Esq.
Department:	Office of Equity
Mailing Address:	26 Court Street, 7 th Floor
Phone:	617-635-9650
Fax:	617-635-7940
E-mail:	bpsequity@boston.k12.ma.us

Attachment

John P. McDonough, Interim Superintendent

**BOSTON PUBLIC SCHOOLS
OFFICE OF EQUITY**

**DISCRIMINATORY/HARASSMENT REVIEW
STUDENT, FAMILY, OTHER THIRD PARTY 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 _____

Manager Name and Contact Number _____

School/Department Address _____

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

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

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): _____



Superintendent's Circular

School Year 2014-2015

NUMBER:
EQT-4

DATE:
September 1, 2014

NON-DISCRIMINATION AND ZERO TOLERANCE POLICY

The purpose of this memorandum is to state and reaffirm the commitment of the Boston Public Schools to maintaining an educational environment and workplace where bigotry and intolerance, including discrimination on the basis of race, color, national origin, ancestry, sex, sexual orientation, gender identity or expression, religious beliefs, disability, genetics, military status, or age have no place, and where any form of intimidation, threat, coercion and/or harassment that insults the dignity of others and interferes with their freedom to learn or work is unacceptable.

It is the policy of the Boston Public Schools to have zero tolerance for any form of discrimination, including intimidation, threat, coercion, and/or harassment, for such conduct is contrary to the mission of the Boston Public Schools as both an educational institution and an employer, and contravenes its commitment to equal opportunity in education and employment. Accordingly, the Boston Public Schools will not tolerate discriminatory or harassing conduct by its students, teachers, or other employees. Furthermore, retaliatory conduct towards persons who have filed complaints or who have assisted in an investigation of alleged discrimination or harassment will not be tolerated.

Unacceptable conduct for which the Boston Public Schools have no tolerance includes, but is not limited to, any action or speech that contributes to, promotes, or results in a hostile or discriminatory environment. Many forms of harassment have been recognized as violations of civil rights laws by federal courts, the U.S Equal Employment Opportunity Commission, the U.S Department of Education, Office for Civil Rights and Commonwealth of Massachusetts. Accordingly, derisive statements made regarding a person's race, color, national origin, ancestry, sex, sexual orientation, gender identity or expression, religious beliefs, disability, genetics, military status, or age, including statements made in person or by telephone, postal or electronic mail, or any other means of communication, if sufficiently severe, pervasive, or persistent that they (a) interfere with or limit an individual's ability to participate in or benefit from employment in Boston Public Schools or from any Boston Public School Program or activity, or (b) create an intimidating, threatening, or abusive educational or working environment, will not be tolerated by the Boston Public Schools.

The Boston Public Schools will vigorously implement and enforce its policies of non-discrimination and zero tolerance to foster a fair and respectful working environment where equal and fair treatment of its students and employees is an integral part of daily operations. Therefore, any form of discrimination or harassment, as described above, of any BPS student or employee shall be viewed as serious misconduct and shall result in discipline, up to and including termination of the offending employee or expulsion of the responsible student.

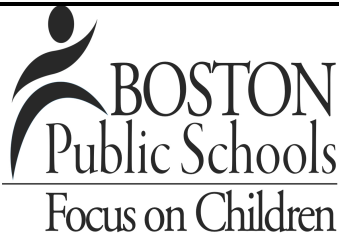
Furthermore, any person who retaliates against any person who has testified, assisted, or participated in any manner in an investigation, proceeding or hearing of a complaint, is subject to immediate disciplinary action, up to and including suspension, exclusion, or termination.

Any member of the Boston Public Schools community who believes that s/he has been subject to discrimination or harassment, or who has information regarding any such discriminatory or harassing conduct within the BPS community, is encouraged to report such matters as set forth in the superintendent's circular EQT-2 Employee Complaints of Discrimination or Harassment, EQT-3 Student, Family Third Party Complaints of Discrimination or Harassment. Any act of retaliation against any person who opposes such discriminatory or harassing behavior, or has filed a complaint, is strictly prohibited and illegal, and will subject the offending employee or student to discipline, up to and including termination or expulsion.

For more information about this circular, contact:

Name:	Tanisha M. Sullivan, Chief Equity Officer
Department:	Office of Equity
Mailing Address:	26 Court Street, 7 th Floor
Phone:	617-635-9650
Fax:	617-635-7940
E-mail:	tsullivan@bostonpublicschools.org

John P. McDonough, Interim Superintendent



Superintendent's Circular

School Year 2013-2014

NUMBER:
EQT-5

DATE:
September 1, 2013

NON-DISCRIMINATION POLICY STATEMENT

Effective forthwith, all newly printed publications (e.g., Code of Discipline, Citywide Learning Standards and Curriculum Frameworks, course selection booklets, student/ parent/employee handbooks, etc.) for students, parents, teachers, non-academic employees and the general public must contain the following non-discrimination notice:

THE BOSTON PUBLIC SCHOOLS, IN ACCORDANCE WITH ITS NON-DISCRIMINATION AND ZERO TOLERANCE POLICY, DOES NOT DISCRIMINATE IN ITS PROGRAMS, ACTIVITIES, FACILITIES, EMPLOYMENT AND EDUCATIONAL OPPORTUNITIES ON THE BASIS OF RACE, COLOR, AGE, DISABILITY, SEX/GENDER, GENDER IDENTITY, RELIGIOUS BELIEFS, NATIONAL ORIGIN, ANCESTRY, RETALIATION, SEXUAL ORIENTATION, GENETICS OR MILITARY STATUS AND DOES NOT TOLERATE ANY FORM OF INTIMIDATION, THREAT, COERCION AND/OR HARASSMENT THAT INSULTS THE DIGNITY OF OTHERS AND INTERFERES WITH THEIR FREEDOM TO LEARN OR WORK.

For more information about this circular, contact:

Name:	Tanisha M. Sullivan, Esq.
Department:	Office of Equity
Mailing Address:	26 Court Street, 7 th Floor
Phone:	617-635-9650
Fax:	617-635-7940
E-mail:	bpsequity@boston.k12.ma.us

John P. McDonough, Interim Superintendent



Superintendent's Circular

School Year 2013-2014

NUMBER:
EQT-6

DATE:
September 1, 2013

SEXUAL HARASSMENT POLICY

This policy supersedes all previously issued policies relating to sexual harassment.

INTRODUCTION

It is the goal of the Boston Public Schools to provide an educational environment and/or workplace free from sexual harassment and discrimination on the basis of sex. Under both Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, sexual harassment, which includes, but is not limited to, acts of sexual violence (rape, sexual assault, sexual battery and sexual coercion), is considered to be unlawful discrimination on the basis of sex. In addition, discrimination on the basis of sex is prohibited by the Massachusetts Constitution. Additionally, sexual harassment by an individual may constitute a crime or child abuse under the Massachusetts Criminal Code.

The Boston Public Schools takes allegations of sexual harassment seriously, and will promptly investigate all complaints of sexual harassment. Where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting an educational environment and/or workplace that is free of sexual harassment, the policy is not designed nor intended to limit the Boston Public Schools' authority to discipline or take remedial action for conduct which is deemed to be unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization.

DEFINITIONS OF SEXUAL HARASSMENT

In Massachusetts, and under Federal laws such as Title VII and Title IX, the legal definition for "sexual harassment" is similar as it relates to students in an educational environment and employees in the workplace. Below, we present the issues separately to provide the precise legal definitions as they relate to students and employees and to provide more specific examples of unacceptable conduct.

Sexual harassment can occur adult-to-student, student-to-adult, student-to-student, male-to-female, female-to-male, female-to-female and male-to-male.

If you are unsure as to whether you have been a victim of sexual harassment or have knowledge of an incident of sexual harassment, you should contact your school principal/headmaster or other appropriate school administrator with any questions that you may have. You may also contact the Office of Equity at 617-635-9650 at any time.

Harassment in the Workplace

In the employment context, Massachusetts and Federal law define "sexual harassment" as unwelcome conduct of a sexual nature which includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature when:

- (a) submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
- (b) such conduct is so severe, pervasive, or persistent that it creates a hostile, intimidating, humiliating, or sexually offensive work environment.

Sexual Violence is a form of sexual harassment prohibited by Title IX.

Examples of Unacceptable Conduct in the Workplace

The legal definition of sexual harassment is broad. Under the definitions above, direct or implied requests by a supervisor of sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

In addition, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- 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, or cartoons;
- unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- inquiries into one's sexual experiences;
- discussion of one's sexual activities.

Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated.

Harassment against Students (Including Peer Harassment)

In the education context, under Massachusetts law, "sexual harassment" is defined as unwelcome conduct of a sexual nature which includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature when:

- (a) 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
- (b) 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. *Mass. Gen. Laws Ch. 151C §1(e)*.

Title IX similarly protects students from sexual harassment in a school's programs and activities. This means that Title IX protects students in connection with all the academic, educational, extracurricular, athletic, and other programs and services of the school, whether those programs take place in a school's facilities, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

Under Title IX, sexual harassment is conduct based on sex (such as that described above), that is so severe, pervasive, or persistent that it creates a hostile environment by denying or limiting, a student's ability to participate in, or receive the benefits, services, or opportunities of, the school's services, programs and activities

Sexual Violence is a form of sexual harassment prohibited by Title IX.

Boston Public School employees or third parties shall not engage in sexual advances, requests, or conduct with students under any circumstances. Further, Boston Public School employees are obligated to report concerns regarding sexual harassment between students to their school principals/headmasters even in instances where they have not received a complaint from a student.

Examples of Unacceptable Conduct Involving Students

This policy covers sexual harassment of students by other students (peer sexual harassment) or by employees or third parties (i.e., school visitors, vendors, etc.).

Examples of school-related conduct that is considered unacceptable and may constitute sexual harassment include, but are not limited to, the following:

- Sexual invitations or requests for sexual activity in exchange for grades, promotions, preferences, favors, selection for extracurricular activities, job assignments or homework by District employees, vendors, or other third parties;
- Unwelcome and offensive public sexual display of affection between student peers, including kissing, making out, groping, fondling, petting, inappropriate touching of one's self or others or sexually suggestive dancing and massages;
- Unwelcome communication that is sexually suggestive, sexually degrading or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual jokes; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings" lists; pressuring for sexual favors or dates; howling; catcalls, whistles; or sexually graphic computer files, messages and games;
- Unwelcome and offensive name calling or profanity that is sexually suggestive, sexually degrading, implies sexual intentions, or that is based on sexual stereotypes or sexual preference;

- Unwelcome physical contact or physical closeness that is sexually suggestive, sexually degrading, or sexually intimidating such as the unwelcome touching of another's body parts; cornering or blocking an individual; standing too close to an individual; spanking, pinching, patting, squeezing or brushing against another's body; following an individual, stalking an individual, frontal-body hugs or any other kind of unwelcome physical contact.

As noted above, retaliation against an individual who has complained of sexual harassment and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Boston Public Schools.

As provided in the Boston Public Schools Code of Conduct, the Boston Public Schools strictly prohibits all forms of sexual harassment on school grounds, at school-sponsored activities, programs and events; and while traveling to and from school or school-sponsored activities, programs and events.

It shall be a violation of this policy for any student, employee or third party (i.e., school visitors, vendors, etc.) to sexually harass or otherwise discriminate against any student, employee or other individual associated with the school (i.e., parents, contractors, maintenance workers, consultants, etc.) on the basis of sex.

COMPLAINTS OF SEXUAL HARASSMENT

If any student or employee believes that he or she has been subjected to sexual harassment, the student or employee has the right to file a complaint with the Boston Public Schools. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting either your school principal/headmaster/responsibility center manager or the Office of Equity at 617-635-9650. Any teachers and/or other school staff who receive a complaint of sexual harassment shall report such complaint to their principal/headmaster. School principals/headmasters and responsibility center managers will immediately report all complaints of sexual harassment to the Office of Equity.

SEXUAL HARASSMENT INVESTIGATION

When the Boston Public Schools receives the complaint, it will promptly investigate the allegation in a fair, thorough and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

A copy of this circular will be provided to both the person filing the complaint and the person who is alleged to have committed the sexual harassment upon receipt of the complaint. The investigation will include a private interview with the person filing the complaint and with witnesses. The person alleged to have committed the sexual harassment will also be interviewed. 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 with notice of the right to appeal.

DISCIPLINARY ACTION

Complaints received will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements that define and/or should be treated as sexual harassment. Unacceptable conduct may or may not constitute sexual harassment. Normally, unacceptable behavior must be severe, persistent or pervasive to be considered sexual harassment. Even if unacceptable behavior is not sufficiently severe, persistent or pervasive to constitute sexual harassment, it may be subject to disciplinary action.

BPS will respond to all allegations of sexual harassment and other forms of discrimination on the basis of sex. Based upon the nature of the allegation and results of the investigation, BPS will determine the appropriate level of response.

If it is determined that inappropriate conduct has been committed, the Boston Public Schools will take such action as is appropriate under the circumstances. For students such action may range from counseling to suspension or expulsion from school. For employees, such disciplinary action may include warnings, reprimands, training, suspension or termination of employment. In either case, action may include such other forms of disciplinary action deemed appropriate under the circumstances.

ADDITIONAL ACTION

If the Boston Public Schools finds that there has been an instance of sexual harassment, the district will take immediate action to eliminate the harassment, prevent its recurrence, and address its effects.

PROHIBITION OF RETALIATION

Retaliation against an individual who has complained of sexual harassment and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Boston Public Schools.

Complaints of retaliation should be filed as specified in the Uniform Procedures for Student Grievances of Discrimination or Harassment or in the Uniform Procedures for Employee Discrimination or Harassment, as applicable.

RELATED POLICIES

You may also want to look at the following documents outlining related Boston Public School policies:

- Superintendent's Circular #LGL-13, Sexual Assault
- Superintendent's Circular #EQT-4, Non-Discrimination and Zero Tolerance Policy
- Superintendent's Circular #LGL-1, Hazing Law
- Superintendent's Circular #EQT-3, Student Grievances of Discrimination

STATE AND FEDERAL REMEDIES

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using the Boston Public Schools complaint process does not prohibit you from also filing a complaint with these agencies. Most of these agencies have a short time period for filing a claim (EEOC/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
5 Post Office Square,
8th Floor, Suite 900
Boston, MA 02109
(617) 289-0111

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

United States Equal Employment Opportunity Commission ("EEOC")

1 Congress Street, 10th Floor
Boston, MA 02114
617-565-3200

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:

Name:	Tanisha M. Sullivan, Esq. Chief Equity Officer and Title IX Coordinator for Boston Public Schools
Department:	Office of Equity
Mailing Address:	26 Court Street, 7 th Floor
Phone:	617-635-9650
Fax:	617-635-7940
E-mail:	bpsequity@boston.k12.ma.us or tsullivan@boston.k12.ma.us

OR

Name:	Alissa Ocasio
Department:	Office of Legal Advisor
Mailing Address:	26 Court Street, Boston, MA 02108
Phone:	617-635-9320
Fax:	617-635-9327
E-mail:	aocasio@boston.k12.ma.us

John P. McDonough, Interim Superintendent

BOSTON PUBLIC SCHOOLS



OFFICE OF EQUITY

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge that I received a copy of the following Boston Public Schools Circulars:

1. Superintendent's Circular Number EQT-1, EMPLOYEES WITH DISABILITIES – RIGHTS AND RESPONSIBILITIES;
2. Superintendent's Circular Number EQT-2, EMPLOYEE GRIEVANCES OF DISCRIMINATION OR HARASSMENT – UNIFORM PROCEDURES;
3. Superintendent's Circular Number EQT-3, STUDENT, FAMILIES AND OTHER THIRD PARTY GRIEVANCES OF DISCRIMINATION OR HARASSMENT – UNIFORM PROCEDURES;
4. Superintendent's Circular Number EQT-4, NON-DISCRIMINATION AND ZERO TOLERANCE POLICY;
5. Superintendent's Circular Number EQT-5, NON-DISCRIMINATION POLICY STATEMENT; and
6. Superintendent's Circular Number EQT-6, SEXUAL HARASSMENT POLICY.

Print Name: _____

Employee ID: _____

Signature: _____

Date: _____