

Civil Rights, Discrimination & Harassment



Gardner Public Schools

Updated: August 2023

Non-Discrimination Policy

- The Gardner Public Schools does not tolerate discrimination against students, parents, employees or the general public on the basis of race, color, national origin, sex, sexual orientation, gender identity, disability, homelessness, religion, age or immigration status. The Gardner Public Schools is also committed to maintaining a school environment free of harassment based on race (which includes traits historically associated with race, including, but not limited to, hair texture, hair type, hair length, and protective hairstyles), color, religion, national origin, gender, sexual orientation, gender identity, pregnancy or pregnancy status, age or disability. In addition, the District provides equal access to all designated youth groups. Consistent with the requirements of the McKinney-Vento Act, the District also does not discriminate against students on the basis of homelessness. The Gardner Public Schools complies with all applicable State and Federal Laws, including but not limited to: Title VI; Title VII; Title IX; Americans with Disabilities Act; Age Discrimination in Employment Act; Pregnancy Discrimination Act; Section 504 of the Rehabilitation Act of 1973; Boy Scouts of America Equal Access Act; and Massachusetts General Laws, c. 151B, c. 151C, c. 76, § 5, and c. 71B.

Student Rights – Federal Laws

- Title IX of the Education Amendments of 1972
 - *Prohibits discrimination and harassment on the basis of sex (including sexual orientation and gender identity)*
- Title VI of the Civil Rights Act of 1964
 - *Prohibits discrimination and harassment on the basis of race, color, national origin (including religion)*
- Title VII of the Civil Rights Act of 1964
 - *Prohibits discrimination and harassment on the basis of race, color, sex, national. origin, and religion (employment only)*
- Section 504 of the Rehabilitation Act of 1973
 - *Prohibits discrimination and harassment on the basis of disability*
- Title II of the Americans with Disabilities Act
 - *Prohibits discrimination on the basis of disability*
- The Individuals with Disabilities Education Act
 - *Requires school districts to provide eligible students with disabilities a free appropriate public education*
- The Age Act

Student Rights – State Laws

- M.G.L. c.76, § 5
 - *Prohibits discrimination in all public schools on the basis of race, color, gender, gender identity, national origin, religion, or sexual orientation.*
- M.G.L. c.151C
 - *Prohibits sexual harassment – education*
- M.G.L. c.119, § 51A
 - *Reporting abuse*
- M.G.L. c. 71, § 34 (A-H)
 - *Student records*
 - *603 CMR 23.00*
- M.G.L. c.71B
 - *State special education statute*
 - *603 CMR 28.00*
- M.G.L. c.71, §§ 37H, 37H1/2, 37H3/4
 - *Student discipline*
 - *603 CMR 53.00*

Title IX - Federal Civil Rights Law

- No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Violation:

- Discrimination - Excluding any student from participating in, or accessing the benefits of, any program or activity receiving federal funds on the basis of sex.

OR

- Sexual Harassment (newly defined/see next slide) by a school employee, vendor, student, or other individual in an education program or activity.

OR

- Failing to respond appropriately to instances of student on student sexual harassment (newly defined/see next slide)

Sexual Harassment - New Definition

- Sexual harassment is conduct based on sex that satisfies one or more of the following:
 - *Quid pro quo (An employee conditions the provision of an aid, benefit, or service of the school district on an individual's participation in unwelcome sexual conduct); **or***
 - *Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively unreasonable that it effectively denies a person equal access to the recipient's education program or activity. This is a significant narrowing from prior definition of "sufficiently severe or persistent or pervasive..."; **or***
 - *Specific Offenses: Sexual Assault (as defined by the Clery Act); Dating Violence, Domestic Violence, and/or Stalking (as defined by the Violence Against Women Act)*

- Reporting Sexual Harassment:
 - *Any staff member who observes or receives notice of an allegation of sexual harassment in the District must immediately notify the Title IX Coordinator, or the building Principal of the incident, so that it can be properly addressed pursuant to federal law.*

Sexual Assault, Dating Violence, Domestic Violence, or Stalking

■ Sexual Assault:

- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. In Massachusetts, pursuant to M.G.L. c. 265, § 13B, a child under the age of 14 is incapable of giving consent to indecent touching.
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. In Massachusetts, pursuant to M.G.L. c. 265, § 23, the statutory age of consent is 16 years of age.

■ Dating Violence:

- Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Sexual Assault, Dating Violence, Domestic Violence, or Stalking

- Domestic Violence:

- *A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.*

- Stalking:

- *Engaging in a “course of conduct” directed at a specific person that would cause a “reasonable person” to fear for the person’s safety or the safety of others or suffer “substantial emotional distress.”*

Changes Stemming from New Title IX Regulations (2020)

- Reports of Sexual Harassment must be treated differently than “Formal Complaints” of sexual harassment.
- Anyone may make a report of sexual harassment; only the alleged victim and/or the Title IX Coordinator may file a “Formal Complaint”.
- Supportive measures must be considered following either a report or a Formal Complaint; only a Formal Complaint, however, triggers a Title IX investigation and the formal Title IX grievance process.
- When a Title IX “Formal Complaint” has been filed, the respondent may not be subjected to discipline until the formal Title IX grievance process is complete.

New Title IX Grievance Procedures for Multiple Staff

Multiple staff members will now have a role:

- Title IX Coordinator
- Investigator
- Decision-maker
- Appeal Officer
- Informal Resolution Facilitator

These staff will undergo a separate detailed mandatory training in accordance with the revised regulations.

Title IX Formal Complaint Triggers New Mandatory Grievance Process

- When a Formal Complaint is filed, a mandatory formal grievance process is triggered, involving multiple steps:
 - *Including, but not limited to, providing the parties with an opportunity to review the evidence, to review the investigation report, and to pose relevant written questions to each other*
- See updated District Title IX Grievance Procedures for details.
- Only Title IX sexual harassment allegations, which is conduct that meets the new Title IX definition of sexual harassment, is required to be processed through the new Title IX Sexual Harassment Grievance Procedures.
- Other reports of harassment (i.e., harassment based on race, disability, and other protected categories), as well as all complaints of discrimination or retaliation may continue to be handled in the same manner as before, through the District's Civil Rights Grievance Procedures.
- **Always Report All Discrimination or Harassment**
 - *Any individual who believes that he/she has been subjected to harassment or discrimination or has witnessed or been informed about the discrimination/harassment of another should notify the building Principal, Title IX Coordinator, 504 Coordinator, Civil Rights Coordinator or the Superintendent.*

Responding to Harassment & Discrimination

- Respond to ALL reports and complaints of harassment or discrimination.
 - *To respond is to:*
 - Intervene;
 - Report;
 - Investigate; and
 - Communicate.
- Any individual who believes that he/she has been discriminated or harassed or has witnessed or been informed about the harassment or discrimination of another should notify the building Principal, Title IX Coordinator, 504 Coordinator, Civil Rights Coordinator or the Superintendent.
- All complaints of discrimination and harassment will be investigated.
- Upon completion of the investigation, the complainant and accused will be informed of the outcome and a written report will be filed with the appropriate coordinator.
- Corrective action should be immediate and reasonably calculated to eliminate the harassment or discrimination.
 - *Restore nondiscriminatory environment for the victim.*
 - *Provide emotional and psychological support.*

Gardner Civil Rights Coordinators

- Section 504: Joyce West, *Director of Pupil Personnel Services*
- Civil Rights: Dr. Catherine Goguen, *Chief Academic Officer*
- Title IX: Dr. Catherine Goguen, *Chief Academic Officer*
- Homeless Liaison: Joyce West, *Director of Pupil Personnel Services*
- Title I Coordinator: Dr. Catherine Goguen, *Chief Academic Officer*
- Title II Liaison: Courtney Dunn, *Grants Manager*
- ELE Coordinator: Lori Simpson, *Director of Multilingual Learner Department*

Please review the following **required** documentation before continuing to the next slide:

- [AC - Nondiscrimination](#)
- [JB - Equal Educational Opportunities](#)
- [JFCV - Student Dating/Relationship Violence](#)
- [New Title IX Regulations - Updated August 2020](#)

If employees have any questions regarding this training module or required documentation, please contact your direct supervisor or your school's principal.

In order to complete this training, please proceed to the form linked below to confirm receipt of all documentation:

- [Certification of Completion of the Civil Rights, Discrimination & Harassment Mandatory Training](#)