

## **Discrimination and Harassment Procedures for Reporting and Investigating Complaints**

### **Reporting Procedures**

1. Any student or other person (who is not a school employee, independent contractor, or school volunteer) who becomes aware or has a reasonable belief that an incident prohibited by this policy has occurred, or may have occurred, on school property or in a school-related activity, is strongly encouraged to and should promptly report the incident to the Principal or to one of the Title(s) VI & IX Coordinators. In situations where a student or other person does not feel comfortable reporting the incident to a designated official, he/she may report it to a trusted school employee, who must promptly transmit the report to a designated official.
2. Any school community member may report possible incidents of discrimination, harassment, bullying, cyber-bullying, retaliation, or hate crime directly to the Principal or one of the Title(s) VI & IX Coordinators.
3. If the reported incident involves students from another school district, the Principal will promptly notify by telephone the Principal or designee of the other school(s) of the incident in accordance with state and federal privacy laws and regulations.
4. When a report or complaint involves physical injury, the Principal will promptly report the incident to the Superintendent-Director and at least one of the Title(s) VI & IX Coordinators.
5. If the complainant does not choose to file a written complaint with the Principal or Title(s) VI & IX Coordinator, then the Principal or the Title(s) VI & IX Coordinator will record the complaint in writing, using the complainant's own words.
6. Nothing in the Policy or these Procedures shall prevent any person from reporting alleged prohibited conduct directly to a Title(s) VI & IX Coordinator or the Superintendent-Director. Furthermore, nothing in the Policy or these Procedures will prevent any person from reporting alleged prohibited conduct to an administrator other than those designated or, in the case of a student, to any District employee who should then transmit the information to one of the Title(s) VI & IX Coordinators.
7. If the complaint involves an administrator, the Principal, or one of the Title(s) VI & IX Coordinators, the complaint shall be made or filed directly with the Superintendent-Director. If a complaint involves the Superintendent-Director, the report will be filed directly with the School Committee Chairperson.

### *Students*

Students who believe that they are victims of discrimination, harassment, or retaliation should report such occurrences to a teacher, counselor, Principal, or administrator, who will in turn notify a Title(s) VI & IX Coordinator. Students may also report directly to a Title(s) VI & IX Coordinator or the Superintendent-Director. Verbal or written reports will be accepted.

Reports of discrimination and/or retaliation may be made anonymously; however, no disciplinary action will be taken solely on the basis of an anonymous report.

Any student who knowingly makes a false accusation of discrimination, harassment, or retaliation shall be subject to disciplinary action.

*Employees, Contractors and Volunteers*

Employees, contractors and volunteers who believe that they are victims of discrimination, harassment, or retaliation should report such occurrences to their immediate supervisor, the Principal, an administrator, one of the Title(s) VI & IX Coordinators, or the Superintendent-Director. Any school employee, independent contractor, or school volunteer who becomes aware or has reasonable belief that an incident prohibited by this Policy has occurred, or may have occurred, on school property or in a school-related activity, whether such conduct has been directed at him/her or some other person, must promptly report the alleged incident.

Failure of an employee of the Essex North Shore Agricultural and Technical School District to report an incident of discrimination or harassment may result in disciplinary action. All employees are expected to promote the spirit of this policy. All District employees must always take every complaint of discrimination or harassment seriously and in accordance with the procedures outlined in this Policy.

Any employee who knowingly makes a false accusation of discrimination, harassment, or retaliation shall be subject to disciplinary action.

**Filing a Complaint**

1. All complaints or reports about a violation of this Policy must be documented. It is advised that incidents are recorded on the District "Discrimination and Harassment Incident Report form" (Attachment I). This form is available in all school offices and on the District website. If a complainant or reporter is either unwilling or unable to complete the District form and would prefer to file an oral complaint, the official who receives the oral complaint will promptly prepare a written report using, to the extent possible, the complainant's or reporter's own words to describe the potential violation.
2. The Title(s) VI & IX Coordinators will maintain any and all documentation regarding a Discrimination/Harassment complaint. Important information must be documented, including the allegation(s) and circumstances surrounding the complaint, the individual(s) involved, witnesses to the chronology of the events, and the investigation summary with outcomes and recommendations. Information may be shared among the Superintendent-Director, Title(s) VI & IX Coordinators, and/or the Principal.
3. Upon receipt of a report, the Title(s) VI & IX Coordinator will attempt to identify and obtain the cooperation of the person(s) who is the victim of the alleged conduct (if there is one). Even where the designated official does not obtain the identify of or cooperation by the alleged victim(s), the District will investigate the allegations and proceed to Informal and Formal Proceedings to the extent practicable.

**Reporting Sexual Abuse and Other Serious Criminal Conduct**

Massachusetts General Law (Chapter 119, Section 51A) designates administrators, teachers, school nurses, guidance counselors, and other school staff members as mandated reporters for the purpose of reporting child abuse and neglect to the Department of Children & Families (DCF). Under this law, a school staff member who has reasonable cause to believe that a student under the age of 18 is suffering physical, sexual, or emotional abuse or neglect by a parent, guardian, school staff member, or other caretaker, must immediately report the abuse or neglect either directly to DCF or to the person designated by the District to accept those reports who, in turn, must promptly report the abuse to DCF.

The Principal, Title(s) VI & IX Coordinators, and/or Superintendent-Director will notify law enforcement if they believe that criminal charges may be pursued against a perpetrator. Certain

forms of discrimination and harassment, identify theft or fraud, sexual harassment (including cyber and sexting, unwanted sexual touching, or sexual assault) may constitute a crime and will be reported to the Danvers Police Department and/or DCF.

The Principal, Title(s) VI & IX Coordinators, and/or Superintendent-Director will report physical injury, destruction of property, potential hate crimes, illegal harassment, and other acts of a serious criminal nature to the Danvers Police Department for criminal investigation. In addition, a hate crime will be reported to the Essex County District Attorney's Office.

#### Investigation Procedures

1. Essex North Shore Agricultural and Technical School District will investigate all forms of discrimination, harassment, and prohibited behavior based on our Policy. Such investigation may include discussions with all involved parties, identification and questioning of witnesses, and other appropriate actions.
2. Reports of discrimination and harassment and related information will be kept confidential in a manner consistent with the District's obligations under the law, to the extent possible, without handicapping the ability to perform and investigation or the need to take appropriate action to fulfill the obligation to protect others.
3. Attempts will be made to address and resolve the complaint informally. The District may elect to utilize a formal or informal process, depending on the nature and severity of the conduct alleged.
4. The District will employ interim steps to protect parties and to prevent the possible continuation of discrimination, harassment, or prohibited behavior during informal and formal investigations. The complainant and respondent will be apprised of the status of the processing and investigation regularly throughout the investigative process.
5. The Title(s) VI & IX Coordinator will either verbally or in writing make any recommendation(s) for resolving the complaint and present it to the complainant and the respondent, in addition to making recommendations for corrective action and/or discipline and steps to prevent reoccurrence to the Principal. All formal complaints will be responded to in writing. Parents/guardians of a victim and perpetrator will be notified regularly during the investigation, including the action taken to prevent further episodes. The Principal will notify law enforcement when criminal charges may be pursued against the perpetrator(s).
6. Any complainant or respondent may request records as the law allows. This request would be made through the Title(s) VI & IX Coordinators. All materials gathered in the course of the investigation, including the complaints, responses, witness statements, investigators' notes, and supporting documentation will be maintained in separate, confidential files with District administration.

#### *Informal Complaints*

The informal complaint will be given to the Title(s) VI & IX Coordinator to investigate. These Coordinators will process student complaints and complete an investigation within ten (10) business days. In addition, the Coordinators will process complaints involving employees. The Title(s) VI & IX Coordinators and/or the Superintendent-Director will process complaints involving administrators, the Principal, or non-instructional support staff.

The Coordinators will explain the informal process, ask what the student/employee would like, explain the prohibition against retaliation, and proceed with an internal review of the complaint. At the conclusion of the informal review, the complainant and respondent will be informed, either verbally or in writing, of the decision.

Attempts will be made through corrective action and/or discipline to stop the behavior and prevent its reoccurrences. The complainant will be asked if they agree with the proposed resolution. The complainant will be strongly encouraged to come forth immediately if there is any further misconduct by the respondent. The complainant may file a formal grievance (oral or written) with the Principal or Title(s) VI & IX Coordinator within ten (10) business days after receiving the response to their informal complaint.

If all of the parties involved within the complaint process agree to extend the informal process, the ten (10) business day process requirement may be waived.

#### *Formal Complaints*

If the response was insufficient to satisfy the complainant, or if the complainant and/or respondent are not satisfied with the informal resolution, or if the complaint is determined to be of such magnitude and/or seriousness, a formal process will be instituted and completed within fifteen (15) business days unless there is good cause for delay. Any delay must be documented.

The allegation(s) will be properly drafted and the investigation procedure will be explained to the complainant. A Title(s) VI & IX Coordinator will assume responsibility for the investigation. The Coordinator will work to gather as much relevant information as possible concerning the complaint. Any witnesses who have direct knowledge of the alleged discriminatory/harassing act(s) will be interviewed. The Coordinator will give periodic reports to the Principal and Superintendent-Director on the status and outcome of all formal complaints.

At the close of a formal investigation, the complainant and respondent will be informed in writing that the alleged complaint was substantiated or unsubstantiated. In accordance with state and federal law regarding data or records privacy, the complainant will also be informed that appropriate action has been taken. If the evidence shows there is reasonable cause to believe discrimination/harassment has occurred, attempts will be made through corrective action(s) and/or discipline, to stop the behavior and prevent reoccurrence.

If the complainant is dissatisfied with the response of the Title(s) VI & IX Coordinator, he/she may submit a written request or review by the Superintendent-Director within ten (10) business days. The Superintendent-Director must respond, in writing, within seven (7) business days. The Superintendent-Director reserves the right to extend the seven (7) business day response period where business needs so require, upon notice to the parties.

Records of any complaint filed by a complainant will not be placed in the complainant's personnel file or school record.

#### *Student Complaints*

The Title(s) VI & IX Coordinator will gather all pertinent facts from the complainant and provide an explanation as to the formal and informal procedures. In addition, the Coordinator will investigate the allegations and conduct interviews with witnesses. The investigation will be initiated expeditiously and will be completed in a timely manner as prescribed above.

*Staff Member/Student Complaints*

In a situation involving a charge of discrimination, harassment, or other prohibited behavior between a staff member and a student, the information should be brought to the attention of the Principal or Title(s) VI & IX Coordinator immediately. They will inform the Superintendent-Director and the Coordinator will commence an investigation immediately. Any employee has the right to representation during this process. A report of the incident and its resolution may be placed in the personnel file of the employee. Discipline, if indicated, will be administered by the Principal or Superintendent-Director.

If an alleged sexual harassment constitutes sexual abuse of a child by a “caretaker” (e.g., a school staff member), the Principal will report the suspected abuse to the Department of Children & Families (DCF), as required by M.G.L. 119, Section 51A, as well as to the Superintendent-Director.

*Staff Member/Staff Member Complaints*

In a situation involving a charge of staff member to staff member of discrimination, harassment, or other prohibited behavior, reporters should notify the Principal and/or the Title(s) VI & IX Coordinator. The Principal or Coordinator will inform the Superintendent-Director. The Coordinator will commence an investigation immediately corresponding to any respective collective bargaining procedures. Any employee has the right to representation in this process. A report of the incident and its resolution may be placed in the personnel file of the employee.

All complainants will have the opportunity to provide more information during and after the investigation. The complainant and respondent will have an opportunity to request a review by the Superintendent-Director if he/she is dissatisfied with the results and/or progress of the investigation. In the case of substantiated discrimination or harassment by an employee, the Superintendent-Director will include a written statement of the findings, a summary of investigative materials, the corrective action taken, and the consequences of continued discrimination/harassment in the individual’s personnel file.

The aforementioned procedures do not deny the right of any individual to pursue other avenues of recourse, which may include filing charges with the Massachusetts Department of Elementary and Secondary Education (DESE), the Massachusetts Commission Against Discrimination (MCAD), Equal Employment Opportunity Commission (EEOC), and the Office of Civil Rights of the U.S. Department of Education (OCR), initiating civil action or seeking redress under criminal statutes and/or federal law.

**Corrective Action**

Upon completion of an investigation and substantiation of the complaint, the District will take appropriate corrective action for the respondent and complainant, as indicated. Such action may include, but is not limited to, a written or verbal apology, directive to stop the offensive behavior, parent/supervisory conference, counseling, training, parent engagement, or remediation. The District action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Massachusetts and federal laws, and District policies. In accordance with state and federal law regarding data or records privacy, the complainant will also be informed that appropriate corrective action has been taken.

If the complainant (student or employee) does not agree to the corrective action or cannot agree to a resolution, he/she may appeal to the Superintendent-Director, and/or take the complaint to the U.S. Department of Education (Office for Civil Rights), the Department of Elementary and Secondary Education, or the U.S. Equal Employment Opportunity Commission.

If the offender (student or employee) refuses to agree to the corrective action and/or disciplinary action, Essex North Shore Agricultural and Technical School District may order appropriate corrective and/or disciplinary action without consent, and may refer the complainant to the Massachusetts Commission Against Discrimination, the U.S. Department of Education (Office for Civil Rights), and/or Juvenile or District Court Department.

### **Discipline**

Any student or staff member of Essex North Shore Agricultural and Technical School District who is found to be in violation of this Policy is subject to appropriate disciplinary action, up to and including warning, suspension, legal action, exclusion, expulsion, transfer, or discharge.

If the student's discriminating or harassing conduct warrants, disciplinary procedures exercised by the Principal will be instituted in accordance with the student handbook and the policies of the District. An incident report to the Juvenile Policy Officer of the Danvers Police Department will be filed or a referral to the Essex County Juvenile Court may be filed. A 51A report or Child in Need of Services petition may be filed.

Employee disciplinary action will be consistent with the requirement of applicable collective bargaining agreements, Massachusetts and federal laws, and District policy.

Any third party, such as vendors or contractors doing business with the Essex North Shore Agricultural and Technical School District, found to have engaged in discrimination or harassment may be subject to legal action and contract termination consistent with federal and state law.

### **Retaliation**

The District will discipline or take appropriate action against any student, teacher, administrator, or school personnel who retaliates in any form against a person who makes a complaint, reports, or participates in an investigation of a discrimination/harassment complaint. Act of retaliation may result in immediate disciplinary action, including expulsion or dismissal, even if underlying discrimination or harassment is not proven. If the Principal and/or Title(s) VI & IX Coordinator believe that either the victim or respondent is in physical or emotional danger, the parents or guardians and the Danvers Police Department will be notified immediately. Retaliation is an independent prohibited and unlawful act.