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**POLICY AGAINST HARASSMENT INCLUDING HARASSMENT BASED UPON SEX/GENDER, RACE, COLOR, NATIONAL ORIGIN, RELIGION, AGE, GENDER IDENTITY, HANDICAP AND/OR DISABILITY AND SEXUAL ORIENTATION**

I.  POLICY PREAMBLE

The Swampscott Public Schools are committed to the prevention of harassment based upon sex/gender, gender identity, race, color, national origin, religion, age, handicap and/or disability and sexual orientation. This policy has been developed to ensure that the educational opportunities of all students, and the employment conditions of all employees, are not threatened or limited by such harassment. This policy defines prohibited conduct, the personal responsibilities of all students, employees, and agents of the School District to ensure prohibited conduct does not occur, a referral and investigation procedure for reported violations of this policy, and defines corrective procedures if violations of this policy have been substantiated.

II.  HARASSMENT/PROHIBITED CONDUCT DEFINED

A.  Prohibited Conduct includes, but is not limited to, the following conduct when related to a person’s sex/gender, gender identity, race, color, national origin, religion, age, handicap and/or disability and sexual orientation and when such conduct is unwelcome by the recipient:

1.  name calling, teasing, jokes, rumors, or other derogatory or dehumanizing remarks;

2.  pulling at clothing and other possessions;

3.  graffiti;

4.  offensive notes or cartoons;

*5.* unwelcome touching of a person or person’s clothing;

6.  offensive or profane graphic posters, pictures, book covers, circulating pornography or designs on clothing;

7.  any words or actions which provoke feelings of threat, discomfort, embarrassment, or hurt.

The above list was provided to give some concrete examples of conduct which constitutes harassment based upon an impermissible basis. However, all members of the Swampscott community must assess their conduct in light of the following definitions of the various forms of harassment. Thus, if certain conduct is not listed in the foregoing list, but does fall into one of the following definitions of harassment, then the conduct is harassment and is prohibited conduct,

B.  Sexual Harassment/Gender Harassment consists of unwelcome sexual advances, use of gender to differentiate power, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

1.  submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education, or obtaining or retaining employment; or

2.  submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting the individual’s education or employment; or

3.  that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual’s education or employment, or creating an intimidating, hostile or offensive educational or work environment;

4.  adversely affects an individual’s academic or employment opportunities.

Sexual Harassment includes but is not limited to:

1.  unwanted verbal harassment or abuse;

2.  unwanted pressure for sexual activity;

3.  unwanted, sexually motivated or inappropriate touching, patting, pinching, or other sexual contact other than reasonable and necessary restraints of students by teachers, administrators, or other school personnel to avoid physical harm to persons or property;

4.  unwanted sexual behaviors or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual’s educational or employment status;

*5.* unwanted sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual’s educational or employment status;

6.  unwanted behavior or words directed at an individual because of gender.

N.B.  Sexual harassment can include prohibited conduct as defined above which occurs between members of the same sex.

C.  Racial Harassment consists of physical or verbal conduct which is related to an individual’s race when the conduct:

1.  has the purpose or effect of creating an intimidating, hostile or offensive academic or work environment;

2.  has the purpose or effect of substantially or unreasonably interfering with an individual’s academic or work performance; or

3.  otherwise adversely affects an individual’s academic or employment opportunities.

D.  Harassment Based Upon Color consists of conduct which is related to an individual’s color when the conduct:

1.  has the purpose or effect of creating an intimidating, hostile or offensive academic or work environment;

2.  has the purpose or effect of substantially or unreasonably interfering with an individual’s academic or work performance;

3.  otherwise adversely affects an individual’s academic or employment opportunities.

E.  National Origin Harassment consists of conduct which is related to an individual’s national origin when the conduct:

1.  has the purpose or effect of creating an intimidating, hostile or offensive academic or work environment;

2.  has the purpose or effect of substantially or unreasonably interfering with an individual’s academic or work performance;

3.  otherwise adversely affects an individual’s academic or employment opportunities.

F.  Religious Harassment consists of physical or verbal conduct which is related to an individual’s religion when the conduct:

1.  has the purpose or effect of creating an intimidating, hostile or offensive academic or work environment;

2.  has the purpose or effect of substantially or unreasonably interfering with an individual’s academic or work performance;

3.  otherwise adversely affects an individual’s academic or employment opportunities.

G.  Age Harassment consists of conduct which is related to an individual’s age when the conduct:

1.  has the purpose or effect of creating an intimidating, hostile or offensive academic or work environment;

2.  has the purpose or effect of substantially or unreasonably interfering with an individual’s academic or work performance;

3.  otherwise adversely affects an individual’s academic or employment opportunities.

H.  Handicap and/or Disability Harassment consists of conduct which is related to an individual’s handicap and/or disability when the conduct:

1.  has the purpose or effect of creating an intimidating, hostile or offensive academic or work environment;

2.  has the purpose or effect of substantially or unreasonably interfering with an individual’s academic or work performance;

3.  otherwise adversely affects an individual’s academic or employment opportunities.

I.  Sexual Orientation Harassment consists of conduct which is related to an individual’s sexual orientation when the conduct:

1.  has the purpose or effect of creating an intimidating, hostile or offensive academic or work environment;

2.  has the purpose or effect of substantially or unreasonably interfering with an individual’s academic or work performance;

3.  otherwise adversely affects an individual’s academic or employment opportunities.

J.  Gender Identity Harassment consists of conduct which is related to an individual’s gender identity when the conduct:

1.  has the purpose or effect of creating an intimidating, hostile, or offensive academic or work environment;

2.  has the purpose or effect of substantially or unreasonably interfering with an individual’s academic or work performance;

3.  otherwise adversely affects an individual’s academic or employment opportunities.

III.  RESPONSIBILITIES

All students, teachers, administrators and other school personnel of the Swampscott Public Schools are responsible for creating an environment that is free of harassment and other offensive behaviors, and for conducting themselves in a manner consistent with the spirit and intent of this policy.

Principals and other administrators/supervisors are responsible to ensure that this policy summary is conspicuously posted in each classroom, school office, and other appropriate student/employee work areas, and that it is printed in each school’s student handbook. The posting of policy summary shall include the name, mailing address, and telephone number of the school principal or designee, as well as the name, address, and telephone number of the District Human Rights Officer.

The Swampscott Public Schools are responsible for the dissemination of this policy and training. The school district responsibilities will ensure:

A.  This policy summary shall be conspicuously posted throughout each school building in areas accessible to students and staff members.

B.  This policy shall appear in the student handbook.

C.  The School District will develop a method of discussing this policy with students and employees.

D.  The School District will provide appropriate training to administrators and others who are assigned the responsibility to implement the procedures of this policy.

E.  This policy shall be reviewed at least annually for compliance with state and federal law.

IV.  REFERRAL PROCEDURES

Any person who believes that a student, teacher, administrator or other school personnel has engaged in conduct prohibited by this policy, whether such conduct has been directed at him/her or some other person, should report the alleged prohibited conduct as soon as possible to the appropriate School District official as designated by this policy. The School District encourages the reporting party or complainant to use the report form available from the principal of each school or available from the School District’s Central *Office,* but oral reports will be considered complaints as well. Nothing in this policy shall prevent any person from reporting alleged prohibited conduct directly to the district’s Human Rights Officer or to the Superintendent. Further, nothing in this policy shall prevent any person from reporting alleged prohibited conduct to a different administrator than the administrator designated, or in the case of a student, to a teacher or counselor.

A.  The School District designates the Administrator of Student Services as the School District Human Rights Officer with responsibility to oversee administration of these procedures and to monitor compliance. If a complaint involved the Administrator of Student Services, the complaint shall be made or filed directly with the Superintendent.

B.  In each school the school principal or his/her designee is the person responsible for receiving and investigating oral or written reports of alleged prohibited conduct. Any school district personnel who receives a report of alleged prohibited conduct shall inform the principal or his/her designee as soon as possible. If the complaint involves the school principal, the complaint shall be filed with the Superintendent.

V.  COMPLAINT INVESTIGATION PROCEDURES

Upon receipt of a report or complaint of alleged prohibited conduct, the responsible administrator or designee shall initiate a timely investigation of the complaint.

If warranted by the circumstances of the complaint, the District Human Rights Officer may assist the school with the investigation, may assume responsibility for the investigation, or may authorize an investigation by a third party who shall report to the District Human Rights Officer.

The investigation may consist of personal interviews with the complainant(s), the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

In determining whether “alleged conduct” constitutes a violation of this policy, the School District shall consider the surrounding circumstances: the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationship 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 facts and surrounding circumstances.

The investigation will be completed as soon as practicable, and a report will be filed by the District Human Rights Officer within 10 days of the investigation’s completion. The Human Rights Officer will give monthly reports to the Superintendent on the status and outcome of complaints. If a complaint involves the Superintendent, the report will be filed directly with the Chairperson of the School Committee. If the complaint is not substantiated by the investigation, the school district will so inform the complainant. The reports will include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

Failure to investigate a complaint as provided herein*, or* to forward a report to the Human Rights Officer, will result in disciplinary action.

VI.  CORRECTIVE PROCEDURES

Upon completion of an investigation and substantiation of the alleged harassment, the School District will take appropriate corrective action. Such action may include, but is not limited to, an apology, direction to stop the offensive behavior, counseling or training, warning, suspension,

exclusion, expulsion, transfer, remediation, termination of employment School District action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Massachusetts and federal laws and School District policies.

The results of the

School District’s investigation of each complaint filed under these procedures will be reported in writing to the complainant by the ’’School District’ in accordance with state and federal law regarding data or records privacy.

VII.  REPRISAL

It is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a complaint of sexual harassment The School District will discipline or take appropriate action against any student, teacher, administrator, or school personnel who retaliates against any person who reports an alleged violation of this policy or any person who testifies, assists, or participates in an investigation, or who testifies, assists, or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment

VIII.  RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These 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 Education, Massachusetts Commission against Discrimination, Equal Employment Opportunity Commission, and the Office of Civil Rights of the U.S. Department of Education, initiating civil action or seeking redress under criminal statutes and/or federal law.

IX.  HARASSMENT AS CHILD ABUSE

Under certain circumstances, alleged harassment may also constitute abuse or neglect under G.L. c. [119 5lA](http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/section51a%22%20%5Ct%20%22_blank). If so, the requirements for mandatory reporting under that statute are not abrogated by this policy.

LEGAL REFS.:  Title VI and VII of the Civil Rights Act of 1964

Title IX of the 1972 Educational Amendments to the Civil Rights Act

Section 504 of the Rehabilitation Act of 1973

The Age Discrimination in Employment Act

The Americans with Disabilities Act

Chapter 622 of the Acts of 1972

M.G.L. [151B:3](http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter151b/section3); [151C](http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter151c)

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