

# **Barnstable Public Schools Student Handbook**

**The following is the Barnstable Public Schools Student Handbook, which applies to each school, student, and staff member in the district.**

## **Attendance**

Regular and punctual school attendance is essential for success in school. The District recognizes that parents/guardians of children who attend our schools have special rights as well as responsibilities, one of which is to ensure that their children attend school regularly, in accordance with state law. Students are expected to be in school every day that school is in session, including half days. They are also expected to be on time for school.

A complete explanation of the District's attendance policies and procedures, including what types of absences are excused, can be found on page 5 of the Student Handbook

## **Bullying Prevention and Intervention Plan**

The Barnstable Public Schools are committed to providing all students with a safe learning environment that is free from bullying and cyber-bullying. The Bullying Prevention and Intervention Plan ("Plan") is a comprehensive approach to addressing bullying and cyberbullying, and the Barnstable Public Schools are committed to working with students, staff, families, law enforcement agencies, and the community to prevent issues of violence.

A complete explanation of the District's Bullying Prevention and Intervention Plan, including information on how to report bullying, can be found beginning on page 21 of the Student and Family Handbook

## **Child Find**

If you suspect that your child has a disability and requires services under Special Education or Section 504, please contact your child's school counselor or school psychologist.

Page 21 of the Student Handbook.

## **Gun Free Schools Act**

In accordance with this federal law, any student who is determined to have brought a firearm to school or to a school related event will be excluded from the Barnstable Public Schools for a period of not less than one year, except as determined by the Superintendent on a case-by-case basis. A firearm includes not only guns, but also an explosive device. Any firearm on school property will be immediately reported to the police.

Page 31 of the Student Handbook.

### **Harassment (including Sexual Harassment)**

Harassment of students by other students will not be tolerated in the Barnstable Public Schools.

Harassment prohibited by the District includes, but is not limited to, harassment on the basis of race, sex, gender identity, creed, color, gender identity, national origin, sexual orientation, religion, homeless status, marital status or disability.

Harassment means conduct of a verbal or physical nature that is designed to embarrass, distress, agitate, disturb or trouble students when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of a student's education or of a student's participation in school programs or activities;
- Submission to or rejection of such conduct by a student is used as the basis for decisions affecting the student, or;
- Such conduct has the purpose or effect of unreasonably interfering with a student's performance or creating an intimidating or hostile learning environment.

Sexual Harassment is prohibited by the District. Sexual Harassment is defined as unwelcome conduct of a sexual nature.

The definition includes unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity it also, includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment includes conduct by an employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct, often called quid pro quo harassment and, sexual assault, dating violence, domestic violence and stalking as the Federal Clery Act and Violence Against Women Act define such crimes. Sexual violence is a form of sexual harassment. Sexual violence, as the Office of Civil Rights (OCR) uses the term, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion.

Additional information regarding the District's Harassment policies can be found beginning on page 16 of the Student Handbook. This information includes the process for filing a complaint.

### **Medication**

The Barnstable Public Schools is registered with the Department of Public Health to administer prescription medications during school hours under MGL: 105CMR 210.100.

The purpose of the regulation is to provide a safe, consistent and reasonable approach to the taking of medication by children during school hours. However, when possible, students should receive medications at home.

A complete description of the procedures for medications can be found of page 31 of the Student Handbook.

### **Nondiscrimination**

The Barnstable Public Schools does not discriminate on the basis of race, color, religion, national origin, age, gender, gender identity, sexual orientation, or disability in admission to, access to, employment in, or treatment in its programs and activities.

Additional information regarding the District's nondiscrimination policies can be found beginning on page 12 of the Student Handbook.

### **School Lunches**

The School Committee will provide a regular meal to students who forget or lose their lunch money.

Students will pay for meals at the regular rate approved by the School Committee and for their meal status (regular, reduced-priced, or free) each day. After a student's school lunch account balance reaches zero and enters the negative, students will not be allowed to purchase a la carte items including but not limited to a second entrée, snacks, ice cream, or an additional beverage. The parent/guardian is responsible for any meal charges incurred based on the standard lunch rate and the student's meal status.

A complete explanation of the School Committee's Meal Charge Policy, include payment expectations, can be found on page 7 of the Student Handbook.

### **Student Records**

Generally state and federal laws related to student records do two things:

- Allow parents and adult students to access their student records; and
- Protect the confidentiality of student records by limiting the permissible the disclosure of student records.

Student records are documents and other forms of information that contain personally identifiable student information and are kept and maintain by the District or its agents.

A complete explanation of a student's and family's rights regarding access to and confidentiality of student records is available beginning on page 8 (Federal laws) and page 10 (Massachusetts laws) of the Student Handbook.

A notice regarding the District's disclosure of "directory information" can be found on page 9 of the Student Handbook.

### **Student Removals (Suspensions and Expulsions)**

As a result of certain behavioral incidents, a student may subject to a disciplinary removal from school, such as a short-term or long-term suspension or an expulsion. Prior to being suspended or expelled from school, a student has the right to be heard and to present their version of the event and/or facts.

A complete explanation of the procedures for disciplinary removals, including the applicable state laws, can be found beginning on page 28 of the Student Handbook.

Specific information related to disciplining students with disabilities, pursuant to the Individuals with Disabilities Act of 2004 and Section 504 of the Rehabilitation Act of 1973, can be found on page 30 of the Student Handbook.

### **Student Surveys**

From time to time a school or the District may find it necessary to conduct student surveys. Generally, student surveys will be anonymous and voluntary. Depending on the type of survey, the funding and/or the questions asked, parents may be asked to provide consent or have the right to opt their child out of the survey.

A complete explanation of student and family rights related to the District's administration of student surveys and requirements for parental consent can be found beginning on page 11 of the Student Handbook.

### **Tobacco Products on School Premises**

Use of any tobacco products, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco and snuff and electronic cigarettes, electronic cigars, electronic pipes or other similar products that rely on vaporization or aerosolization, within the school buildings, school facilities, on school grounds or school buses, or at school sponsored events by any individual, including school personnel and students, is prohibited at all times.

The complete School Committee policy regarding tobacco products can be found on page 35 of the Student Handbook.

### **Yearly Health Screenings**

The Barnstable Public Schools conduct all health screenings as mandated by Massachusetts General Law and the Department of Public Health (DPH). At the beginning of the school year parents/ guardians can request in writing that their child not participate.

Documentation of a recent physical exam is required when registering to enter the Barnstable Public Schools and in grades K, 3, 7, and 10. A yearly physical exam is also required for students participating in interscholastic sports.

Generally, documentation of up to date immunizations is required when registering to enter the Barnstable Public Schools and throughout their school years. Some exceptions apply. If a homeless child lacks immunizations or medical records, the student may attend school while the records are obtained.

A complete of all yearly health screenings is available on page 32 of the Student Handbook.

### **Wellness Guidelines**

The Barnstable Public School district is committed to providing school environments that promote and protect children's health, well-being, and ability to learn by supporting healthy eating and physical activity. School districts are required by public health law 108.25, Section 204, to have a wellness policy, as childhood obesity has reached epidemic levels in the United States. Our goal is to create an environment that promotes healthy lifelong eating and exercise habits, and therefore the following guidelines have been established.

The District complete School Wellness Guidelines, including information about snacks, physical activity opportunities and health education, can be found beginning on page 32 of the Student Handbook.

## **Student Attendance (School Committee Policy JH)**

In Barnstable Public Schools attendance matters. Regular and punctual school attendance is essential for success in school. The District recognizes that parents/guardians of children who attend our schools have special rights as well as responsibilities, one of which is to ensure that their children attend school regularly, in accordance with state law. Students are expected to be in school every day that school is in session, including half days. They are also expected to be on time for school.

### **Definitions**

School Day- A school day shall be equal to half of the school time for that day.

Truancy- Being absent from school without permission from a parent/guardian or for a circumstance that do not constitute an excused absence.

Chronic Absenteeism- Being absent from school for 10% or more of the available student attendance days, regardless of reason. Excused **AND** unexcused absences count towards a student's chronic absenteeism rate.

Excused Absence- An absence from school that will be marked as excused, as determined by the Principal or his/her designee. Excused absences are limited to the following circumstances:

- personal illness;
- medical appointments that cannot be made outside of school hours;
- death of a family member;
- serious illness of a family;
- weather so inclement as to endanger the health of the child;
- observance of major religious holidays;
- legal obligations requiring personal appearance;
- verified post-high school visits, such as college visits (two days during a student's junior year and three days during a student's senior year); and
- other exceptional reasons with approval of the Principal or designee.

The provision of a written explanation will not automatically result in the absence being documented as excused. Excused absences are limited to the categories set forth above.

Unexcused Absence - An absence for which no written verification or documentation is provided (i.e. a "no call-no show" absence) or that occurs for a reason that cannot be considered an excused absence.

### **Excused and Unexcused Absences**

The District recognizes that sometimes absences are unavoidable. On occasion, parents/guardians may temporarily excuse their children from school attendance under limited circumstances.

The Principal or his/her designee has the authority to determine whether a student's absence from school is documented as excused. Accordingly, parents/guardians will provide a written explanation for the absence or tardiness of a child. The provision of a written explanation will not automatically result in the absence being documented as excused. Excused absences are limited to the categories set forth above. Family vacations will not be excused for attendance purposes and will constitute an unexcused absence, as will travel for non-school sponsored sports, activities and other programs.

In instances of chronic or irregular absence reportedly due to illness, the Principal or his/her designee may request a physician's statement certifying such absences to be justified. Written documentation from an appropriately licensed medical professional or healthcare provider is required for all absences that are three (3) or more consecutive days.

The parent/guardian of any student who will have a prolonged absences (more than two weeks) due to an illness or injury must notify the school to make necessary arrangements for homebound instruction.

## **Student Absence Notification Program**

In the event the parent/guardian has not informed the school of the student's absence, the Principal or his/her designee will notify the parent/guardian of the absence on a daily basis.

The Principal or his/her designee will implement appropriate interventions for reducing chronic absenteeism, as set forth in District guidance documents. In addition, the parties may seek input from other relevant school staff and/or officials from relevant public safety, health and human service, housing, and nonprofit agencies.

School officials may contact law enforcement officials, juvenile court authorities or social service agencies at any time if they feel that students are truant or that parents/guardians are not making reasonable efforts to ensure their child's regular school attendance.

The School Committee directs the Superintendent or his/her designee to establish procedures to monitor student attendance, truancy and chronic absenteeism and take all appropriate measures, including court intervention, to encourage regular student attendance.

For the 2020-2021 school year only, or until otherwise revoked by the School Committee, a student's attendance will be taken for both in-person learning and remote learning days. Parents are responsible for informing the school of their student's absence from both in-person learning and remote learning. The Superintendent or his/her designee shall implement a system for documenting student attendance and notifying parents/guardians of student absences.

## **Academic Impact of Absenteeism**

A student who is absent shall be permitted to complete any course work that is missed during the absence, including in-class assignments, homework, quizzes, exams and other assignments. Schools may set expectations regarding the timeliness of submission of the missed coursework. A student's grade cannot be negatively impacted on the basis of attendance alone. Work completion and timely submission, class participation (which is not possible when a student is not in class) and mastery of content may all impact a student's grade.

## **Adult Students**

After the end of the quarter in which a student turns 18 years of age, an 18-year-old student may excuse himself or herself from school attendance pursuant to this policy.

## **Dropout Prevention**

No student who is sixteen (16) years old or older and who has not graduated from high school shall be considered permanently removed from school unless the Principal or his/her designee has sent notice to a student and that student's parent/guardian, who has been absent from school for ten (10) consecutive days of unexcused absence. The notice shall be sent within five (5) days of the tenth consecutive day of absence and shall offer at least 2 dates and times within the next ten (10) days for an exit interview with the Superintendent or designee, the student, and the student's parent/guardian. The notice shall be in both English and the primary language of the home, if applicable. The notice shall include contact information for scheduling the exit interview and shall indicate the parties shall reach an agreement on the date/time of the interview within the ten (10) day timeframe. The timeframe may be extended at the request of the parent/guardian and no extension shall exceed 14 days.

The Superintendent or his/her designee may proceed with any interview without a parent/guardian present, provided the Superintendent has documented a good faith effort to include the parent/guardian.

The Superintendent or designee shall convene a team of school staff to participate in the exit interview and shall provide information to the student and, if applicable, the student's parent/guardian on the detrimental effects of early withdrawal from school and the alternative education programs and services available to the student.

## **Withdrawal**

Parents/guardians should follow the District's withdrawal process. The District will verify withdrawals with the parent/guardian.

If the school is provided information that the student will be out of the country for an extended period of time during the school year, and the parent/guardian does not formally withdraw the student, the student should remain enrolled and marked absent (unexcused).

SOURCE: Adapted, in part, from MASC recommended policies, October 2014.

LEGAL REFS.: M.G.L. [76:1](#); [76:1B](#); [76:16](#); [76:18](#); [76:20](#)

[Amended by the School Committee on September 2, 2020.](#)

### **Meal Charge Policy (School Committee Policy EFD)**

The School Committee is committed to providing students with healthy, nutritious meals each day so they can focus on school work, while also maintaining the financial integrity of meal programs and minimizing any impact on students with meal charges. However, unpaid meal charges place a large financial burden on the school district, as food services is a self-supporting entity within the district. The purpose of this policy is to ensure compliance with federal reporting requirements of the USDA Child Nutrition Program, as well as provide oversight and accountability for the collection of outstanding student meal balances. The provisions of this policy pertain to regular priced school meals only. The School Committee will provide a regular meal to students who forget or lose their lunch money.

#### **Meal Charges and Balances**

Students will pay for meals at the regular rate approved by the School Committee and for their meal status (regular, reduced-price, or free) each day. Payment options will be delineated in student handbooks and provided to parents of incoming students. After the balance reaches zero and enters the negative, students will not be allowed to purchase a la carte items including but not limited to a second entrée, snack, ice cream, or an additional beverage. The student will still be allowed to take a meal, and that meal will continue to be charged to the account at the standard lunch rate based on their meal status. The parent/guardian is responsible for any meal charges incurred. If there is a financial hardship, a parent/guardian should contact food services directly to discuss payment options such as an individualized repayment plan.

#### **Payments**

Parents/Guardians are responsible for all meal payments to the food service program. Notices of low or deficit balances will be sent directly to parent/guardians via email or regular postal mail at regular intervals during the school year. At no time shall any staff member give payment notices to students unless that student is known to be an emancipated minor who is fully responsible for themselves or over the age of 18. If parent/guardians have issues with student purchases they should contact food services for assistance.

Parents/Guardians may pay for meals in advance. Further details are available on the school district webpage and in student handbooks. Funds should be maintained in accounts to minimize the possibility that a child may be without meal money on any given day. Any remaining funds for a particular student, whether positive or negative, will be carried over to the next school year.

All school cafeterias possess computerized point of sale/cash register systems that maintain records of all monies deposited and spent for each student and those records are available to parents by setting up an online account (see student handbooks for more details) or by speaking with the school's food service manager. The point of sale system is designed to prevent direct identification of a student's meal status. Parents will receive automated low-balance emails or mailed notices weekly, if applicable. If notices do not result in payment, parents will receive a phone call from food services. If the phone call does not result in payment the food service manager shall turn the account over to the business office.

## **Refunds**

Refunds for withdrawn and/or graduating students require a written request (email, postal, or in person) for a refund of any money remaining in their account to be submitted. Graduating students also have the option to transfer funds to a sibling's account or to donate to a student in need with a written request.

## **Delinquent Accounts/Collections**

Failure to maintain up to date accounts may result in a delay of a student's extra-curricular school services, especially those that are fee based. Graduating seniors may lose the ability to participate in certain graduation related activities. The Superintendent shall ensure that there are appropriate and effective collection procedures and internal controls within the school district's business office that meet the requirements of law.

If a student is without meal money on a consistent basis, the administration may investigate the situation more closely and take further action as needed. If financial hardship exists, parents and families are encouraged to apply for free or reduced price lunches for their child. Each school handbook shall contain detailed instructions for parental assistance.

## **Policy Communications**

This policy shall be communicated to all staff and families at the beginning of each school year and to families transferring to the district during the year.

## **Notification of Rights under FERPA**

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age ("eligible students") certain rights with respect to the student's education records. These rights are:

(1) The right to inspect and review the student's education records.

Parents or eligible students should submit to the school principal a written request that identifies the record(s) they wish to inspect. The school principal will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

(2) The right to request the amendment of the student's education records that the parent or eligible student believes is inaccurate, misleading or otherwise a violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the School to amend a record should write the school principal, clearly identify the part of the record they want changed, and specify why it should be changed. If the School decides not to amend the record as requested by the parent or eligible student, the School will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

(3) The right to provide written consent before the school discloses personally identifiable information from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the School as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Committee; a person or company with whom the School has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, the School discloses education records without consent to officials of another school district in which a student seeks or intends to enroll.

Other exceptions are set forth at 34 CFR §99.31.

(4) The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-5901

### **FERPA Directory Information Notice**

FERPA requires that Barnstable Public Schools, with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, the Barnstable Public Schools may disclose appropriately designated "directory information" without written consent, unless you have advised the District to the contrary in accordance with District procedures. The primary purpose of directory information is to allow the Barnstable Public Schools to include this type of information from your child's education records in certain school publications. Examples include:

- A playbill, showing your student's role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;
- Graduation programs; and
- Sports activity sheets, such as for wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require local educational agencies (LEAs) receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) to provide military recruiters, upon request, with three directory information categories—names, addresses and telephone listings—unless parents have advised the LEA that they do not want their student's information disclosed without their prior written consent.

If you do not want the Barnstable Public Schools to disclose directory information from your child's education records without your prior written consent, you must notify your school principal in writing by October 1. The Barnstable Public Schools have designated the following information as directory information:

- Student's name
- Participation in officially recognized activities and sports
- Address
- Telephone listing
- Weight and height of members of athletic teams
- Electronic mail address
- Photograph and video image
- Degrees, honors, and awards received
- Date and place of birth
- Major field of study
- Dates of attendance
- Grade level
- Class
- Post-high school plans

## **Massachusetts Student Records Regulations**

FERPA is the federal law that applies to student records. There are also Massachusetts state laws and regulations that apply.

The Massachusetts regulations regarding student records apply to all information kept by a school committee on a student in a manner such that he or she may be individually identified. The regulations divide the record into two sections: the transcript and the temporary record. The transcript includes only the minimum information necessary to reflect the student's educational progress. The information includes name, address, course titles, grades, credits, and grade level completed. The transcript is kept by the school system for at least sixty years after the student leaves the system. The temporary records contain the majority of the information maintained by the school about the student. This may include such things as standardized test results; class rank; school-sponsored activities; and evaluations and comments by teachers, counselors, and other persons, as well as other similar information. The temporary record is destroyed within seven years after the student leaves school. Parents and students may receive copies of the temporary record before records are destroyed (no more than 7 years after the student leaves).

The following is a summary of the major parent and students' rights, regarding their student records, as provided by the Massachusetts Regulations Pertaining to Student Records:

### **Inspection of Records**

A parent, or student who has entered the ninth grade or is at least 14 years old, has the right to inspect all portions of the student record upon request. The record must be made available to the parent or the student no later than 10 days after the request, unless the parent or student consents to the delay. The parent and the student have the right to receive copies of any part of the record, although a reasonable fee may be charged for duplicating the materials. Finally, the parent and the student may request to have parts of the record interpreted by a qualified professional of the school, or may invite anyone else of their choosing to inspect or interpret the record with them.

### **Confidentiality of Records**

With a few exceptions, no individuals or organizations but the parent, student, and school personnel working directly with the student are allowed to have access to information in the student record without the specific, informed, written consent of the parent or the student. However, in line with federal regulations, the school may release "directory information" about a student to third parties; i.e. parent groups, without prior consent as long as the school gives this notice and permits students or parents to object. This information may include student/parent names, addresses, telephone number and year of graduation. *If you do not want this information released, please contact the Principal's office before October 1.*

### **Amendment of Records**

The parent and student have the right to add relevant comments, information, or other written materials to the student record. In addition, the parent and student have the right to request that information in the record be amended or deleted. The parent and student have a right to a conference with the school Principal to make their objections known. Within a week after the conference, the Principal must render a decision in writing. If the parent and student are not satisfied with the decision, the regulations contain provisions through which the decision may be appealed to higher authorities in the school system.

### **Destruction of Records**

The regulations require that certain parts of the student record, such as the temporary record, be destroyed no later than seven years after the student leaves the school system. Temporary records will be given to students upon graduation.

### **Transfer of Records**

Consistent with the Education Reform Act, Barnstable Public Schools has the authority to transfer a student's complete record to a student's new school without prior consent of parents. Additionally, under M.G.L. Chapter 71, Section 37L, any student transferring into a new school district must provide the new district with a complete school record including, but not limited to, any incidents involving suspension or violation of criminal acts or any incident reports in which such student was charged with a suspended act. Barnstable High School's student records policy states that no part of the student's discipline record will be disclosed to any college/university/ or post secondary school to which

the student is applying for admissions as a post-secondary institution. The exception to this would be unless the parent and/or student over the age of 18 specifically request that it be provided.

### **Access of Non-Custodial Parents to Student Records**

Access to student record information by non-custodial parents is governed by both federal and state laws and regulations. An eligible non-custodial parent who wants to obtain access to his or her child's student record must submit a written request to the school principal. The school must notify the custodial parent of the request before releasing information to the non-custodial parent. A custodial parent may block the release of information to the non-custodial parent by providing the school with documentation that the non-custodial parent is not eligible to obtain access to the information. For purposes of obtaining access to student record information, a non-custodial parent is any parent who does not have physical custody of his or her child. Legal custody is irrelevant. Additional information may be obtained by contacting the school.

The above is a summary of some of the more important provisions of the Regulations Pertaining to Student Records that related to student and parent rights. If more information is desired, a copy of the regulations may be obtained from your school. *See also* School Committee Regulation JRA-R (Student Records).

### **Notification of Rights Under Protection of Pupil Rights Amendment (PPRA)**

The Protection of Pupil Rights Amendment (PPRA) affords parents certain rights regarding our conduct of surveys, collection and use of information for marketing purposes, and certain physical exams. These include the right to:

(1) *Consent* before students are required to submit to a survey that concerns one or more of the following protected areas ("protected information survey") if the survey is funded in whole or in part by a program of the U.S. Department of Education (ED)—

- Political affiliations or beliefs of the student or student's parent;
- Mental or psychological problems of the student or student's family;
- Sex behavior or attitudes;
- Illegal, anti-social, self-incriminating, or demeaning behavior;
- Critical appraisals of others with whom respondents have close family relationships;
- Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
- Religious practices, affiliations, or beliefs of the student or parents; or
- Income, other than as required by law to determine program eligibility.

(2) *Receive notice and an opportunity to opt a student out of—*

- Any other protected information survey, regardless of funding;
- Any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health and safety of a student, except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under State law; and
- Activities involving collection, disclosure, or use of personal information obtained from students for marketing or to sell or otherwise distribute the information to others.

(3) *Inspect*, upon request and before administration or use—

- Protected information surveys of students;
- Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and
- Instructional material used as part of the educational curriculum.

These rights transfer from the parents to a student who is 18 years old or an emancipated minor under State law.

The Barnstable Public Schools has developed and adopt policies, in consultation with parents, regarding these rights, as well as arrangements to protect student privacy in the administration of protected information surveys and the

collection, disclosure, or use of personal information for marketing, sales, or other distribution purposes. *See* School Committee Policy ILD (student Submission to Educational Surveys and Research). The Barnstable Public Schools will notify parents of this policy at least annually and, when practical, will notify parents at the beginning of the school year when surveys, analyses or evaluations are scheduled or anticipated. For surveys and activities scheduled after the school year starts, parents will be provided reasonable notification of the planned activities and surveys listed below and be provided an opportunity to opt their child out of such activities and surveys. Parents will also be provided an opportunity to review any pertinent surveys. Following is a list of the specific activities and surveys covered under this requirement:

- Collection, disclosure, or use of personal information for marketing, sales or other distribution.
- Administration of any protected information survey not funded in whole or in part by ED.
- Any non-emergency, invasive physical examination or screening as described above.

Parents shall have the opportunity to opt their child out of participation in any survey, analysis or evaluation. Student who are 18 years of age or older may opt out of such surveys, analyses or evaluations.

*Parents who believe their rights have been violated may file a complaint with:*

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-5901

### **Notice of Nondiscrimination**

The Barnstable Public Schools does not discriminate on the basis of race, color, national origin, language, sex, religion, gender identity, sexual orientation, pregnancy, pregnancy-related condition, disability/handicap or other bases prohibited under state or federal anti-discrimination statutes in admission to, access to, employment in, or treatment in its programs and activities. The Coordinator for Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and M.G.L. Chapter 76, Section 5, is Dr. Gina Hurley who can be reached at 508-862-4953 ext 1734, 230 South Street, PO Box 955, Hyannis, MA 02601. Inquiries regarding the application of the Barnstable Public Schools' nondiscrimination policy may be referred to Barnstable's Coordinator or the Assistant Secretary for Civil Rights, U.S. Department of Education, Washington, D.C. 20202 (or the Regional Director, U.S. Department of Education, Office for Civil Rights, Region I, 33 Arch Street, Suite 900, Boston, MA 02110-1491.)

Pursuant to M.G.L. Chapter 76, Section 5, no person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, religion, national origin, sexual orientation or disability.

### **Nondiscrimination Policy (School Committee Policy AC)**

The Barnstable School Committee has the responsibility to overcome, insofar as possible, any barriers that prevent children from achieving their potential. This commitment to the community is affirmed in the following statements:

1. Promote the rights and responsibilities of all individuals as set forth in the State and Federal Constitutions, pertinent legislation, and applicable judicial interpretations.
2. Encourage positive experiences in human values for children, youth, and adults, all of whom have differing personal and family characteristics and who come from various socioeconomic, racial, and ethnic groups.
3. Work toward a more integrated society and enlist the support of individuals, as well as groups and agencies, both private and governmental, in such an effort.
4. Use all appropriate communication and action techniques to air and reduce the grievances of individuals and groups.

5. Carefully consider, in all the decisions made within the school system, the potential benefits or adverse consequences that those decisions might have on the human relations effecting all segments of society.
6. Initiate a process of reviewing policies and practices of the school system in order to achieve to the greatest extent possible the objectives of this statement.

The Barnstable School Committee's policy of nondiscrimination will extend to students, staff, the general public, and individuals with whom it does business. No person shall be excluded from or discriminated against in admission to a public school or in obtaining the advantages, privileges, and courses of study of such public school on account of their race, color, national origin, language, sex, religion, gender identity, sexual orientation, pregnancy, pregnancy-related condition, disability/handicap or other bases prohibited under state or federal anti-discrimination statutes, in schools. If someone has a complaint or feels that they have been discriminated against because of their race, color, national origin, language, sex, religion, gender identity, sexual orientation, pregnancy, pregnancy-related condition, or disability/handicap, their complaint should be registered with the Title IX/Section 504/Title II Coordinator for the District. The Title IX/Section 504/Title II Coordinator for the District is: Dr. Gina Hurley, Executive Director of Social-Emotional Learning and Students Services, Barnstable Public Schools, 230 South Street, P.O. Box 955 who can be reached by e-mail at: hurley\_gina@mybps.us or by phone at: 508-862-4953 ext 1734. In circumstances involving a complaint of discrimination by an employee of the District, the Title IX/Section 504/Title II Coordinator may work in coordination with the Human Resources Department for the Town of Barnstable.

The District's Harassment grievance procedures will apply to all complaints.

If you believe you have been subjected to discrimination, you may file a formal complaint with the following governmental agencies.

1. The Massachusetts Commission Against Discrimination,  
Boston Office  
1 Ashburton Place, Room 601  
Boston, MA 02108.  
Phone: 617-994-6000
2. Office for Civil Rights (U.S. Department of Education)  
5 Post Office Square, 8th Floor  
Boston, MA 02109.  
Phone: 617-289-0111
3. The United States Equal Employment Opportunity Commission,  
John F. Kennedy Bldg.  
475 Government Center  
Boston, MA 02203

SOURCE: Adapted from MASC; Consultation with Discrimination and Harassment Solutions, LLC

UPDATED: October 7, 2020

LEGAL REFS.: Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972

Executive Order 11246, as Amended by E.O. 11375

Equal Pay Act, as amended by the Education Amendments of 1972 Title IX, Education Amendments of 1972

Rehabilitation Act of 1973

Education For All Handicapped Children Act of 1975

M.G.L. 71B:1 et seq. (Chapter 766 of the Acts of 1972)

M.G.L. 76:5; Amended 2011

M.G.L. 76:16 (Chapter 622 of the Acts of 1971) Board of Education 603 CMR 26.00

CROSS REF.: ACA-ACE, Subcategories for Nondiscrimination GBA, Equal Opportunity Employment

JB Equal Educational Opportunities

### **Nondiscrimination on the Basis of Sex (School Committee Policy (ACA))**

The Barnstable School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school system does not and will not discriminate on the basis of sex in the educational programs and activities in the public schools. This policy will extend not only to students with regard to educational opportunities, but also to employees with regard to employment opportunities.

The Barnstable School Committee will continue to ensure fair and equitable educational and employment opportunities, without regard to sex, to all of its students and employees.

The Barnstable School Committee designates Dr. Gina Hurley, Executive Director of Social-Emotional Learning and Student Services, 230 South Street, Hyannis, MA, 02601, 508-862-4953 ext 1734, [hurley\\_gina@mybps.us](mailto:hurley_gina@mybps.us), as the school system's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.

UPDATED: October 7, 2020

LEGAL REFS.: Title IX of the Education Amendments of 1972

45 CFR, Part 86, (Federal Register, 6/4/75)

M.G.L. [76:5](#); (Chapter 622 of the Acts of 1971)

Board of Education Chapter 622 Regulations Pertaining to Access to Equal Educational Opportunity, adopted 6/24/75, amended 10/24/78

Board of Education 603 CMR [26:00](#)

CROSS REFS.: [AC](#), Nondiscrimination

### **Nondiscrimination on the Basis of Disability (School Committee Policy ACE)**

Title II of the Americans With Disabilities Act of 1992 requires that no qualified individual with a disability shall, because the District's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, and activities of the District or be subject to discrimination. Nor shall the District exclude or otherwise deny services, programs, or activities to an individual because of the known disability of a person with whom the individual is known to have a relationship or association.

**Definition:** A "qualified individual with a disability" is an individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the District.

**Reasonable Modification:** The District shall make reasonable modification in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the District can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

**Communications:** The District shall take the appropriate steps to ensure that communications with applicant, participants, and members of the public with disabilities are as effective as communications with others. To this end, the District shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy benefits of, a service, program, or activity conducted by the District. In determining what type of auxiliary aid or service is necessary, the District shall give primary consideration to the requests of the individuals with disabilities.

**Auxiliary Aids and Services:** "Auxiliary aids and services" includes (1) qualified interpreters, note takers, transcription services, written materials, assisted listening systems, and other effective methods for making aurally delivered materials available to individuals with hearing impairments; (2) qualified readers, taped texts, audio recordings, Braille materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments; (3) acquisition or modification of equipment or devices and (4) other similar services and actions.

**Limits of Required Modification:** The District is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. Any decision that, in compliance with its responsibility to provide effective communication for individuals with disabilities, would fundamentally alter the service, program, or activity or unduly burden the District shall be made by the School Committee after considering all resources available for use in funding and operating the program, service, or activity. A written statement of the reasons for reaching that conclusion shall accompany the decision.

**Notice:** The District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the American with Disabilities Act (ADA) and its applicability to the services, programs, or activities of the District. The information shall be made available in such a manner as the School Committee and Superintendent find necessary to apprise such persons of the protections against discrimination assured them by the ADA.

**Compliance Coordinator:** The District shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II of ADA, including any investigation of any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited under ADA. The District shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated and shall adopt and publish procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA. The school system receives federal financial assistance and must comply with the above requirements. Additionally, the School Committee is of the general view that:

1. Discrimination against a qualified disabled person solely on the basis of disability is unfair; and
2. To the extent possible, qualified disabled persons should be in the mainstream of life in the school community. Accordingly, employees of the school system will comply with the above requirements of the law and policy statements of this Committee to ensure nondiscrimination on the basis of disability.

SOURCE: MASC July 2016

LEGAL REFS.: Rehabilitation Act of 1973, Section 504, as amended  
Education for All Disabled Children Act of 1975  
M.G.L. [71B:1](#) et seq. (Chapter 766 of the Acts of 1972)  
Title II, Americans with Disabilities Act of 1992, as amended  
Board of Education Chapter 766 Regulations, adopted 10/74, as amended through 3/28/78

CROSS REFS.: [IGB](#), Support Services Programs

## **Student-to-Student Harassment Policy (School Committee Policy JBA)**

Harassment of students by other students will not be tolerated in the Barnstable Public Schools. This policy is in effect while students are on school grounds, School District property or property within the jurisdiction of the School District, school buses, or attending or engaging in school activities.

Harassment prohibited by the District includes, but is not limited to, harassment on the basis of race, sex, gender identity, creed, color, gender identity, national origin, sexual orientation, religion, homeless status, marital status or disability. Students whose behavior is found to be in violation of this policy will be subject to disciplinary action up to and including suspension or expulsion.

Harassment means conduct of a verbal or physical nature that is designed to embarrass, distress, agitate, disturb or trouble students when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of a student's education or of a student's participation in school programs or activities;
- Submission to or rejection of such conduct by a student is used as the basis for decisions affecting the student, or;
- Such conduct has the purpose or effect of unreasonably interfering with a student's performance or creating an intimidating or hostile learning environment.

Harassment as described above may include, but is not limited to:

- Verbal, physical or written (including texting, blogging, or other technological methods) harassment or abuse;
- Repeated remarks of a demeaning nature;
- Implied or explicit threats concerning one's grades, achievements, or other school matter.
- Demeaning jokes, stories, or activities directed at the student.

The District will promptly and reasonably investigate allegations of harassment. The Principal of each building will be responsible for handling all complaints by students alleging harassment.

Retaliation against a student, because a student has filed a harassment complaint or assisted or participated in a harassment investigation or proceeding, is also prohibited. A student who is found to have retaliated against another in violation of this policy will be subject to disciplinary action up to and including suspension and expulsion.

The Superintendent will develop administrative guidelines and procedures for the implementation of this policy.

LEGAL REF.: M.G.L. 151B:3A

Title VII, Section 703, Civil Rights Act of 1964 as amended

BESE 603 CMR 26:00

### **Harassment (School Committee Policy ACAB)**

Harassment of students by other students, employees, vendors and other 3rd parties will not be tolerated in the Barnstable Public Schools. The alleged harassment must involve conduct that occurred within the school's own program or activity, such as whether the harassment occurred at a location or under circumstances where the school owned, or substantially controlled the premises, exercised oversight, supervision or discipline over the location or participants, or funded, sponsored, promoted or endorsed the event where the alleged harassment occurred, against a person in the United States. This policy is in effect while students are on school grounds, School District property or

property within the jurisdiction of the School District, school buses, or attending or engaging in school sponsored activities.

Harassment prohibited by the District includes, but is not limited to, harassment on the basis of race, color, national origin, language, sex, religion, gender identity, sexual orientation, pregnancy, pregnancy-related condition, disability/handicap or other bases prohibited under state or federal anti-discrimination statutes, in schools.. Students whose behavior is found to be in violation of this policy will be subject to disciplinary action up to and including suspension or expulsion pursuant to disciplinary codes. Employees who have been found to violate this policy will be subject to discipline up to and including, termination of employment, subject to contractual disciplinary obligations.

**Employee-to-Student Harassment** means conduct of a written, verbal or physical nature that is designed to embarrass distress, agitate, disturb or trouble students when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of a student's education or of a student's participation in school programs or activities; or
- Submission to or rejection of such conduct by a student is used as the basis for decisions affecting the student.

**Student- to-Student Harassment** means conduct of a written, verbal, or physical nature that is designed to embarrass, distress, agitate, disturb or trouble students, when:

- Such conduct has the purpose or effect of unreasonably interfering with a student's performance or creating an intimidating or hostile learning environment.

Harassment as described above may include, but is not limited to:

- Written, verbal, or physical (including texting, blogging, or other technological methods) harassment or abuse;
- Repeated remarks of a demeaning nature;
- Implied or explicit threats concerning one's grades, achievements, or other school matter.
- Demeaning jokes, stories, or activities directed at the student.

By law, what constitutes harassment is determined from the perspective of a reasonable person with the characteristic on which the harassment is based. Individuals should consider how their words and actions might reasonably be viewed by others.

The District will promptly and reasonably investigate allegations of harassment through the Title IX Coordinator or building-based employees, who may include building principals and/or their designees. The Superintendent will provide, in consultation with the Title IX Coordinator, opportunities to the designated recipients for appropriate training.

**Sexual harassment** is unwelcome conduct of a sexual nature. The definition includes unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity it also, includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment includes conduct by an employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct, often called quid pro quo harassment and, sexual assault, dating violence, domestic violence and stalking as the Federal Clery Act and Violence Against Women Act define such crimes. Sexual violence is a form of sexual harassment. Sexual violence, as the Office of Civil Rights (OCR) uses the term, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion.

Massachusetts General Laws Ch. [119, Section 51 A](#), requires that public schools report cases of suspected child abuse, immediately orally and file a report within 48 hours detailing the suspected abuse to the Department of Children and Families. For the category of sexual violence, in addition to Section 51A referrals these offences and any other serious matters shall be referred to local law enforcement.

Schools must treat seriously all reports of sexual harassment that meet the definition of sexual harassment and the conditions of actual notice and jurisdiction as noted above. Holding a school liable under Title IX can occur only when the school knows of sexual harassment allegations and responds in a way that is deliberately indifferent (clearly unreasonable in light of known circumstance).

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 on 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, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating an environment that is hostile, offensive, intimidating, to male, female, or gender non-conforming students or employees may also constitute sexual harassment.

Because the District takes allegations of harassment, including sexual harassment, seriously, we will respond promptly to complaints of harassment including sexual harassment, and following an investigation where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting an environment that is free of harassment including sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment or sexual harassment.

Retaliation against a complainant or any participant within the complaint resolution process, because they have filed a harassment or sexual harassment complaint or assisted or participated in a harassment or sexual harassment investigation or proceeding, is also strictly prohibited. A student or employee who is found to have retaliated against another in violation of this policy will be subject to disciplinary action up to and including student suspension and expulsion or employee termination.

The complainant does not have to be the person at whom the unwelcome sexual conduct is directed. The complainant, regardless of gender, may be a witness to and personally offended by such conduct.

### **NOTICE OF SEXUAL HARASSMENT**

The regulations require the District to respond when the District has actual notice of sexual harassment. The District has actual notice when an allegation is made known to any school employee. Schools will treat seriously all reports of sexual harassment that meet the definition of harassment and the conditions of actual notice and jurisdiction as noted whether or not the complainant files a formal complaint. Holding a school liable under Title IX can occur only when the school knows of sexual harassment allegations and responds in a way that is deliberately indifferent (clearly unreasonable in light of known circumstances). Schools are required to investigate every formal complaint and respond meaningfully to every known report of sexual harassment.

Reports of sexual harassment and/or retaliation may be made directly to the Title IX Coordinator or school-based designees (see contact information and details below) at any time using the email address, mailing address and/or telephone number provided. A Formal Complaint means a written document submitted or signed by the Complainant or their parent/guardian or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the District investigate the allegations.

The regulation highlights the importance of supportive measures designed to preserve or restore access to the school's education program or activity, with or without a formal complaint. When an incident of sex-based discrimination or sexual harassment is reported, the Title IX Coordinator or designee, shall determine whether supportive measures are necessary pending the results of the investigation. The Title IX Coordinator or designee shall take immediate measures necessary to stop the harassment and protect students and/or ensure their access to the educational program. To the extent possible, such supportive measures shall not disadvantage the complainant or victim of the alleged harassment. Supportive measures may include placing the individuals involved in separate classes or transferring a student to a class taught by a different teacher. The school should notify the individual who was harassed of his/her options to avoid contact with the alleged harasser and allow the complainant to change academic and extracurricular arrangements as appropriate. The school should also ensure that the complainant is aware of the resources and assistance, such as counseling, that are available to him/her. As appropriate, supportive measures must be considered even when a student chooses to not file a formal complaint, or the sexual harassment occurs off school grounds or outside school-sponsored or school-related programs or activities.

Where there has been a finding of responsibility, the regulation would require remedies designed to restore or preserve access to the school's education program or activity.

### **DUE PROCESS PROTECTIONS**

The Title IX Coordinator shall develop a written process for managing formal complaints of sexual harassment, which shall ensure due process protections, including the following:

- 1) A reasonably prompt response and resolution, generally within 60 school days; although extenuating circumstances may result in extensions to this timeline, the District will avoid all undue delays within its control;
- 2) A presumption of innocence throughout the grievance process, with the burden of proof on the school;
- 3) A prohibition of the single investigator model, instead requiring a decision-maker separate from the Title IX Coordinator or investigator;
- 4) The standard for determining whether the alleged harassment or discrimination occurred shall be by the preponderance of the evidence; meaning that it is more likely than not that the alleged conduct occurred;
- 5) Access to an advisor of the party's choice throughout the process;
- 6) The opportunity to test the credibility of parties and witnesses through cross examination, subject to "rape shield" protections;
- 7) Written notice of allegations and an equal opportunity to review the evidence;
- 8) Title IX Coordinators, investigators, and decision-makers must be free from bias or conflict of interest;
- 9) Equal opportunity for parties to appeal;
- 10) Upon filing a formal complaint the school will give written notice to the parties containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation. The District will not conduct in-person hearings as part of the investigative process but the parties will be allowed to submit written questions to challenge each other's credibility before the decision-maker makes a determination. After the investigation, a written determination will be sent to both parties explaining each allegation, whether the respondent is responsible or not responsible, including the facts and evidence on which the conclusion was based. As long as the process is voluntary for all parties, after being fully informed and written consent is provided by both parties, a school may facilitate informal resolution of a sexual complaint.

The Title IX Coordinator will establish an informal investigation process that may, upon the request of the complainant be followed by a formal process.

The Superintendent in consultation with the Title IX Coordinator shall designate the principal of each school in the District, or their designee as the initial entity to receive the sexual harassment complaint. Also, in a matter of sexual harassment, the District requires that the Title IX Coordinator be informed, as soon as possible, of the filing of the complaint. Nothing in this policy shall prevent any person from reporting the prohibited conduct to someone other than those above designated complaint recipients. The investigating officer may receive the complaint orally or in writing, and the investigation shall be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances and in compliance with applicable law. The investigation will be prompt, thorough, and impartial, and will include, at least, a private interview with the person filing the complaint and with witnesses. Also,

the alleged harasser will be interviewed. When the investigation is completed, the complaint recipient will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

**RECORD KEEPING REQUIREMENTS**

Schools must create and maintain records documenting every Title IX sexual harassment complaint. Schools must keep records regarding the school's response to every report of sexual harassment of which it becomes aware even if no formal complaint was filed, including documentation of supportive matters offered and implemented for the complainant.

**CONFIDENTIALITY/PRIVACY**

Every effort shall be made to preserve the privacy of reports. Information related to the complaint will be shared with the parties, their advisors, and a limited number of District employees who "need to know" in order to assist in the assessment, investigator and/or resolution of the report. Otherwise, the privacy of student records will be protected in accordance with state and federal laws and District policies pertaining to student records. The privacy of employee records will be protected in accordance with state laws and District policies.

**NOTICE**

This policy, or a summary thereof that contain the essential policy elements shall be distributed by the Barnstable School District to its students and employees and each parent or guardian shall sign that they have received and understand the policy.

The District's Title IX Coordinator is Dr. Gina Hurley, Executive Director of Social-Emotional Learning and Students Services, Barnstable Public Schools, 230 South Street, P.O. Box 955 who can be reached by e-mail at: hurley\_gina@mybps.us or by phone at: 508-862-4953 ext 1734.

School-based complaints can also be filed with the building administrator:

Kristen Harmon, Administrator in Charge	Barnstable High School	508.790.6445
Jim Anderson	Barnstable Intermediate School	508.790.6460
Mike Wojkowski	Barnstable United Elementary School	508.420.2272
Cathy Milne	Barnstable Community Innovation School	508.790.6485
Elizabeth Forbes	Barnstable-West Barnstable Elementary	508.362.4949
Matt Scheufele	Centerville Elementary	508.790.9890
Kathi Amato	Hyannis West Elementary	508.790.6480
Mery Faial-Zaynounge	West Villages Elementary	508.420.1100
Nicole Caucci	Enoch Cobb Early Learning Center	508.790.6493

Please note that the following entities have specified time limits for filing a claim.

The Complainant may also file a complaint with:

- The Massachusetts Commission Against Discrimination  
Boston Office  
1 Ashburton Place, Rooms 601  
Boston, MA 02108  
Phone 617-994-6000
- Office for Civil Rights (U.S. Department of Education)  
5 Post Office Square  
8<sup>th</sup> Floor  
Boston, MA 02109  
Phone: 617-289-0111
- The United States Equal Employment Opportunity Commission  
John F. Kennedy Bldg.  
475 Government Center  
Boston, MA 02203

LEGAL REF.: M.G.L. 151B:3A

Title IX of the Education Amendments of 1972

BESE 603 CMR 26:00

34 CFR 106.44 (a), (a)-(b)

34 CFR 106.45 (a)-(b) (1)

34 CFR 106.45 (b)(2)-(b)(3,4,5,6,7) as revised through June 2020

**Note: A summary of the attached Policy, as adopted, must be sent to parents/guardians, students, employees, unions, and prospective employees of the school district including Title IX Coordinator(s), investigator(s) and the decision-maker. The above referenced employees must attend training sessions on the implementation of the Policy.**

REVISED/REPLACED: October 7, 2020

SOURCE: MASC July 2020; ATIXA August 2020

### **Child Find**

If you suspect that your child has a disability and requires services under Special Education or Section 504, please contact your child's school counselor or school psychologist.

### **Bullying Prevention and Intervention Plan**

In Barnstable Public Schools, we value commitment, collaboration, and community...

- Commitment: We are dedicated to the continuous learning and growth of all.
- Collaboration: We work together while keeping student needs at the center of all decision making.
- Community: We build strong, respectful partnerships that support student success.

The Barnstable Public Schools expect that all members of the school community will treat each other in a civil manner and with respect for differences.

The Barnstable Public Schools are committed to providing all students and staff with a safe learning environment that is free from bullying and cyberbullying. This commitment is an integral part of our comprehensive efforts to promote learning, and to prevent and eliminate all forms of bullying and other harmful and disruptive behavior that can impede the learning process.

We understand that members of certain student groups, such as students with disabilities, students with cultural and linguistic difference, students who are gay, lesbian, bisexual, or transgender, and homeless students may be more vulnerable to becoming targets of bullying, harassment, or teasing. The Barnstable Public Schools will take specific steps to create a safe, supportive environment for all populations in the school community, and provide all students with the skills, knowledge, and strategies to prevent or respond to bullying, harassment, or teasing.

We will not tolerate any unlawful or disruptive behavior, including any form of bullying, cyberbullying, or retaliation, in our school buildings, on school grounds, or in school-related activities. We will investigate promptly all reports and complaints of bullying, cyberbullying, and retaliation, and take prompt action to end that behavior and restore the target's sense of safety. We will support this commitment in all aspects of our school community, including curricula, instructional programs, staff development, extracurricular activities, and parent or guardian involvement.

The Bullying Prevention and Intervention Plan ("Plan") is a comprehensive approach to addressing bullying and cyberbullying, and the Barnstable Public Schools are committed to working with students, staff, families, law enforcement agencies, and the community to prevent issues of violence. The plan applies to students and members of a school staff, including, but not limited to, educators, administrators, school nurses, cafeteria workers,

custodians, bus drivers, athletic coaches, advisors to an extracurricular activity and paraprofessionals.

We recognize that certain students may be more vulnerable to become targets of bullying, harassment, or teasing based on actual or perceived characteristics, including race, color, religion, ancestry, national origin, sex, socioeconomic status, homelessness, academic status, gender identity or expression, physical appearance, pregnant or parenting status, sexual orientation, mental, physical developmental or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics. The school or district will identify specific steps it will take to create a safe, supportive environment for vulnerable populations in the school community, and provide all students with the skills, knowledge, and strategies to prevent or respond to bullying, harassment, or teasing.

At least once every four years the district will administer a Department of Elementary and Secondary-developed student survey to assess school climate and the prevalence, nature, and severity of bullying in our schools. Additionally, the school or district will annually report bullying incident data to the Department.

## **I. Definition of Bullying**

Aggressor is a student or a member of a school staff who engages in bullying, cyberbullying, or retaliation towards a student.

Bullying, as defined in M.G.L. c. 71, § 37O, is the repeated use by one or more students or by a member of a school staff, including but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity, or paraprofessional of a written, verbal or electronic expression (cyber-bullying) or a physical act or gesture or any combination thereof, directed at a victim that: a) causes physical or emotional harm to the target or damage to the target's property; b) places the target in reasonable fear of harm to himself or herself or of damage to his or her property; c) creates a hostile environment at school for the target; d) infringes on the rights of the target at school; or e) materially and substantially disrupts the education process or the orderly operation of a school.

Cyberbullying is bullying through the use of technology or electronic devices such as telephones, cell phones, computers, and the Internet. It includes, but is not limited to, email, instant messages, text messages, and Internet postings. See M.G.L. c. 71, § 37O for the legal definition of cyberbullying.

Hostile environment, as defined in M.G.L. c. 71, § 37O, is a situation in which bullying causes the school environment to be permeated with intimidation, ridicule, or insult that is sufficiently severe or pervasive to alter the conditions of a student's education.

Retaliation is any form of intimidation, reprisal, or harassment directed against a student who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying.

School Staff includes, but is not limited to, educators, administrators, counselors, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, support staff, or paraprofessionals.

Target is a student against whom bullying, cyberbullying, or retaliation has been perpetrated.

## **II. Prohibition of Bullying**

Bullying is prohibited on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school related activity, function, or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school, or through the use of technology or an electronic device owned, leased, or used by a school district; and at a location, activity, function, program that is not school-related, or through the use of technology or an electronic device (cyber-bullying) that is not owned, leased, or used by a school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process of the school.

As stated in M.G.L. c. 71, § 37O, nothing in this plan requires schools to staff any non-school related activities, functions, or programs.

Retaliation is any form of intimidation, reprisal, or harassment directed against a person who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying. Retaliation is prohibited. Reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report. A student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action.

### **III. Training and Professional Development**

The Barnstable Public Schools will conduct training and professional development each school year that includes developmentally appropriate strategies for bullying prevention and intervention, research findings on bullying, and information on cyberbullying and internet safety.

School-Based: 1) Annual training for all school staff on the Plan, which includes procedures for reporting and responding to bullying and retaliation; 2) Review with staff the bullying prevention curricula, initiatives, and strategies offered at each grade level within the school; 3) As required by M.G.L. c. 71, § 37O, the content of schoolwide professional development will be informed by research and will include information on a) developmentally (or age-) appropriate strategies to prevent bullying; b) developmentally (or age-) appropriate strategies for immediate, effective interventions to stop bullying incidents; c) information regarding the complex interaction and power differential that can take place between and among an aggressor, target, and witnesses to the bullying; d) research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying in the school environment; e) information on the incidence and nature of cyberbullying; and f) Internet safety issues as they relate to cyberbullying; and 4) Annual information about bullying prevention shall be provided to substitutes and volunteers.

District-Wide: 1) Annually: New staff training on bullying prevention and intervention. Training for all staff to review district practices and policy on bullying prevention and intervention; 2) Annual training of special education teachers by special education coordinators addressing ways to prevent and respond to bullying or retaliation for students with disabilities that must be considered when developing students' IEPs; and 3) Written notice to staff: The school or district will provide all staff with an annual written notice of the Plan by publishing information about it, including sections related to staff duties and bullying of students by school staff, on the district website.

### **IV. Procedures for Reporting and Responding to Bullying and Retaliation**

A. Reporting bullying or retaliation. Reports of bullying or retaliation may be made by staff, students, parents or guardians, or others, and may be oral or written. Oral reports made by or to a staff member shall be recorded in writing. A school or district staff member is required to report immediately to the principal or designee any instance of bullying or retaliation the staff member becomes aware of or witnesses. Reports made by students, parents or guardians, or other individuals who are not school or district staff members, may be made anonymously. The school or district will make a variety of reporting resources available to the school community including an Incident Reporting Form in each school for anonymous reporting.

Use of an Incident Reporting Form is not required as a condition of making a report. However, the school or district will: 1) make it available in the school's main office, the counseling office, the school nurse's office, and other locations determined by the principal or designee; and 3) post it on the school's or district's website. The Incident Reporting Form will be made available in the most prevalent language(s) of origin of students and parents or guardians.

#### **1. Reporting by Staff**

A staff member will report immediately to the principal or designee when he/she witnesses or becomes aware of conduct that may be bullying or retaliation. The requirement to report to the principal or designee does not limit the authority of the staff member to respond to behavioral or disciplinary incidents consistent with school or district

policies and procedures for behavior management and discipline.

## 2. Reporting by Students, Parents or Guardians, and Others

The school or district expects students, parents or guardians, and others who witness or become aware of an instance of bullying or retaliation involving a student to report it to the principal or designee. Reports may be made anonymously, but no disciplinary action will be taken against an alleged aggressor solely on the basis of an anonymous report. Students, parents or guardians, and others may request assistance from a staff member to complete a written report. Students will be provided practical, safe, private and age-appropriate ways to report and discuss an incident of bullying with a staff member, or with the principal or designee. Any student who knowingly makes a false accusation of bullying shall be subject to disciplinary action.

### B. Responding to a report of bullying or retaliation.

#### 1. Safety

Before fully investigating the allegations of bullying or retaliation, the principal or designee will take steps to assess the need to restore a sense of safety to the alleged target and/or to protect the alleged target from possible further incidents. Responses to promote safety may include, but not be limited to, creating a personal safety plan; pre-determining seating arrangements for the target and/or the aggressor in the classroom, at lunch, or on the bus; identifying a staff member who will act as a “safe person” for the target; and altering the aggressor’s schedule and access to the target. The principal or designee will take additional steps to promote safety during the course of and after the investigation, as necessary.

When necessary, the principal or designee will implement appropriate strategies for protecting from bullying or retaliation a student who has reported bullying or retaliation, a student who has witnessed bullying or retaliation, a student who provides information during an investigation, or a student who has reliable information about a reported act of bullying or retaliation.

#### 2. Obligations to Notify Others

a. Notice to parents or guardians. Upon determining that bullying or retaliation has occurred, the principal or designee will promptly notify, in writing, the parents or guardians of the target and the aggressor of this, and of the procedures for responding to it. There may be circumstances in which the principal or designee contacts parents or guardians prior to any investigation when it is determined that the complaint appears viable. Notice will be consistent with state regulations at 603 CMR 49.00.

b. Notice to Another School or District. If the reported incident involves students from more than one school district, charter school, non-public school, approved private special education day or residential school, or collaborative school, the principal or designee first informed of the incident will promptly notify by telephone the principal or designee of the other school(s) of the incident so that each school may take appropriate action. All communications will be in accordance with state and federal privacy laws and regulations, and 603 CMR 49.00.

c. Notice to Law Enforcement. At any point after receiving a report of bullying or retaliation, including after an investigation, if the principal or designee has a reasonable basis to believe that criminal charges may be pursued against the aggressor, the principal will notify the local law enforcement agency. Notice will be consistent with the requirements of 603 CMR 49.00 and locally established agreements with the local law enforcement agency. Also, if an incident occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in school, the principal or designee shall contact the local law enforcement agency if he or she has a reasonable basis to believe that criminal charges may be pursued against the aggressor.

In making this determination, the principal may, consistent with the Plan and with applicable school or district policies and procedures, consult with the school resource officer, if any, and other individuals the principal or designee deems appropriate.

### C. Investigation

The principal or designee will investigate promptly all reports of bullying or retaliation and, in doing so, will consider all available information known, including the nature of the allegation(s) and the ages of the students involved. When a reported bullying incident involves the principal or the assistant principal as the alleged aggressor, the Superintendent or designee shall be responsible for investigating the report, and other steps necessary to implement the Plan, including addressing the safety of the alleged victim.

During the investigation the principal or designee will, among other things, interview students, staff, witnesses, parents or guardians, and others as necessary. The principal or designee will remind the alleged aggressor, target, and witnesses that retaliation is strictly prohibited and will result in disciplinary action.

Interviews may be conducted by the principal or designee, other staff members as determined by the principal or designee, and in consultation with the school counselor, as appropriate. Given his/her obligation to investigate and address the matter, the principal or designee will maintain confidentiality during the investigative process. The principal or designee will maintain a written record of the investigation.

Procedures for investigating reports of bullying and retaliation will be consistent with district procedures for investigations. If necessary, the principal or designee will consult with legal counsel about the investigation.

### D. Determinations

The principal or designee will make a determination based upon all of the facts and circumstances. If, after investigation, bullying or retaliation is substantiated, the principal or designee will take steps reasonably calculated to prevent recurrence and to ensure that the target is not restricted in participating in school or in benefiting from school activities. The principal or designee will: 1) determine what remedial action is required, if any, and 2) determine what responsive actions and/or disciplinary action is necessary.

Depending upon the circumstances, the principal or designee may choose to consult with the target's or aggressor's teacher(s) and/or school counselor, and the target's or aggressor's parents or guardians, to identify any underlying social or emotional issue(s) that may have contributed to or resulted from the bullying behavior and to assess the level of need for additional support, including social skills development.

The principal or designee will promptly notify, in writing, the parents or guardians of the target and the aggressor about the results of the investigation and, if bullying or retaliation is found, what action is being taken to prevent further acts of bullying or retaliation. All notice to parents must comply with applicable state and federal privacy laws and regulations. Because of the legal requirements regarding the confidentiality of student records, the principal or designee cannot report specific information to the target's parent or guardian about the disciplinary action taken unless it involves a "stay away" order or other directive that the target must be aware of in order to report violations.

The principal or designee shall inform the parent or guardian of the target about the Department of Elementary and Secondary Education's problem resolution system and the process for accessing that system, regardless of the outcome of the bullying determination.

### E. Responses to Bullying

#### 1. Teaching Appropriate Behavior Through Skills-building

Upon the principal or designee determining that bullying or retaliation has occurred, the law requires that the school or district use a range of responses that balance the need for accountability with the need to teach appropriate behavior. (M.G.L. c. 71, § 37O(d)(v)).

Skill-building approaches that the principal or designee may consider include:

- Offering individualized skill-building sessions based on the school's/district's Bullying Prevention curricula;

- Providing relevant educational activities for individual students or groups of students, in consultation with school counselors and other appropriate school personnel;
- Implementing a range of academic and nonacademic positive behavioral supports to help students understand pro-social ways to achieve their goals;
- Meeting with parents and guardians to engage parental support and to reinforce the Bullying Prevention curricula and social skills building activities at home;
- Adopting behavioral plans to include a focus on developing specific social skills.

## 2. Taking Disciplinary Action

If the principal or designee decides that disciplinary action is appropriate, the disciplinary action will be determined on the basis of facts found by the principal or designee, including the nature of the conduct, the age of the student(s) involved, and the need to balance accountability with the teaching of appropriate behavior. Discipline will be consistent with the Plan and with the school's or district's code of conduct. Discipline for bullying may range from a parent conference to expulsion (see appendix A for the District Scope of Consequences chart.)

Discipline procedures for students with disabilities are governed by the federal Individuals with Disabilities Education Improvement Act (IDEA), which should be read in cooperation with state laws regarding student discipline.

If the principal or designee determines that a student knowingly made a false allegation of bullying or retaliation, that student may be subject to disciplinary action.

## 3. Promoting Safety for the Target and Others

The principal or designee will consider what adjustments, if any, are needed in the school environment to enhance the target's sense of safety and that of others as well. One strategy that the principal or designee may use is to increase adult supervision at transition times and in locations where bullying is known to have occurred or is likely to occur.

Within a reasonable period of time following the determination and the implementation of intervention strategies and/or disciplinary action, the principal or designee will contact the target to determine whether there has been a recurrence of the prohibited conduct and whether additional supportive measures are needed. If so, the principal or designee will work with appropriate school staff to implement them immediately.

## 4. Other

- Consider a referral of either the target and/or aggressor for an evaluation under Section 504 or Special Education
- Consider conducting a Danger Assessment of the Aggressor

## V. Access to Resources and Services

### A. Counseling Resources

School Counseling services are available for the target, the aggressor, and bystanders. When deemed appropriate, students and their families may be referred to community based agencies. The district ELL Parent Liaisons are available to assist principals and/or counselors in communicating and collaborating effectively with our culturally and linguistically diverse population.

### B. Students with disabilities

When the IEP Team determines the student has a disability that affects social skills development or the student is vulnerable to bullying, harassment, or teasing because of his/her disability, the Team will consider if and/or what should be included in the IEP to develop skills and proficiencies to avoid and respond to bullying, harassment, or teasing.

## **VI. Bullying Prevention Approaches**

- A. Specific bullying prevention approaches. Bullying prevention curricula will be informed by current research which, among other things, emphasizes the following approaches: using scripts and role plays to develop skills; empowering students to take action by knowing what to do when they witness other students engaged in acts of bullying or retaliation, including seeking adult assistance, speaking up, and not joining in the laughter, teasing, gossip, or rumors; helping students understand the dynamics of bullying and cyberbullying, including the underlying power imbalance; emphasizing cyber safety, including safe and appropriate use of electronic communication technologies; enhancing students' skills for engaging in healthy relationships and respectful communications; and, engaging students in a safe, supportive school environment that is respectful of diversity and difference.

Initiatives will also teach students about the student-related sections of the Bullying Prevention and Intervention Plan. School Principals will determine how and when their school will review the Plan with students.

- B. General teaching approaches that support bullying prevention efforts. The following approaches are integral to establishing a safe and supportive school environment. These underscore the importance of our bullying intervention and prevention initiatives: setting clear expectations for students and establishing school and classroom routines; creating safe school and classroom environments for all students, including for students with disabilities, lesbian, gay, bisexual, transgender students, students with cultural and linguistic differences, and homeless students; using appropriate and positive responses and reinforcement, even when students require discipline; using positive behavioral supports; encouraging adults to develop positive relationships with students; modeling, teaching, and rewarding pro-social, healthy, and respectful behaviors; using positive approaches to behavioral health, including collaborative problem-solving, conflict resolution training, teamwork, and positive behavioral supports that aid in social and emotional development; using the Internet safely; supporting students' interest and participation in non-academic and extracurricular activities, particularly in their areas of strength; and telling the aggressor "I don't like what I saw you do", "I don't like what I heard you say". Do not dismiss what you saw or heard.

School Principals will determine how and when they will review these teaching approaches with staff.

## **VII. Collaboration with Families**

Each year the school principals will inform parents or guardians about: the bullying prevention curricula used at each grade level; how parents and guardians can reinforce the curriculum at home and support the school plan; the dynamics of bullying; and online safety and cyberbullying.

School principals may seek district support from the Director of Student Services and/or the Director of Technology.

In addition, the student-related sections of the district's Bullying Prevention and Intervention Plan, and Internet Safety Policy, will be in each school handbook, which is provided to parents and guardians at the beginning of each school year.

## **VIII. Relationship to Other Laws**

Consistent with state and federal laws, and the policies of the school or district, no person shall be discriminated against in admission to a public school of any town or in obtaining the advantages, privilege and courses of study of such public school on account of race, color, sex, religion, national origin, or sexual orientation. Nothing in the Plan prevents the school or district from taking action to remediate discrimination or harassment based on a person's membership in a legally protected category under local, state, or federal law, or school or district policies.

In addition, nothing in the Plan is designed or intended to limit the authority of the school or district to take disciplinary action or other action under M.G.L. c. 71, §§ 37H or 37H½, M.G.L. c. 71, §§41 and 42, M.G.L.c 76 § 5, other applicable laws, or local school or district policies in response to violent, harmful, or disruptive behavior, regardless of whether the Plan covers the behavior.

### **IX. Problem Resolution**

Any parent wishing to file a claim/concern or seeking assistance outside of the district may do so with the Department of Elementary and Secondary Education Program Resolution System (PRS). That information can be found at: <http://www.doe.mass.edu/pqa>, emails can be sent to [compliance@doe.mass.edu](mailto:compliance@doe.mass.edu) or individuals can call 781-338-3700. Hard copies of this information are also available at the Superintendent's office.

### **Student Suspensions and Expulsions**

#### **Short-Term Suspension:**

Short-term Suspension means the removal of a student from the school premises and regular classroom activities for ten consecutive school days or less. A principal may, in his or her discretion, allow a student to serve a short-term suspension in school. Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days

#### **Procedures for Short-term Suspension:**

1. Whenever an incident(s) occurs that may lead to a suspension, the Principal or his/her designee shall provide the student and the parent oral and written notice of charges against the student; an opportunity for the student to present his/her version of the relevant facts and, if the student denies the charges, an explanation of the evidence; and an opportunity for the parent to participate.
2. Once a determination has been made to suspend a student, the student's parent/guardian should be notified in person or by phone as soon as practicable. A letter confirming the suspension will be sent to the parent within 24 hours of the decision.
3. If the suspension was imposed by the principal's designee, the student may appeal the suspension in writing to the principal (elementary schools) or the assistant principal (secondary schools). The appeal must be made within one school day of the student's receipt of notice of the suspension. A stay will not be provided during the appeal process for a 37H incident.
4. If the assistant principal turns down the student's appeal, s/he may then appeal to the principal. This second appeal must occur within one school day of the first appeal.
5. There is no appeal for an assignment of demerits.

#### **Long-term Suspension/Expulsion**

1. The student is excluded from the Barnstable Public Schools. When expelled from school, the student may not attend school or to take part in or attend any school functions.
2. Following an expulsion, a student may not be readmitted to any school within the Barnstable Public School System, without the express consent of the superintendent. If a student moves to another district following an expulsion, the new district of residence shall either admit the student to its school or provide educational services to the student in an educational service plan.
3. Expulsion of students for possession of a dangerous weapon, controlled substance or a student who assaults school personnel is under the authority of the principal. The principal may also expel a student who has been convicted, adjudicated, or admitted guilt with respect to a felony charge. See the sections in this handbook entitled "M.G.L. Chapter 71, Section 37H" and "M.G.L. Chapter 71, Section 37H½."
4. Expulsion for any other reason than those stated in M.G.L. Chapter 71, Sections 37H and 37H½, is under the authority of the Barnstable School Committee. After careful examination of all factors involved, if the superintendent determines there are grounds for expulsion, s/he will arrange to convene the School Committee for a hearing under M.G.L. Chapter 76, Section 16.

#### **Procedure for Long-term Suspension or Expulsion:**

1. Prior to long-term suspension or expulsion, the student will be provided with the following (except as otherwise

provided in M.G.L. Chapter 71, Section 37H ½):

- a. written notice of charges (in primary language of student)
- b. right to be represented by a lawyer or advocate (at student's expense)
- c. adequate time to prepare for the hearing
- d. right to present witnesses and to question witnesses presented by the school department.
- e. a reasonably prompt written decision, including specific grounds for the decision.
- f. The school department will record (by tape or other appropriate means) the hearing and a copy of such will be made available to the student upon request. Notices and proceedings will be translated into the student's/parent's primary language if necessary for their understanding of the proceedings.

2. Students may appeal expulsions imposed by the principal to the superintendent within 10 days of the receipt of the written decision of the principal to expel. The appeal does not stay the expulsion. In addition, students may appeal a long-term suspension decision to the superintendent within 10 days of the receipt of the written decision of the principal to long term suspend.

## **Overview of State Statutes Related to Student Suspension and Expulsion**

### **M.G.L. Chapter 71, Section 37H**

1. Any student who is found on school premises or at school sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in Chapter 94 C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from school or school district by the principal.
2. Any student who assaults a principal, assistant principal, teacher, teacher's aide or other educational staff on school premises or at school sponsored or school-related events, including athletic games, may be subject to expulsion from the school or school district by the principal. Students should note that the definition of "assault" includes not only harmful or offensive contact, but also threatening such contact.
3. Any student who is charged with a violation of either paragraph (1) or (2) shall be notified in writing of an opportunity for a hearing; provided, however, that the student may have representation along with the opportunity to present evidence and witnesses at said hearing before the principal.
4. After the hearing, a principal may, in his/her discretion, decide to suspend rather than expel a student who has been determined by the principal to have violated either paragraph (1) or (2).
5. Any student who has been expelled from a school district pursuant to these provisions shall have the right to appeal to the superintendent. The expelled student shall have ten days from the date of the expulsion in which to notify the superintendent of his appeal. The student has the right to counsel at a hearing before the superintendent. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated any provisions of this section. When a student is expelled under the provisions of this section and applies for admission to another school, the superintendent of the sending school shall notify the superintendent of the receiving school of the reasons for the pupil's expulsion. When a student is expelled under the provisions of this section, no school or school district within the Commonwealth shall be required to admit such student or to provide educational services to such student.

### **M.G.L. Chapter 71, Section 37H½**

This law provides that the principal may suspend a student who has been charged with a felony or now is the subject of a felony delinquency complaint or may expel a student who has been convicted, adjudicated, or admitted guilt with respect to a felony or felony delinquency, if the principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. If, prior to disciplinary action, a district has knowledge that the student may be a student with a disability, then the district makes all protections available to the student until and unless the student is subsequently determined not to be eligible.

### **M.G.L. Chapter 71, Section 37H¾**

This law provides that the principal may suspend a student for disciplinary offenses other than offenses covered by M.G.L. Chapter 71, Sections 37H and 37H½.

### **Short-Term Suspensions (10 days or fewer in a school year)**

The Statute requires that prior to the student's removal from school, the principal or designee must provide to both student and parent oral and written notice of the charges and an opportunity for an informal hearing (except in cases

of emergency or in-house suspension).

### Long-Term Suspension

This law requires public schools to provide educational services for all students who are excluded from school for any offense for more than ten consecutive days. The provisions for suspending and expelling students under M.G.L. c. 71, sec. 37H or 37H½ for conduct involving possession of controlled substance, possession of a dangerous weapon, assault of educational staff or felony charges/ convictions otherwise remain in place (see above), so long as services are provided. However, for all other conduct, the law requires the principal or designee to avoid imposing a long-term suspension (i.e., more than ten days, consecutively or cumulative in a school year, whether in-school or out-of-school) until other consequences have been considered and tried as appropriate; provides for appeal of such long-term suspensions to the Superintendent; and imposes a maximum length of ninety days for such suspensions.

The law allows for an exception to the advance parental notice and hearing for a short-term Emergency Removal if the student's continued presence was deemed to pose a danger to persons or property

The principal must create a “school-wide education service plan” for all students who are suspended or expelled for more than 10 consecutive school days, whether in or out of school, so that students have an opportunity to make academic progress. Students who are suspended from school for 10 or fewer consecutive school days, whether in or out of school, must be provided an opportunity to make academic progress during the period of suspension, to make up assignments, and earn credit missed.

### Disciplining Students with Disabilities

The Individuals with Disabilities Education Act of 2004 and Section 504 of the Rehabilitation Act of 1973 and related regulations provide eligible students with certain procedural rights and protections in the context of student discipline. If, prior to disciplinary action, a district has knowledge that the student may be a student with a disability, then the district makes all protections available to the student until and unless the student is subsequently determined not to be eligible. A brief overview of the procedural rights and protections is provided below.

In general, if an eligible student has violated the school’s disciplinary code, the school may suspend or remove the student from his or her current educational placement for no more than 10 consecutive school days in any school year. If an eligible student possesses, uses, sells or solicits illegal drugs on school grounds or at a school-sponsored event; carries a weapon to school or a school function; or inflicts serious bodily injury upon another person at school or a school-sponsored event, the school district may place the student in an interim alternative educational setting for up to 45 school days.

Any time the school wishes to remove an eligible student from his or her current educational placement for more than 10 consecutive school days in any school year, or if a student is removed for disciplinary reasons for more than a total of 10 days in any school year when a pattern of removal is occurring, this is a “change of placement.” A change of placement invokes certain procedural protections under federal law. These include the following:

- (a) Prior to any removal that constitutes a change in placement, the school district must convene a Team meeting to develop a plan for conducting a functional behavioral assessment that will be used as the basis for developing specific strategies to address the student’s problematic behavior. If a behavioral intervention plan has been previously developed, the Team will review it to make sure it is being implemented appropriately, and will modify it if necessary.
- (b) Prior to any disciplinary removal that constitutes a change in placement the school district must inform the parent that the law requires that the school district consider whether or not the behavior that forms the basis for your child’s disciplinary removal is related to his or her disability. This is called a “manifestation determination.” The parent has the right to participate as a member of the group of people making this determination.

The law provides that the school district and the parent, along with relevant Team members, must consider all evaluation information, observational information, the student’s IEP or 504 and placement; and must determine whether the student’s behavior that prompted disciplinary removal was a manifestation of his or her disability. The behavior is considered a manifestation of the student’s disability if the conduct in question was caused by, or had a direct and substantial relationship to the student’s disability, or was a direct result of the school district’s failure to implement the student’s IEP or 504.

If the manifestation determination decision is that the disciplinary behavior was related to the student's disability, the student may not be removed from the current educational placement (except in the case of weapon or drug possession or use, or serious bodily injury to another) until the IEP or 504 Team develops a new IEP or 504 and decides upon a new placement and the parent consents to that new IEP or 504 and placement, or a Hearing Officer orders a removal from the current educational placement to another placement.

If the manifestation determination is that the behavior was not related to the student's disability, then the school may suspend or otherwise discipline the student according to the school's code of student conduct, except that for any period of removal exceeding 10 days the school district must provide the student with educational services that allow your child to continue to make educational progress. The school district must determine the educational services necessary and the manner and location for providing those services.

If a parent disagrees with the Team's decision on the "manifestation determination" or with the decision relating to placement of a student in an interim alternative education setting or any other disciplinary action, the parent has the right to appeal the Team's decision by requesting an expedited due process hearing from the Bureau of Special Education Appeals.

Additional information regarding the procedural safeguards for students with IEPs can be obtained from the Director of Special Education (508-862-4953 ext. 1740), and for students with 504 plans from the Executive Director of Social-Emotional Learning and Student Services (508-862-4953 ext 1734).

#### **Procedural requirements applied to students not yet determined to be eligible for special education**

1. If, prior to the disciplinary action, a district had knowledge that the student may be a student with disability, then the district makes all protections available to the student until and unless the student is subsequently determined not to be eligible. The district may be considered to have prior knowledge if:

- a. The parent had expressed concern in writing; or
- b. The parent had requested an evaluation; or
- c. District staff had expressed directly to the special education director or other supervisory personnel specific concerns about a pattern of behavior demonstrated by the student.

The district may not be considered to have had prior knowledge if the parent has not consented to evaluation of the student or has refused special education services, or if an evaluation of the student has resulted in a determination of ineligibility.

2. If the district had no reason to consider the student disabled, and the parent requests an evaluation subsequent to the disciplinary action, the district must have procedures consistent with federal requirements to conduct an expedited evaluation to determine eligibility.

3. If the student is found eligible, then he/she receives all procedural protections subsequent to the finding of eligibility.

### **Schools Act**

In accordance with this federal law, any student who is determined to have brought a firearm to school or to a school related event will be excluded from the Barnstable Public Schools for a period of not less than one year, except as determined by the Superintendent on a case-by-case basis. A firearm includes not only guns, but also an explosive device. Any firearm on school property will be immediately reported to the police.

### **Administration of Medication**

The Barnstable Public Schools is registered with the Department of Public Health to administer prescription medications during school hours under MGL: 105CMR 210.100.

The purpose of the regulation is to provide a safe, consistent and reasonable approach to the taking of medication by children during school hours. However, when possible, students should receive medications at home.

Our school district requires that the following forms (provided by school health services) must be on file in your child's health record prior to any medication administration:

1. Signed consent by the parent or guardian to give the medication.
2. Signed physician order.

3. Signed administration plan.

**Procedures Regarding Medications:**

1. Medications should be delivered by the parent or guardian to the school.
2. You may designate another responsible adult to deliver the medication provided you notify the nurse in advance of the arrangement and the quantity of medication being delivered.
3. The pharmacy or manufacturer label must be attached to the container or inhaler. Please ask your pharmacy to provide separate bottles for school and home.
4. No more than a 4-week/20 day supply of the medicine should be delivered to the school.
5. All students taking medication will be monitored for response if deemed appropriate by the nurse.
6. Over the counter medications (such as Tylenol, Advil), may be administered to students with an initialed consent by the parent/ guardian in the online Registration Gateway and/or Annual Update. If more than 10 doses are administered during visits during the school year, at the nurse's discretion, parents/guardians will be contacted for physician documentation as needed.
7. When your child needs a medication to be given during the school day, please act quickly to follow these procedures so we may begin to give the medication as soon as possible.

**School Responsibility**

1. If the nurse or principal questions the advisability of dispensing a medication in school, the school physician is to be consulted.
2. All medication shall be stored in the Health Office with the exception of inhalers and Epipens, and those medications with specific physician orders.
3. All medication will be taken in the presence of and under the supervision of the nurse or nurse's designee unless the student has school nurse and parent consent to self-administer.
4. School nurses will maintain a record in the individual student health file for all medicines dispensed.

**Yearly Health Screenings**

The Barnstable Public Schools conduct the following health screenings as mandated by Massachusetts General Law and the Department of Public Health (DPH). At the beginning of the school year parents/ guardians can request in writing that their child not participate.

- Vision will be screened in grades K-5, 7, and 10.
- Hearing will be screened in grades K- 3, 7, and 10.
- Height and Weight will be measured in grades 1, 4, 7, and grade 10.
- Postural screening will be conducted in grades 5-9.

Documentation of a recent physical exam is required when registering to enter the Barnstable Public Schools and in grades K, 3, 7, and 10. A yearly physical exam is also required for students participating in interscholastic sports.

Documentation of up to date immunizations is required when registering to enter the Barnstable Public Schools and throughout their school years. Exceptions: A signed parent/guardian statement that immunizations conflict with religious beliefs, or a physician statement that immunizations are waived for medical reasons. In addition, if a homeless child lacks immunizations or medical records, the student may attend school while the records are obtained.

Parents will be notified by the health office if their child fails a vision, hearing, or postural screening. If you have any questions about this information, please do not hesitate to contact the school's health office. Also, to learn more information about health and wellness for your child, visit the district's health website.

**Schools Wellness Guidelines**

The Barnstable Public School district is committed to providing school environments that promote and protect children's health, well-being, and ability to learn by supporting healthy eating and physical activity. School districts

are required by public health law 108.25, Section 204, to have a wellness policy, as childhood obesity has reached epidemic levels in the United States. Our goal is to create an environment that promotes healthy lifelong eating and exercise habits, and therefore the following guidelines have been established.

Nutrition Standards for Foods SOLD in School (signed into law 2010) include:

- Be a “whole grain-rich” grain product; or
- Have as the 1<sup>st</sup> ingredient a fruit, a vegetable, a dairy product, or a protein food; or
- Be a combination of food that contains at least ¼ cup of fruit and/or vegetable; or
- Contain 10% of the daily value of one of the nutrients of public health concern in the 2010 Dietary Guidelines for Americans (calcium, potassium, vitamin D, or dietary fiber)

*Foods sold must also meet several nutrient requirements:*

- Calorie limits:
  - Snack items: ≤ 200 calories; Entrée items: ≤ 350 calories
- Sodium limits
  - Snack items: ≤ 230 mg; Entrée times ≤ 480 mg
- Fat limits
  - Total fat: ≤ 35% of calories; Saturated fat: <10% of calories; Trans-fat: 0 grams
- Sugar limit:
  - ≤ 35% of weight from total sugars in foods

Beverage Guidelines: Water without added caloric or artificial sweeteners or color; fruit and vegetable juices and fruit based drinks that contain 100% juice and no additional sugar; unflavored or flavored low fat (1%) or fat-free milk. Portion sizes: elementary schools may sell up to 8 ounce portions, while MS and HS may sell up to 12 ounce portions of milk and juice.

Resource: *USDA's Smart Snacks in Schools*

## **Snacks**

Snacks served by the schools during the school day or in after-school care or enrichment programs will follow the nutritional standards, and make a positive contribution to children's diets and health, with an emphasis on serving fruits and vegetables as the primary snacks and water as the primary beverage. The district will make available a list of healthful snack items to teachers, after-school program personnel, and parents on health services websites, newsletters, or handouts.

*We ask that everyone consider moderation as well as a thoughtful approach focused on wellness for all rewards, celebrations, fundraising activities, and events.*

## **Rewards**

If schools provide food or beverage rewards for academic performance or good behavior they shall utilize the USDA's Smart Snacks in Schools (see above), or the districts food service provider catering menu through the teacher during the school day. Schools are encouraged to use other options besides foods for rewards. Food or beverages will not be held as a punishment.

## **Celebrations**

Given our role to promote student health, Principals and staff will promote alternative non-food celebrations. Schools should limit celebrations that involve food during the school day to no more than one party per class per month. No outside food that is prepared at home for sharing will be allowed during the school day. Only products that are labeled, pre-packaged or purchased from a licensed vendor will be allowed. Principals can refer to the internal document: “*Guidelines for Optional Foods for Sharing & Celebrations*” if parents offer to provide food or food can also be ordered through the districts food service provider by the staff member.

## **Fundraising activities**

To support children's health and school nutrition-education efforts, the use of foods that meet the nutrition standards will be utilized by school groups engaged in fundraising activities during the school day. These standards do not apply

during non-school hours. Schools will encourage fundraising activities that promote physical activity and other alternatives besides food. There will be no food fundraisers sold to students during the school day. The school district will make available a list of ideas for alternatives to food fundraising activities. PTOs will be notified of guidelines.

School-sponsored Events (such as, but not limited to, athletic events, dances, performances, presentations): Foods and beverages offered or sold at school-sponsored events after school, will be encouraged to meet the nutritional standards for foods and beverages sold individually. During the school day, no foods that are prepared from someone's home can be shared with students due to safety concerns.

Foods/beverages sold in vending machines, snack bars, school stores and concession stands: To support children's health and school nutrition goals, the use of foods that meet the nutrition standards will be encouraged to be sold in vending machines, snack bars, school stores and concession stands outside of the school day. During the school day, only foods that align with the School meal nutrition standards and the Smart Snacks in school nutrition standards will be allowed.

### **Communication with Parents/Guardians**

The schools will provide guideline information to parents through web sites, newsletters, or handouts. Schools should encourage parents to pack healthy lunches and snacks. Ideas for healthy celebrations, rewards and fundraising activities can be provided by the school.

### **Staff Wellness**

Each school will promote and support staff wellness. This can be done through school Wellness Taskforces, and will obtain staff input to encourage healthy eating and physical activity.

### **Physical Activity Opportunities and Physical Education**

Physical activity and education is provided K-7<sup>th</sup> grade, and opportunities for physical activity and education for 8<sup>th</sup>-12<sup>th</sup>. Whenever possible, schools should work to increase recess and physical activity times even during inclement weather days utilizing indoor spaces. Annual walk-a-thons are encouraged for all students and staff. K-7<sup>th</sup> grade, and opportunities for physical activity and education for 8<sup>th</sup>-12<sup>th</sup> grades. Whenever possible, schools will work to increase recess and physical activity times even during inclement weather days utilizing indoor spaces. Annual walk-a-thons are encouraged for all students and staff.

### **Physical Activity Opportunities Before and After School**

All schools are encouraged to offer extracurricular physical activity programs, including a range of activities that meet the needs, interests, and abilities of all students.

### **Physical Activity and Punishment**

All schools will promote "reflective walking" rather than withholding physical activity as punishment, as per the discretion of the Principal.

### **Health Education**

Health Education is provided K-7<sup>th</sup> grade, and opportunities for health education for 8<sup>th</sup>-12<sup>th</sup> grades that focus on healthy choices.

### **Monitoring**

The superintendent or designee will ensure compliance with established district-wide nutrition and physical activity wellness policies. In each school, the principal will ensure compliance with those policies in his/her school and will report on the school's compliance to the school district superintendent or designee.

Each year, all schools are highly encouraged to have a Wellness Taskforce or at a minimum incorporate wellness into the agenda of at least two committee meetings at their school to address issues/communications in their building and improve compliance in their school. School food service staff, at the school or district level, will ensure compliance with nutrition policies within school food service areas and will report on this matter to the superintendent, or if done at the school level, to the principal. Each year the District Wellness Advisory Committee will review wellness practices and provide resource information to schools as needed and requested.

**Latex Safety**

In an effort to protect staff and students who are allergic to latex, balloons made with latex and latex gloves are not allowed in the building. The use of rubber bands is discouraged.

**Tobacco Products on School Premises Prohibited (School Committee Policy ADC)**

Use of any tobacco products, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco and snuff and electronic cigarettes, electronic cigars, electronic pipes or other similar products that rely on vaporization or aerosolization, within the school buildings, school facilities, on school grounds or school buses, or at school sponsored events by any individual, including school personnel and students, is prohibited at all times.

A staff member determined to be in violation of this policy shall be subject to disciplinary action.

A student determined to be in violation of this policy shall be subject to disciplinary action pursuant to the student discipline code.

This policy shall be promulgated to all staff and students in appropriate handbook(s) and publications.

Signs shall be posted in all school buildings informing the general public of the District policy and requirements of state law.

LEGAL REF.: M.G.L. [71:37H](#); [270:6](#)

**Handbook Publication History:**

Update originally published for the 2019-2020 school year.

Portions updated for the 2020-2021 school year- Harassment, Non-Discrimination, Bullying Prevention and Intervention Plan, Suspension and Expulsion.

Please note that most up-to-date contact information for District staff is always available in the District's website.