

#### **Section IV**

#### **EDUCATIONAL SERVICES AND ACADEMIC PROGRESS UNDER MGL c. 71 §§37H, 37H½ AND 37H¾:**

Any student who is serving an in-school suspension, short-term suspension, long-term suspension, or expulsion shall have the opportunity to earn credits, as applicable, make up assignments, tests, papers, and other school work as needed to make academic progress during the period of his or her removal from the classroom or school. The principal or his/her designee shall inform the student and parent/guardian of this opportunity in writing when such suspension or expulsion is imposed.

Any student who is expelled or suspended from school for more than ten (10) consecutive days, whether in school or out of school, shall have an opportunity to receive educational services and make academic progress toward meeting state and local requirements, through the school-wide education service plan.

### **Nondiscrimination**

#### **Equal Opportunity/Affirmative Action/Title IX**

#### **ADA Title I Section 504/Chapter 622 Grievance Procedure**

The Worcester Public Schools is an Equal Opportunity/Affirmative Action Employer/Educational Institution and does not discriminate **regardless of** race, color, religion, national origin, ancestry, sex, gender identity, age, criminal record (inquiries only), handicap (disability), mental illness, retaliation, sexual harassment, sexual orientation, genetics or military service. The Worcester Public Schools provides equal access to employment and the full range of general, occupational and vocational education programs. For more information relating to Equal Opportunity/Affirmative Action contact the Chief Human Resource Officer, 20 Irving Street, Worcester, MA 01609, 508-799-3020.

The Worcester Public Schools pledges to encourage the equitable and prompt **settlement** of complaints which may be raised by any employee or applicant on a claim of discrimination based on race, color, religion, national origin, ancestry, sex, gender identity, age, criminal record (inquiries only), handicap (disability), mental illness, retaliation, sexual harassment, sexual orientation, genetics or military service, if the claim is justifiable.

The proceedings shall be kept confidential at each level of this procedure. No document relating to a grievance will be included in the employee's personnel file unless the employee requests this in writing. The grievance procedures are available to remedy unlawful discrimination regarding the hiring, employment, training, promotion, transfer or discipline of any person.

Your attention is called to the fact that the Worcester Public Schools, in accordance with federal and state laws, prohibits discrimination in its operations. This policy, providing equal employment and educational opportunities to all persons regardless of their race, color, religion, national origin, ancestry, sex, gender identity, age, criminal record (inquiries only), handicap (disability), mental illness, retaliation, sexual harassment, sexual orientation, genetics or military service will apply to all persons affiliated with the Worcester Public Schools, including students, prospective and existing personnel, contractors and suppliers of goods and services.

The Chief Human Resource Officer, 20 Irving Street, Worcester, Massachusetts 01609, telephone number (508) 799-3020, is responsible for the coordination of Title IX, Section 504 ADA Title I and Chapter 622 in the Worcester Public Schools and will be responsible for coordinating the following grievance procedures:

A grievance shall be a complaint by a student, parent/guardian, prospective employee or staff member alleging discrimination on account of race, color, religion, national origin, ancestry, sex, gender identity, age, criminal record (inquiries only), handicap (disability), mental illness, retaliation, sexual harassment, sexual orientation, genetics or military service, which is filed no more than 30 business days after the alleged act and/or statement.

An aggrieved party must institute proceedings hereunder within **thirty (30) business days** of the event or events giving rise to the grievance or within **thirty (30) business days** from the date the aggrieved party had knowledge or reasonably should have had knowledge of the event or events giving rise to the grievance. The four levels of the grievance process for complaints include:

**Level I**

- a. A staff member, student or prospective employee with a grievance shall present his/her complaint to his/her immediate superior or principal, whoever is appropriate.
- b. The immediate superior shall make a determination, which shall be final unless the aggrieved party elects to appeal to the next level or the Managers for Instruction and School Leadership, as stated in "c" below. The determination shall be within five (5) business days after the receipt of the formal complaint by the immediate superior.
- c. In the event that no decision has been reached within five (5) business days after presentation of the grievance, the aggrieved party may reduce the grievance to writing and submit it within ten (10) business days to the Managers for Instruction and School Leadership.
- d. This level is an alternate level and a grievant is permitted at his/her discretion to initiate his/her action at Level II.

**Level II**

- a. If the grievance is not resolved at Level I after five (5) business days, or if a grievant exercises his/her discretion to initiate the complaint at Level II, it shall be reduced to writing by the grievant and forwarded to the Chief Human Resource Officer.
- b. The Chief Human Resource Officer shall meet with appropriate parties to attempt to settle the complaint. The determination shall be within five (5) business days after the receipt of the formal complaint by the Chief Human Resource Officer.
- c. In the event that no decision has been reached within five (5) business days after presentation of the grievance, the aggrieved party may reduce the grievance to writing and submit it within ten (10) business days to the Superintendent.

**Level III**

- a. The Superintendent, or his/her designee, shall meet within five (5) business days thereafter with the aggrieved person and attempt to settle the grievance.
- b. The grievance shall be answered in writing. In the event that the grievance shall not have been disposed of to the satisfaction of the aggrieved party at Level III, or in the event that no written answer has been received within ten (10) business days after the meeting on the grievance, the aggrieved person may forward the grievance with a copy of the answer, if any, to the Clerk of the School Committee within ten (10) business days.

**Level IV**

- a. The School Committee will hold a hearing on said grievance within fifteen (15) business days. Said hearing is to be open only at the mutual consent of both parties.
- b. The School Committee will render to the grievant a written decision and the reasons therefore within fifteen (15) business days of said hearing.

**Waiver**

Failure of the grievant to comply with any provision of the aforesaid grievance procedure shall be deemed to be a waiver of the complaint under the terms of this policy. Failure of the Equal Opportunity/Affirmative Action Officer, Director, Principal, Supervisor, etc. to comply with the time limits set forth in this procedure shall cause the complaint to be automatically appealed to the next Level in the grievance procedure. The time limits specified in the grievance procedure may, however, be extended in any specific instance by mutual written agreement of the parties.

**NOTE:** Individuals with grievances are not required to use and/or exhaust the Worcester Public Schools grievance procedures. Written complaints, signed by grievant or an authorized representative, may be filed within 300 days as follows:

Equal Employment Opportunity  
Commission (E.E.O.C.)  
Boston Area Office  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
1-800-669-4000

**Additional Agencies include:**  
Massachusetts Department  
of Elementary and  
Secondary Education  
75 Pleasant Street  
Malden, MA 02148-4906  
781-388-3300

Massachusetts Commission  
Against Discrimination (M.C.A.D.)  
One Ashburton Place - Room 601  
Boston, MA 02108  
617-994-6000  
Worcester Office  
484 Main Street, Room 320  
Worcester, MA 01608  
(508) 453-9630

United States Department of Education  
POCH Building, 5 Post Office Square  
9th Floor, Room 24  
Boston, MA 02110  
617-289-0100

### **Retaliatory Action**

The School Committee, through its Superintendent, assures that no retaliatory action will be taken against those persons who file complaints of discrimination on the basis of race, color, religion, national origin, ancestry, sex, gender identity, age, criminal record (inquiries only), handicap (disability), mental illness, retaliation, sexual harassment, sexual orientation, genetics or military service.

### **Findings of Discrimination**

If discrimination should be found to exist in any employment decisions, actions or practices within the Worcester Public Schools, all appropriate measures will be undertaken to terminate such discrimination. Furthermore, should findings be made of intentional discrimination on the part of any employee, appropriate disciplinary action, up to and including termination, shall be taken under the direction of the Superintendent and/or the School Committee.

### **Record Keeping**

Confidentiality will be maintained throughout the investigative process to the extent practicable. All records involving any complaint filed in accordance with the Worcester Public Schools' Grievance Procedure shall be kept by the Equal Opportunity/Affirmative Action Officer; such records and information will be considered confidential and shall be used only in accordance with the grievance procedure, unless otherwise required by law.

### **Sexual Harassment Policy**

It is the policy of the Worcester Public Schools, as well as state and federal law, that sexual harassment of a student, present or prospective employee, or visitor shall not be tolerated.

### **Definition**

Sexual harassment is defined as unwelcome advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is either made explicitly or implicitly a term or condition of an individual's study, work or employment, in the Worcester Public Schools.
2. Submission to or rejection of such conduct by an individual is used as the basis for educational or employment decisions affecting such individual.
3. Such conduct has the purpose or effect of substantially interfering with the educational performance or work of an individual with reasonable sensitivity.

### **Considerations**

Sexual harassment is not limited to prohibited conduct by a male toward a female, by a supervisory employee toward a non-supervisory employee or by a teacher toward a student, by a student toward a teacher, or by a student toward a student. The Worcester Public Schools' view of sexual harassment includes, but is not limited to, the following considerations:

- a. A male, as well as a female, may be the victim of sexual harassment and a female, as well as a male, may be the harasser.

- b. The harasser does not have to be the victim's superior.
- c. The victim may be the same or opposite sex as the harasser.
- d. The victim does not have to be the person to whom the unwelcome sexual conduct is directed. The victim may also be someone who is affected by such conduct when it is directed toward another person. For example, inappropriate attempts at humor or sexual harassment of one female/male may create an intimidating, hostile or offensive environment for another female/male or may unreasonably interfere with an individual's educational or work performance.
- e. Sexual harassment does not depend on the victim's having suffered an educational or economic consequence as a result of the harasser's conduct.

### **Violations**

Violations of this policy and of the law, if proven, will result in disciplinary action. Any person who believes that he/she has been the victim of sexual harassment may seek redress through the Worcester Public Schools' Sexual Harassment Grievance Procedures.

### **Sexual Harassment Grievance Procedures**

#### **Preface**

A formal grievance may be filed at any time by a student, employee, administrator, and/or applicant who believes that his/her rights as outlined in the sexual harassment policy have been violated. Each student, faculty member, administrator, or staff member has an obligation to make every effort to resolve problems informally as they arise. All members of the Worcester Public Schools community are urged to resolve problems fairly and informally so that they do not become sources of grievances to be pursued formally through the grievance procedure. If a suitable solution cannot be reached informally through independent means, which may include consultation with the Chief Human Resource Officer, a formal grievance may be initiated.

#### **Definitions**

A "grievance" shall be a complaint by an individual alleging that there has been a violation of the sexual harassment policy.

#### **Step I (Informal)**

- a. Any and all grievances must be presented in writing within thirty (30) working days of the date when the grievant became aware, or should have been aware, of the event or events giving rise to the grievance. The person(s) opting to exercise the informal grievance procedure should so notify the concerned staff or faculty member, or administrator, present him/her with a written summary of the grievance and set up a time to meet and discuss the problem.
- b. However, due to the private and sensitive nature of sexual harassment, the grievant may choose a third party mediation to help resolve the grievance on an informal basis. Such mediation activities shall continue for a period of no more than twenty (20) days, or until resolution is achieved, if that is less. Should such resolution efforts fail in addressing these issues, the grievant may initiate the formal grievance procedure at Step II.

- c. This level is an alternative level, and a grievant is permitted at his/her discretion to initiate his/her action at Step II.

**Step II**

- a. If the grievant believes a further review of the grievance is warranted, he/she shall, within five (5) school/working days of receiving the Step I decision, notify the appropriate parties if he/she wishes to pursue the next step. In cases where this is the first formal step in an alleged sexual harassment charge, the grievant should forward the written grievance to the Chief Human Resource Officer.
- b. Once the Chief Human Resource Officer receives the grievance, he/she shall forward the grievance to the individual involved in the grievance, and to his/her supervisor.

The following individuals will be notified pursuant to Paragraph b:

- 1. If the person charged with sexual harassment is a teacher, notify the teacher and the principal of the school.
  - 2. If the person charged with sexual harassment is a non-instructional staff member, notify the person and his/her immediate supervisor.
  - 3. If the person charged with sexual harassment is a principal or administrator, notify the person and his/her immediate supervisor.
  - 4. If the person charged with sexual harassment is the Superintendent, notify the person and the Chairperson of the School Committee.
  - 5. If the person charged with sexual harassment is a student, notify the principal of the student's school.
  - 6. If the person charged with sexual harassment is a non-school personnel, notify the person and the principal of the school and/or the immediate supervisor of the school.
- c. Within ten (10) working days of receipt of the grievance, the aggrieved party, (as well as the accused) and the appropriate supervisor, as noted above, shall meet with the Chief Human Resource Officer to discuss the grievance.
  - d. The Chief Human Resource Officer shall respond in writing within five (5) working/school days following the discussion.

**Step III**

- a. If the grievant believes a further review of the grievance is justified, he/she may submit the grievance to the Superintendent within five (5) working/school days of receipt of the decision rendered under Step II. The grievance should be accompanied by a statement of the resolution sought and copies of all documents.
- b. Within fifteen (15) days of receipt of the grievance, the Superintendent shall review all previously written statements and resolutions and hold a hearing. The persons to be present at said hearing will consist of the Superintendent, the Chief Human Resource Officer, the grievant, the charged individual and the appropriate supervisor. The Superintendent may include other persons in the hearing process.
- c. In the event that the charged individual is the Superintendent, the persons to be present at said hearing will consist of the School Committee, the Chief Human Resource Officer, and the grievant. The School Committee, at

its discretion, may include other persons in the hearing upon request of the grievant, the Superintendent, or other participants at this level.

- d. Within fifteen (15) working days after the hearing, the Superintendent and/or the Chairperson of the School Committee will render a determination in writing and take any appropriate action.

#### Step IV

- a. If the grievant still believes a further review of the grievance is justified at Step III, or in the event that no written response has been received within fifteen (15) working days of the hearing or the grievance, he/she may present a petition to the School Committee within five working days.
- b. Within fifteen (15) working days after hearing the petition, the School Committee will render a determination in writing and take any appropriate action.

#### Step V

- a. The School Committee will, within fifteen (15) working days, hold a hearing. The persons to be present at said hearing will consist of the Superintendent, the Chief Human Resource Officer, the grievant, the charged individual, and the appropriate supervisor. The School Committee, at its discretion, may include other persons in the hearing upon request of the grievant, the charged individual or other participants at this level.
- b. Within fifteen (15) working days after the hearing, the School Committee will render a determination in writing and take any appropriate action.

#### Miscellaneous Provisions

1. Grievance procedures for all employees and students regarding any matter follow a standard process, but can vary to accommodate the sensitivity of the charges, as well as the grievant or the individual, against whom the grievance is made.
2. Grievants are not limited to a formal grievance procedure, but may seek relief from other agencies, including the Equal Employment Opportunity Commission, the Massachusetts Commission Against Discrimination, or the Office of Civil Rights of the Department of Education.
3. Any retaliatory action of any kind taken by an employee or student of the Worcester Public Schools against any other employee or student of the Worcester Public Schools as a result of that person's seeking redress under these procedures, cooperating in an investigation, or otherwise participating in any proceeding under these procedures, is prohibited, and shall be regarded as a separate and distinct grievable matter.
4. Whenever a grievance involves issues of sexual harassment of any kind, the Chief Human Resource Officer shall be notified in writing by the grievant, or by the administrators or agents of the Worcester Public Schools to whom the grievance is brought.
5. All grievance proceedings, informal and formal, **will to the greatest feasible extent, be held in confidence by all persons directly or indirectly involved in them.**

6. Failure of the grievant to meet the time specifications acknowledges the grievant's acceptance of the decision of the previous step. He/she forfeits the right to pursue the grievance further.

← 7. The Chief Human Resource Officer shall act as a resource for students and for the School Committee.

#### **Penalties in Cases of Sexual Harassment**

Remedial actions will depend on the severity of the incident. Due to the private nature of incidents involving sexual harassment and the emotional and moral complexities surrounding such issues, every effort will be made to resolve **problems** on an informal basis. When a grievance is resolved informally only a short summary of the incident will be maintained on file.

Any admission of guilt, an acknowledgment of the verbal warning, a promise not to commit such abuse again, and action taken to provide appropriate relief may be a sufficient resolution. At the informal stage, it is hoped to sensitize the person at fault to the effects of such behavior, to be constructive and not unduly punitive in the disciplinary action. If informal resolutions are not adhered to, or if no resolution can be agreed to at the formal stage, the Superintendent and/or the School Committee may deem it necessary to take appropriate action that can include formal letters of reprimand, suspension, or a recommendation of dismissal.

#### **ANTI-HAZING LAW (G.L. c. 269)**

Section 17. Whoever is a principal organizer or participant in the crime of hazing, as defined herein, shall be punished by a fine of not more than \$3,000.00 or by imprisonment in a house of correction for not more than one year, or both such fine and imprisonment.

The term "hazing" as used in this section and in Sections 18 and 19, shall mean any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

Notwithstanding any other provisions of this section to the contrary, consent shall not be available as a defense to any prosecution under this action.

Section 18. Whoever knows that another person is the victim of hazing as defined in Section 17 and is at the scene of such crime shall, to the extent that such person can do so without danger or peril to himself or others, report such crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such crime shall be punished by a fine of not more than \$1,000.00.

Section 19. Each institution of secondary education and each public and private institution of post secondary education shall issue to every student group, student team or student organization which is part of such institution or is recognized by the institution or permitted by the institution to use its name or facilities or is known by