

**BOE Policy Committee Agenda
Wednesday, May 12, 2021
Virtual Meeting 9:15 A.M.**

In consideration of public health, open meetings and the Governor’s Executive Order No. 7B dated March 10, 2020 regarding PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID- 19 PANDEMIC AND RESPONSE - FURTHER SUSPENSION OR MODIFICATION OF STATUTES; this meeting will include an option for the public to phone in to listen to the audio of the meeting. Please note that public comment will be received by phone at the beginning and end of this meeting.

**Joining Info: Join by phone
(US) +1 443-892-3048 PIN: 681 200 759#**

CALL TO ORDER

IN ATTENDANCE

PUBLIC PARTICIPATION

APPROVE MINUTES March 24, 2021

NEW BUSINESS

Discussion and possible action:

Item	Reports
<p>Policy 5145.31 – Gaming The committee will review questions from a BOE member.</p>	<ul style="list-style-type: none"> ● Committee to re-review
<p>Policy 5145.12- Search and Seizure The committee requested that M. Pompano review this policy again before going to the BOE for approval.</p>	<ul style="list-style-type: none"> ● Committee to re-review
<p>Policy 5145.124 – Breathalyzer Testing The committee requested that M. Pompano review this policy again before going to the BOE for approval.</p>	<ul style="list-style-type: none"> ● Committee to re-review
<p>Policy 4118.11 – Nondiscrimination S. D’Eramo, L. Rodrigue and A. Uberti received sample policies from Shipman and Goodwin to help create a draft policy suitable for Newtown Public Schools.</p>	<ul style="list-style-type: none"> ● S. Connell will invite S. D’Eramo to this virtual meeting
<p>Policy 4118.112 – Sexual Harassment S. D’Eramo, L. Rodrigue and A. Uberti received sample policies from Shipman and Goodwin to help create a draft policy suitable for Newtown Public Schools.</p>	<ul style="list-style-type: none"> ● S. Connell will invite S. D’Eramo to this virtual meeting
<p>Policy 4118.113 – Harassment S. D’Eramo, L. Rodrigue and A. Uberti received</p>	<ul style="list-style-type: none"> ● S. Connell will invite S. D’Eramo to this virtual meeting

sample policies from Shipman and Goodwin to help create a draft policy suitable for Newtown Public Schools.	
---	--

UPDATE FROM THE SUPERINTENDENT

PUBLIC PARTICIPATION

ADJOURNMENT

Students

Gaming

The Newtown Board of Education believes it is not appropriate for the schools to ~~provide any situations for students that will promote gambling or increase the likelihood they will understand games of chance and later choose to pursue them in their life.~~ It shall be the policy of the Newtown Board of Education that no school-sponsored event run by students or for student participation shall introduce, operate, or otherwise encourage games of chance with monetary reward. ~~teach aspects of gambling. such as, but not to be limited to, roulette, craps, twenty one, bingo.~~

Legal Reference: Connecticut General Statutes

10-221 Boards of Education to prescribe rules policies and procedures

Policy adopted:

Students

Search and Seizure

The Board seeks to ensure a learning environment which protects the health, safety and welfare of students and staff. To assist the Board in attaining these goals, District officials may, subject to the requirements below, search a student's person and property, including property assigned by the District for the student's use. Such searches may be conducted at any time on District property or when the student is under the jurisdiction of the District at school-sponsored activities.

All searches for evidence of a violation by the District shall be subject to the following requirements:

1. The District official shall have individualized, "*reasonable suspicion*" to believe evidence of a violation of law, Board policy, administrative regulation or school rule is present in a particular place;
2. The search shall be "*reasonable in scope.*" That is the measures used are reasonably related to the objectives of the search and not excessively intrusive in light of the age, sex, maturity of the student and nature of the infraction.
3. District officials may also search when they have reasonable information that emergency/dangerous circumstances exist.

Desks and School Lockers

Desks and school lockers are property of the schools. The right to inspect desks and lockers assigned to students may be exercised by school officials to safeguard students, their property, and school property with reasonable care for the Fourth Amendment rights of students. The administration will annually ensure that students are advised of this policy.

The exercise of the right to inspect also requires protection of each student's personal privacy and protection from coercion. An authorized school administrator may search a student's locker or desk under the following conditions:

1. There is reason to believe that the student's desk or locker contains weapons, contraband material, or the fruits of a crime.
2. There are reasonable grounds for suspecting the search will turn up evidence that the student has violated or is violating either the law or the rules of the school.
3. The measures used to conduct the search are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the alleged legal or rules infraction.

Students

Search and Seizure

Desks and School Lockers (continued)

Use of drug-detection dogs ~~and metal detectors~~, or other detective devices may be used only on the express authorization of the Superintendent.

District officials may seize any item which is evidence of a violation of law, Board policy, administrative regulation or school rule, or which the possession or use of is prohibited by such law, policy, regulation or rule.

Student Searches

Students or their property, including automobiles parked on school property, may be searched if there are reasonable grounds for suspecting the search will turn up evidence that students have violated or are violating either the law or the rules of the school. The scope of the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the students and the nature of the infraction.

Strip searches shall not be conducted by school authorities. All searches by the Principal or his/her designee shall be carried out in the presence of another adult witness.

A strip search is defined as a search that requires a student to remove any or all of his or her clothing, other than an outer coat or jacket

Vehicle Searches on School Grounds

The privilege of bringing a student-operated motor vehicle onto school premises is hereby conditioned on consent by the student driver to allow the search of that motor vehicle when there is reasonable cause for a search of that motor vehicle. The act of bringing a motor vehicle upon school premises will allow school officials to presume consent by the student, parent or guardian, or owner of the vehicle for a search of that motor vehicle. Refusal by a student, parent or guardian, or owner of the vehicle to allow access to a motor vehicle on school premises at the time of a request to search the motor vehicle will be cause for termination, without further hearing, of the privilege of bringing a motor vehicle onto school premises. The Principal, or a building administrator, may request a law enforcement officer to search a motor vehicle on school premises, subject to provisions of this policy.

Students

Search and Seizure (continued)

Police Involvement in Searches and Interrogations of Students

The District is committed to cooperating with police officials and other law enforcement authorities in order to maintain a safe school environment. Police officials, however, have limited authority to interview or search students in schools or at school functions, or to use school facilities in connection with police work.

Students may be searched by law enforcement officials on school property or when the student is under the jurisdiction of the District upon the request of the law enforcement official. Such requests ordinarily, shall be based on a (1) warrant; or (2) probable cause to believe a crime has been committed on school property or at a school function; or (3) an invitation by school officials. **Barring exigent circumstances**, the school Principal or designee will attempt to notify the student's parents in advance to give the parent the opportunity to be present during the police questioning or search, and will be present for all such searches.

(cf. 5145.121 – Search of Vehicles on School Grounds)

(cf. 5145.122 – Use of Dogs to Search School Property)

(cf. 5145.123 – Use of Metal Detectors)

(cf. 5145.124 – Breathalyzer Testing)

(cf. 5145.125 – Drug Testing)

(cf. 5131.111 – Video Surveillance)

Legal Reference: Connecticut General Statutes

10-221 Boards of education to prescribe rules

New Jersey v. T.L.O., 469 US 325; 105 S.Ct.733

Safford Unified School District #1 v. Redding (U.S. Sup. CT 08-479)

Policy adopted:

Students

Search and Seizure

Definitions

- a. **“Reasonable suspicion”** means sufficient knowledge possessed by the District official at the time the official makes or authorizes the search which would lead a reasonable person to believe that a search of a particular student or place will likely turn up evidence of a violation of law, Board policy, administrative regulation or school rule. The official’s knowledge may be based upon relevant past experience of the official, observation by the official and/or credible information from another person.
- (1) **“Past experience”** may provide the district official with information relevant to the violation as well as information which enables the official to evaluate the credibility of information from another student.
- (2) **“Credible information from another person”** may include information which the district official reasonable believes to be true provided by another District employee, a student, a member of law enforcement or other government official or some other person.
- b. **“Reasonable in scope”** means the manner and extent of the search are reasonably related to the objectives of the search, limited to the particular student or students most likely to be involved in the infraction and not excessively intrusive in light of the student’s age, sex, maturity or the nature of the infraction.

Justification for Student Searches

Students possess the right to be free of unreasonable searches and seizures under the Fourth Amendment of the Constitution of the United States. Balanced against this right is the school officials’ responsibility to create and maintain an environment consistent with the school’s educational mission. School officials have a duty to protect the health, safety and welfare of all students under their authority.

Prohibited Items

Students are requested not to bring to school items or substances which would disrupt the educational function of the school or which are prohibited by Board policy, administrative regulations or by law. Examples of items or substances in this category are weapons, clubs, explosives, firecrackers, alcoholic beverages and nonprescription drugs or drug paraphernalia.

Students

Search and Seizure (continued)

Lockers and Other School Property

Lockers and other storage spaces are provided to students for their convenience. These storage areas remain school property, and as such, are subject to periodic inspections by school authorities. The purpose of such inspections is not to collect evidence of wrongdoing on the part of a single student, but rather to allow school authorities responsible for the appropriate use of school property the opportunity to confirm that lockers are being used in a manner consistent with the health and safety of all students. Students are therefore warned not to store items in lockers which they do not want to bring to the attention of school authorities.

Emergencies

Circumstances which put the safety of students or school staff at risk or could result in substantial property damage also will constitute sufficient reasons for school or police officials to conduct a thorough search of all school property. A bomb scare is an example of such an emergency. In responding to such an emergency or dangerous circumstance, the actions of the school officials shall be reasonably effective and no more intrusive than necessary.

Student Searches

School authorities are authorized to conduct searches of students or their property when reasonable suspicion indicates that a particular student is in possession of an item or a substance that represents a material threat to school routine or is prohibited by Board policy, administrative regulations or by law. Student property shall include, but not be limited to, purses, bookbags and cars. If students don't have access to their cars during school hours, the justification for searching student-driven cars is removed. School authorities in cooperation with the local police department reserve the right to conduct sniff searches with dogs of school property and student-driven cars.

Police Notification

With regard to possession of items that constitute a violation of law, school authorities may wish to cooperate with the appropriate law enforcement agencies in the interest of preserving the integrity of the school's educational mission.

Lockers and Other School Property (Desks)

1. The school principal or his/her designee shall maintain an accurate list of all locker assignments and either a master key or combinations to all lockers.

Students

Search and Seizure

Lockers and Other School Property (Desks) (continued)

2. At the time a student is assigned a locker or other storage space, he or she shall be informed that school authorities are empowered to conduct random periodic inspections of school lockers. Notices of this inspection policy also shall be posted in appropriate locations throughout the school.
3. Students also will be informed of the following locker regulations:
 - A. Students are responsible for the contents of the locker assigned to them.
 - B. Students are to keep their lockers locked.
 - C. Students are not to give other students access to their locker.
4. The exercise of that right to inspect also requires protection of each student's personal privacy and protection from coercion. An authorized school administrator may search a student's desk or locker under the following conditions:
 - A. There is reason to believe that the students' desk or locker contains contraband material and the presence of said material poses a serious threat to the maintenance of discipline, order, safety or health in the school.
 - B. The search of a group of students' desks or a group of students' lockers where no particular student within the group is suspected may be conducted only if there is a reasonable suspicion of conduct immediately harmful to students, staff or school property.

Prescription Drugs

Students who have a legitimate need to bring prescription drugs to school should register this information in the nurse's office. (cf. 5141.21 - Administration of Medication)

Lost or Abandoned Items

Lost or abandoned items will be inspected by school authorities.

Students

Search and Seizure

Student Searches

1. All searches of students shall be conducted or authorized by the Principal or designee, in the presence of a witness.
2. When the need to search a student arises, the student may be asked to give his or her consent to the search, but in no event shall the student be threatened with harsher punishment or treatment for refusing to consent, nor shall he or she be coerced or induced to give consent in any other manner. The consent, if given, shall be put in writing. If the student is unwilling to give free and voluntary consent, the school administrator may order the student to submit to a search. If the student refuses to obey the order, the school administrator may bring insubordination charges against the student as stipulated in applicable school regulations.
3. Searches should be no more intrusive than necessary to discover that for which the search was instigated.
4. A search of a student's handbag, gym bag or similar personal property carried by a student may be conducted if there is "reasonable grounds" for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school.
5. Locker searches shall be conducted in the presence of another staff member and in the presence of the student responsible for the contents of the locker, if possible.
6. Searches may include, if school authorities think necessary, a frisk or pat down of student clothing. Frisk or pat down searches shall be conducted by a member of the same sex as the student and in the presence of another staff member. Where the object of the search may be felt by a pat down of clothing or personal property, the District official may first pat the clothing or property in an attempt to locate the article before searching inside the clothing or property.
7. At no time should school officials conduct a search which requires a student to remove more clothing than his/her shoes or jacket. If school authorities are convinced that a more intrusive search is required to expose contraband they should advise the proper law enforcement agency.
8. A search of a student's person, or a search of a group of students where no particular student within the group is suspected, may be conducted only if there is a reasonable suspicion of conduct immediately harmful to students, staff or school property. "Strip searches" of students are prohibited by employees of this school District.

Students

Search and Seizure

Student Searches (continued)

9. Student searches which disclose evidence of school misconduct, but not criminal misconduct, should be treated according to applicable policies and/or regulations.
10. In the event that a student search discloses evidence of criminal wrongdoing, the school Principal or his/her designee shall determine whether or not police officials should be notified of the fruits of the search. If police officials are notified the student's parents should be advised of this fact as soon as possible.
11. A strip search requiring a student to remove clothing down to the student's underwear or including underwear is prohibited by the District. (CABE's recommended position)

Emergency/Dangerous Circumstances

1. Where a District official has knowledge which would lead a reasonable person to believe that either an emergency or dangerous circumstance exists and that it is necessary to act to protect the safety of any person or property, the official may make a search to the extent necessary to relieve the emergency or dangerous circumstance.
2. In responding to such an emergency or dangerous circumstance, the actions of the official shall be reasonably effective and no more intrusive than necessary.

Documentation

Administrators shall document all searches. Documentation shall consist of the following:

- Name, age and sex of student;
- Time and location of search;
- Justification for search and nature of reasonable suspicion;
- Type/Scope of search (what was searched);
- Results of search, prohibited material(s) found, disposition of the material(s) seized and discipline imposed;
- Name of the witness to the search;
- Name of the District official.

Students

Search and Seizure (continued)

Student Notification

Notice of the Board's policy and pertinent provisions of this regulation will be provided to staff, students and their parents annually, through such means as staff and student/parent handbooks and the school/District website.

- (cf. 5145.121 – Search of Vehicles on School Grounds)
- (cf. 5145.122 – Use of Dogs to Search School Property)
- (cf. 5145.123 – Use of Metal Detectors)
- (cf. 5145.124 – Breathalyzer Testing)
- (cf. 5145.125 – Drug Testing)
- (cf. 5131.111 – Video Surveillance)

Legal Reference: Connecticut General Statutes

10-221 Boards of education to prescribe rules.

New Jersey v T.L.O., 53 U.S.L.W. 4083 (1985)

PA 94-115 An Act Concerning School Searches.

Safford Unified School District #1 v. Redding (U.S. Sup. CT 08-479)

Regulation approved:

Students

Search and Seizure

Breathalyzer Testing

This policy provides the basic structure for the use of passive and active alcohol sensors in Newtown to detect/confirm alcohol consumption by students.

The passive alcohol sensor device is a non-invasive high-speed breath alcohol-screening instrument which can be used as a “sniffer” for overt or covert alcohol detection. This device may be used to sample a student’s breath and/or beverage container in order to detect alcohol use.

The District does not consider the use of a passive alcohol-screening device as constituting a “search”; therefore the issue of trespass or intrusion into a student’s privacy is not a factor in the use of this device. Passive alcohol screening may be conducted with all students entering a school sponsored event or with a methodology-based representative sample of students entering a school sponsored event (e.g. every 5th student, every 10th student, etc.), or with individual students when reasonable suspicion exists that a student is under the influence or has used alcohol.

Administrators will use an active device only when a student has demonstrated alcohol use with a passive device. Reasonable suspicion shall refer to any of the following:

1. Observed use or possession of alcohol;
2. Apparent physical state of impairment of motor functions;
3. Marked changes in personal behavior not attributable to other factors; or
4. Involvement in, or contribution to, a vehicular accident where the use of alcohol is reasonably suspected.

All due process rights of students will be observed. Further, the Board allows the use of passive alcohol sensor devices at school, on school buses or at any school-sponsored activity.

The passive screening device shall be checked for accuracy and for full calibration at least as frequently as recommended by the manufacturer.

Designated school personnel and/or the school resource officer(s) will be trained in the use of such instruments.

Students, parents/guardians and staff will be notified of the intended use of the passive and active alcohol sensor devices. This notification shall be done through announcements, written documentation, assembly demonstration or classroom discussions, and will be included in school handbooks.

Students

Search and Seizure

Breathalyzer Testing (continued)

When an administrator has reasonable suspicion that a student is in possession of and/or under the influence of alcohol at school or a school-sponsored event, the student shall be given a passive alcohol sensor screening. If the student fails the passive assessment, he/she will be given a ~~fifteen~~-five-minute wait period after which the passive screening will be re-administered. If the second screening results are negative, no action shall be taken. However, if the student tests positive during the second passive screening, he/she will be given an active breathalyzer test. If the student declines to take the active screening, when reasonable suspicion exists, or if such screening proves positive, he/she shall be subject to appropriate disciplinary action as set out in the District's disciplinary policies.

- (cf. 5114 - Suspension/Expulsion)
- (cf. 5131 - Conduct)
- (cf. 5131.6 - Drugs, Alcohol, Tobacco)
- (cf. 5131.8 - Out of School Misconduct)
- (cf. 5144 - Discipline/Punishment)
- (cf. 5145.11 - Questioning and Apprehension)
- (cf. 5145.12 - Search and Seizure)

Legal Reference: Connecticut General Statutes
 10a-18 Programs to be offered on effects of drugs and alcohol.
 10-19 Teaching about alcohol, nicotine or tobacco, drugs and acquired immune deficiency syndrome. Training of personnel.
 10-154a Professional communications between teacher or nurse and student. Surrender of physical evidence obtained from students.
 10-221d Boards of education to prescribe rules re; use, sale or possession.
 21a-240 Definitions, dependency producing drugs.
 21a-243 Regulation re schedules of controlled substances.
New Jersey v. T.L.O., 469 325; 105 S.Ct. 733 (1985)
Veronia School District 47J v. Acton, 515 U.S. 646 (1995)
Todd v. Rush County Schools, 133F.3d 984 (7th Cir. 1998)
Knox County Education Association v. Knox County Board of Education, 158 F3d 361, 3885-386 (6th Cir. 1998)

Policy adopted:

Students

Search and Seizure

Breathalyzer Testing - Regulation

Given reasonable suspicion of alcohol consumption by a student, or if the student fails the initial passive screening, the administration will follow these procedures:

- The student will be removed to ~~the~~ an office area for observation and questioning concerning alcohol consumption.
- The student may at any point confirm or deny the report of possible alcohol consumption.
- After a ~~fifteen~~ five minute waiting period, the student will be informed of the passive alcohol sensor test and how it operates. The student will be requested to breathe across the intake part of the device.
- The administration will then inform the student of the device's findings — alcohol was either detected on the sensor or the sensor did not detect alcohol.
- If alcohol was detected, the administration will request that the student take an active breathalyzer test.
- If the student continues to deny consumption or refuses to take the active breathalyzer test, or tests positive on the active breathalyzer test, the student will be disciplined according to the Newtown District's discipline/punishment policy.
- The student's parents will be informed of the disciplinary actions to be taken.

In addition, the administration will:

- Publicize the intent and procedure with parents/guardians.
- Hold student meetings to present and clarify the intent and procedure.

(cf. 5114 - Suspension/Expulsion)

(cf. 5131 - Conduct)

(cf. 5131.6 - Drugs, Alcohol, Tobacco)

(cf. 5131.8 - Out of School Misconduct)

(cf. 5144 - Discipline/Punishment)

(cf. 5145.11 - Questioning and Apprehension)

(cf. 5145.12 - Search and Seizure)

Regulation approved:

Personnel - Certified/Non-Certified

Nondiscrimination

The Newtown Board of Education (the “Board”) will not make employment decisions (including decisions related to hiring, assignment, compensation, promotion, demotion, disciplinary action and termination) on the basis of race, color, religion, age, sex, marital status, sexual orientation, national origin, alienage, ancestry, disability, pregnancy, genetic information, veteran status, or gender identity or expression, except in the case of a bona fide occupational qualification.

It is the policy of the Board that any form of discrimination or harassment on the basis of race, color, religion, age, sex, marital status, sexual orientation, national origin, alienage, ancestry, disability, pregnancy, genetic information, veteran status, or gender identity or expression, or any other basis prohibited by state or federal law is prohibited, whether by students, Board employees or third parties subject to the control of the Board. The Board’s prohibition of discrimination or harassment in its educational programs or activities expressly extends to academic, nonacademic, and extracurricular activities, including athletics. It is also the policy of the Board of Education to provide for the prompt and equitable resolution of complaints alleging any discrimination on the basis of protected characteristics such as race, color, religion, age, sex, sexual orientation, marital status, national origin, alienage, ancestry, disability, pregnancy, genetic information, veteran status, or gender identity or expression.

For the purposes of this policy, “race” is inclusive of ethnic traits historically associated with race, including but not limited to, hair texture and protective hairstyles. “Protective hairstyles” includes, but is not limited to, wigs, headwraps and hairstyles such as individual braids, cornrows, locs, twists, Bantu knots, afros and afro puffs.

For the purposes of this policy, “genetic information” means the information about genes, gene products, or inherited characteristics that may derive from an individual or a family member. “Genetic information” may also include an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

For the purposes of this policy, “veteran” means any person honorably discharged from, or released under honorable conditions from active service in, the United States Army, Navy, Marine Corps, Coast Guard, and Air Force and any reserve component thereof, including the Connecticut National Guard.

For the purposes of this policy, “gender identity or expression” means a person’s gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person’s core identity or not being asserted for an improper purpose.

Any employee wishing to file a complaint regarding discrimination may obtain a copy of the Board's complaint procedures and complaint form, which are included in the Board's Administrative Regulations Regarding Non-Discrimination/Personnel. These regulations accompany Board Policies P 4118.11/ P 4218.11 and are available online at <https://newtown-policies.campuscontact.com/> or on request from the main office of any district school.

If a complaint involves allegations of discrimination or harassment based on reasons such as gender/sex, disability, or pregnancy, such complaints will be handled under other appropriate policies P4118.112/ P 4218.112, Sex Discrimination/Harassment in the Workplace and policies P 4118.14/P 4218.14, Nondiscrimination on the Basis of Disabilities.

Any employee also may file a complaint with the Office for Civil Rights, U.S. Department of Education ("OCR"):

Office for Civil Rights, Boston Office
U.S. Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921
(617-289-0111)
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

Employees may also file a complaint regarding employment discrimination with the Equal Employment Opportunity Commission:

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

Employees may also file a complaint with the Connecticut Commission on Human Rights and Opportunities:

Connecticut Commission on Human Rights and Opportunities
450 Columbus Blvd.
Hartford, CT 06103-1835
(800-477-5737)

Anyone who has questions or concerns about this policy, or would like a copy of the Board's complaint procedures or complaint forms related to claims of discrimination, discrimination on the basis of gender/sex, and discrimination on the basis of disability may contact:

Office of the Assistant Superintendent of Schools
3 Primrose Street
Newtown, CT 06470
(203) 426-7617
(email address may be found in the Administrative Regulations)

Legal References:

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq.

Americans with Disabilities Act, 42 U.S.C. § 12101

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794

Title II of the Genetic Information Nondiscrimination Act of 2008, Pub.L.110-233, 42 U.S.C. § 2000ff; 29 CFR 1635.1 et seq.

Connecticut General Statutes § 1-1n, “Gender Identity or Expression” defined

Connecticut General Statutes § 10-153, Discrimination on the basis of sex, gender or expression or marital status prohibited

Connecticut General Statutes § 46a-51, Definitions

Connecticut General Statutes § 46a-58, Deprivation of rights

Connecticut Fair Employment Practices Act, Connecticut General Statutes § 46a-60

Connecticut General Statutes § 46a-81a, Sexual orientation discrimination: Definitions

Connecticut General Statutes § 46a-81c, Sexual orientation discrimination: Employment

R 4118.11/R 4218.11

Personnel - Certified/Non-Certified

Nondiscrimination

It is the policy of the Newtown Board of Education (the “Board”) that any form of discrimination or harassment on the basis of protected characteristics such as race, color, religion, age, sex, sexual orientation, marital status, national origin, alienage, ancestry, disability, pregnancy, genetic information, veteran status, or gender identity or expression is forbidden, whether by students, Board employees or third parties subject to the control of the Board. Students, Board employees and third parties are expected to adhere to a standard of conduct that is respectful of the rights of all members of the school community.

It is the express policy of the Board to provide for the prompt and equitable resolution of complaints alleging any discrimination on the basis of protected characteristics such as race, color, religion, age, sex, sexual orientation, marital status, national origin, alienage, ancestry, disability, pregnancy, genetic information, veteran status, or gender identity or expression.

If a complaint involves allegations of discrimination or harassment based on reasons such as gender/sex, disability, or pregnancy, such complaints will be handled, as appropriate, in accordance with other Board policies P 4118.112/P 4218.112, Sex Discrimination/Harassment in the Workplace; policies P 4118.14/P 4218.14, Nondiscrimination on the Basis of Disabilities.

Preferably, complaints should be filed within thirty (30) calendar days of the alleged occurrence. Timely reporting of complaints facilitates the investigation and resolution of such complaints. The district will investigate such complaints promptly and equitably, and will take corrective action when allegations are verified.

The district will not tolerate any reprisals or retaliation that occur as a result of the good faith reporting of charges of harassment or discrimination on the basis of race, color, religion, age, sex, sexual orientation, marital status, national origin, alienage, ancestry, disability, pregnancy, genetic information, veteran status, or gender identity or expression. Any such reprisals or retaliation will result in disciplinary action against the retaliator, and other corrective actions as appropriate.

The school district will periodically provide staff development for district administrators and periodically distribute this policy and implementing administrative regulations to staff and students in an effort to maintain an environment free of harassment and discrimination.

Complaint Procedure

As soon as an individual feels that he or she has been subjected to discrimination or harassment on the basis of race, color, religion, age, sex, sexual orientation, marital status, national origin, alienage, ancestry, disability, pregnancy, genetic information, veteran status, or gender identity or expression he/she should make a written complaint to the Assistant Superintendent or his/her designee. The individual and any respondent (if applicable) will be provided a copy of the Board’s policy and regulation and made aware of his/her rights.

The complaint should state the:

- Name of the complainant,
- Date of the complaint,
- Date(s) of the alleged harassment/discrimination,

- Name(s) of the harasser(s) or discriminator(s),
- Location where such harassment/discrimination occurred,
- Names of any witness(es) to the harassment/discrimination,
- Detailed statement of the circumstances constituting the alleged harassment/discrimination; and
- Proposed remedy.

Any individual who makes an oral complaint of harassment or discrimination will be provided a copy of this regulation and will be requested to make a written complaint pursuant to the above procedure. If an individual is unable to make a written complaint, the staff member receiving the oral complaint will either reduce the complaint to writing or assist the individual with completing the written complaint form.

All complaints received by staff members are to be forwarded immediately to the Assistant Superintendent. Upon receipt of a complaint alleging harassment or discrimination under this complaint procedure, the Assistant Superintendent or his/her designee shall promptly investigate the complaint. During the course of the investigation, the Assistant Superintendent or designee shall interview or consult with all individuals reasonably believed to have relevant information, including the complainant, the alleged harasser/discriminator (“respondent”), and any witnesses to the conduct. Complaints will be investigated promptly within the timeframes identified below. Timeframes may be extended as needed given the complexity of the investigation, availability of individuals with relevant information and other extenuating circumstances. Confidentiality will be maintained by all persons involved in the investigation to the extent possible, as determined by the investigator.

Upon receipt of a written complaint of discrimination, the investigator should:

1. Offer to meet with the complainant and respondent (if applicable) within ten (10) business days (provided that such timeframe may be reasonably extended based on the availability of necessary witnesses and/or participants during periods of time when school is not in session) to discuss the nature of the complaint, identify individuals the complainant believes has relevant information, and obtain any relevant documents the complainant may have;
2. Provide the complainant and respondent (if applicable) with a copy of the Board’s non-discrimination policy and accompanying regulations;
3. Investigate the factual basis of the complaint, including, as applicable, conducting interviews with individuals deemed relevant to the complaint;
4. Conduct an investigation that is adequate, reliable, and impartial. Investigate the factual basis for the complaint, including conducting interviews with individuals with information and review of documents relevant to the complaint;
5. Maintain confidentiality to the extent practicable throughout the investigative process, in accordance with state and federal law;

6. Communicate the outcome of the investigation in writing to the complainant and respondent (if any) (to the extent permitted by state and federal confidentiality requirements), within thirty (30) business days (provided that such timeframe may be extended by fifteen (15) business days during periods of time when school is in session or reasonably extended based on the availability of necessary witnesses and/or participants during periods of time when school is not in session) from the date the complaint was received by the Assistant Superintendent's office. The complainant and respondent (if any) shall be notified of such extension. The written notice shall include a finding whether the complaint was substantiated and if so, shall identify, to the extent possible, how the district will remedy the discrimination or harassment, adhering to the requirements of state and federal law;
7. If a complaint is made during summer recess, the complaint will be reviewed and addressed as quickly as possible given the availability of staff and/or other individuals who may have information relevant to the complaint. If fixed timeframes cannot be met, the complainant and respondent (if any) will receive notice and interim measures may be implemented as necessary (see sub-paragraph 6);
8. Whenever allegations are verified, ensure that appropriate corrective action is taken (including, but not limited to, disciplinary action) aimed at preventing the recurrence of the harassment or discrimination. Corrective action should include steps to avoid continuing discrimination;
9. If either party to the complaint is not satisfied with the findings and conclusions of the investigation, the complainant may present the complaint and written outcome to the Superintendent within thirty (30) calendar days of receiving the findings. Upon review of a written request from the party requesting an appeal, the Superintendent shall review the investigative results of the investigator and determine if further action and/or investigation is warranted. Such action may include consultation with a designated investigator (if applicable), complainant, and respondent (if any) and meeting with appropriate individuals to attempt to resolve the complaint, or a decision affirming or overruling a designated investigator's conclusions or findings (if applicable). The Superintendent shall provide written notice to the complainant and respondent (if any) of the proposed actions within fifteen (15) business days (provided that such timeframe may be reasonably extended based on the availability of necessary witnesses and/or participants during periods of time when school is not in session) following the receipt of the written request for review.

If a complaint involves allegations of discrimination or harassment based on reasons such as gender/sex, disability, or pregnancy, such complaints will be handled under other appropriate policies P4118.112/P 4218.112, Sex Discrimination/Harassment in the Workplace; policies P 4118.14/P 4218.14, Nondiscrimination on the Basis of Disabilities.

Any employee also may file a complaint with the Office for Civil Rights, U.S. Department of Education ("OCR"):

Office for Civil Rights, Boston Office
U.S. Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921
(617-289-0111)
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

Employees may also file a complaint regarding employment discrimination with the Equal Employment Opportunity Commission:

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

Employees may also file a complaint with the Connecticut Commission on Human Rights and Opportunities:

Connecticut Commission on Human Rights and Opportunities
450 Columbus Blvd.
Hartford, CT 06103-1835
(800-477-5737)

Anyone who has questions or concerns about these regulations, or about the Board's policies regarding discrimination on the basis of gender/sex or discrimination on the basis of disability may contact:

Mrs. Anne Uberti
Assistant Superintendent of Schools
3 Primrose Street
Newtown, CT 06470
(203) 426-7617
ubertia@newtown.k12.ct.us

DISCRIMINATION COMPLAINT FORM

(For complaints based on race, color, religion, age, sex, sexual orientation, marital status, national origin, alienage, ancestry, disability, pregnancy, genetic information, veteran status, or gender identity or expression)

Name of the complainant _____

Date of the complaint _____

Date of the alleged discrimination/harassment _____

Name or names of the discriminator(s) or harasser(s) _____

Location where such discrimination/harassment occurred _____

Name(s) of any witness(es) to the discrimination/harassment _____

Detailed statement of the circumstances constituting the alleged discrimination or harassment

Proposed remedy _____

Signature of Complainant _____

Personnel – Certified/Non-Certified

Nondiscrimination on the Basis of Disabilities

The Board of Education prohibits discrimination against any individual with a disability with regard to recruitment, advertisement and job application procedures; hiring, upgrading, promotion, awarding of tenure, demotion, transfer, layoff, termination, right of return from layoff, employee compensation, job assignments, job classifications, organizational structures, position descriptions, lines of progression and seniority lists, leaves of absence, sick leave or other leaves, fringe benefits or job training.

Federal law defines a person with a disability as one who (1) has a mental or physical impairment which substantially limits one or more major life activities such as, but not limited to, caring for one's self; performing manual tasks walking, seeing, hearing, eating, sleeping, standing, sitting, reaching, lifting, bending, reading, writing, concentrating, thinking, communicating, interacting with others, speaking, breathing, learning or working; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. The Board will afford qualified disabled individuals reasonable accommodations. The Supreme Court of the United States has recognized that individuals with a communicable disease may be considered disabled.

The Board of Education recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel, students, parents and members of the public who participate in school-sponsored programs. No discrimination against any person with a disability will be knowingly permitted in any of the programs and practices in the school system.

With regard to its employees, the Board specifically prohibits discrimination against any individual with a qualified disability with regard to recruitment, hiring, promotion or advancement, compensation, evaluation, training, or any other aspect of employment within the school system. The Board will afford qualified disabled individuals reasonable accommodations in accordance with state and federal law.

Disabled employees who can no longer perform essential job functions are encouraged to advise their supervisors or administrators of the nature of their disability and which functions cannot be performed. The Board will consider any reasonable suggestions of accommodation that would enable performance of those functions so long as the accommodation will not impose an undue hardship on the operation of the school system. The term "disability" shall be broadly construed. The determination of whether an individual has a disability should not demand extensive analysis.

A person is not qualified to perform his/her duties if his/her medical condition or disability poses a threat to health or safety of individuals in the workplace.

Persons, including employees of the district, that feel they may have been discriminated against on the basis of a disability should contact the Director of Human Resources.

Personnel – Certified/Non-Certified

Nondiscrimination on the Basis of Disabilities (continued)

Employees seeking accommodations for a disability in order to perform essential job functions are encouraged to contact their supervisors or administrators and/or the Director of Human Resources.

(cf. 0521 - Nondiscrimination)

(cf. 4112.4/4212.4 - Health Examinations)

Legal Reference: Connecticut General Statutes
 10-209 Records not to be public.
 19-581 AIDS testing and medical information.
 46a-60 Discriminatory employment practices prohibited.
 Federal Law
 Section 504 and the Federal Vocational Rehabilitation Act of 1973, 20
 U.S.C. 706(7)(b).
 American Disability Act of 1989, 42 U.S.C. 12101 et. seq., as amended by
 the ADA Amendments Act of 2008
 29 CFR, Part 1630, Regulations to Implement the Equal Employment
 Provisions of the Americans with Disabilities Act, as amended, published
 in the Federal Register, Vo. 76, No. 58, 3/25/11
 Chalk v. The United States District Court of Central California.
 Amendments of Americans with Disabilities Act, Title II and Title III,
 Regulation to Implement ADA Amendments Act of 2008. Federal
 Register, Vol. 81, No. 155 (28 CFR Parts 35 & 36)

Policy adopted: November 21, 2017

NEWTOWN PUBLIC SCHOOLS
Newtown, Connecticut

**SECTION 504/ADA
EMPLOYEE REQUEST FOR ACCOMMODATION**

1. Name of Employee: _____ Title/Position: _____

2. Eligibility Determination

Individuals considered eligible for protection from discrimination under Section 504/ADA are those who have a physical or mental impairment which substantially limits a major life activity; has a record of such impairment; or is regarded as having such an impairment.

A. Please describe your mental or physical disability:

B. Please describe the major life activity substantially limited by your disability:

C. Please describe how your disability affects your ability to perform essential job functions:

D. Please describe the specific accommodation(s) being requested:

E. Have you attached medical documentation to support your request? Yes No

F. If "no", please provide the name and contact information for your treating physician:

Name: _____

Address: _____

Telephone #: _____

3. **Authorization to Communicate with Medical Provider**

I hereby authorize my employer, the Newtown Public School District to obtain, and for the medical provider listed above, to release confidential protected health information to the Director of Human Resources for the limited purpose of determining any work related restrictions and/or accommodations which may be necessary in order to fulfill the essential function of my employment responsibilities. Any information received by my employer pursuant to this authorization shall be subject to all applicable state and federal confidentiality laws governing further use and disclosure of such information.

Employee Signature

Date

**ONCE COMPLETED, THIS FORM, ALONG WITH SUPPORTING DOCUMENTATION
SHOULD BE FORWARDED TO THE DIRECTOR OF HUMAN RESOURCES.**

Personnel – Certified/Non-Certified

Nondiscrimination on the Basis of Disabilities

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, as amended, the Board of Education (Board) does not discriminate against qualified individuals with disabilities in the District's services, programs or activities.

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, the Board does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the Equal Employment Opportunity Commission under Title I of the Americans with Disabilities Act.

Definitions

Person with a Disability: An individual who (1) has a mental or physical impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. An impairment that is episodic or in remission is considered a disability if it would substantially limit a major life activity when active.

Mental or Physical Impairments: Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. They also cover any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or physical illness, and specific learning disabilities. This includes, but is not limited to, contagious and non-contagious diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia, and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection, tuberculosis, drug addiction and alcoholism. It does not include homosexuality or bisexuality.

Major Life Activities: Major life activities include, but are not limited to, (i) caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, writing, concentrating, thinking, communication, interacting with others, and working; and (ii) the operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Personnel – Certified/Non-Certified

Nondiscrimination on the Basis of Disabilities

Definitions (continued)

Substantially Limits: This term shall be construed broadly in favor of expansive coverage to the maximum extent permitted by the ADA. It is not meant to be a demanding standard. Consistent with the Amendments to the ADA (ADAAA), “rules of construction” are to be used when determining if an individual is substantially limited in performing a major life activity.

Has a Record of Such an Impairment: In general, this term means if an individual has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities. This shall be construed broadly and not demand extensive analysis. An individual with a record of a substantially limiting impairment may be entitled, absent undue hardship to the district, to a reasonable accommodation if needed and related to the past disability.

Determination of Disability Requiring Accommodation

“Rules of construction” are to be used when determining if an individual is substantially limited in performing a major life activity. These rules include the following:

1. The impairment substantially limits the ability of an individual to perform a major life activity, as compared to most people in the general population. It need not prevent or severely or significantly limit a major life activity. Not every impairment will constitute a disability.
2. The term “substantially limits” should be construed broadly in favor of expansive coverage to the maximum extent permitted by the terms of the ADA. “Substantially limits” is not meant to be a demanding standard.
3. The determination of whether an impairment substantially limits a major life activity requires an individual assessment, but should not demand/require extensive analysis.
4. Although determination of whether an impairment substantially limits a major life activity as compared to most people will not usually require scientific, medical or statistical evidence, such evidence may be used if appropriate.
5. An individual need not be substantially limited or have a record of a substantial limitation, in one major life activity to be covered under the first or second prong of the definition of “disability.”
6. An impairment that is episodic or in remission meets the definition of “disability” if it would substantially limit a major life activity when active. (Impairments that may be episodic include epilepsy, hypertension, asthma, diabetes, major depression disorder, bipolar disorder, and schizophrenia. Cancer that is in remission but that may possibly return in a substantially limiting form is also considered a disability.)

Personnel – Certified/Non-Certified

Nondiscrimination on the Basis of Disabilities

Determination of Disability Requiring Accommodation (continued)

7. Mitigating measures, including but not limited to, medications, medical equipment and devices, prosthetic limbs, low vision devices, hearing aids, mobility devices, oxygen therapy equipment, use of assistive technology, reasonable accommodations, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, and physical therapy, shall not be used in the determination of whether an impairment substantially limits a major life activity. (Eyeglasses and contact lenses shall, however, be considered.) The determination of disability must focus on whether the individual would be substantially limited in performing a major life activity without the mitigating standard.
8. An impairment that substantially limits one major life activity need not substantially limit other major life activities to be considered a substantially limiting impairment.
9. Impairments that last fewer than six months do not apply to the definition of “disability.” The effects of an impairment lasting or expected to last fewer than six months can be substantially limiting.

Medical Examinations

The school Board may make pre-employment inquiries into the ability of an applicant to perform job-related functions. Medical examinations may be required after an offer of employment has been extended to an applicant and before commencement of employment duties. Any information obtained from such medical examinations will be collected and maintained on separate forms and in separate medical files and will be treated with confidentiality.

An employee, who is not qualified to perform their duties or whose medical condition or disability poses a direct threat to the health or safety of individuals in the workplace, once properly established by medical evidence and after proper due process procedures, may be relieved of their duties or reassigned.

The Board of Education may lawfully refuse to assign a person having a communicable disease, which is transmittable through the handling of food, to such duty or position as specified in the Federal Register Food and Drug Administration Regulations of May, 1991.

Personnel – Certified/Non-Certified

Nondiscrimination on the Basis of Disabilities

Privacy

The confidentiality of medical records of applicants or employees shall be strictly observed in accordance with the state and federal laws. Medical records shall be maintained separately from an applicant or employee personnel file. Such information may be released in limited circumstances:

- A. Upon signed release by the individual;
- B. To inform supervisor or administrator about any restriction or accommodation to accomplish work or duties of the employee;
- C. Emergency medical treatment;
- D. In compliance with state or federal law.

Connecticut General Statutes Section 19a-581 through 585, “Aids Testing and Medical Information,” provides that no person shall request HIV-related testing or disclose HIV-related information without written or oral informed consent of such individual.

Alternative Accommodations

The Supreme Court has recognized that individuals with contagious diseases will be considered as having a disability. Disabled employees who can no longer perform essential job functions are encouraged to advise their administrators of the nature of their disability, indicating which functions cannot be performed and suggest accommodations that would enable them to perform those functions. Accommodations will be considered if such accommodation does impose an undue hardship on the operation of the school system.

An employee is not qualified to perform his/her duties, whose medical condition or disability poses a direct threat to health or safety of individuals in the workplace, if it has been properly established by medical evidence and the employee has been afforded proper procedural due process safeguards.

Grievance Procedure

- A. In the event an employee believes that there has been discrimination on the basis of his/her disability, he or she shall mail or deliver to the Superintendent of Schools a written statement setting out the alleged violations in specific terms, describing the incident or activity involved, the individuals involved and the dates, times, and locations involved.
- B. If the individual who files the written statement so requests, the Superintendent of Schools shall provide that person with an opportunity to discuss the matter personally.

Personnel – Certified/Non-Certified

Nondiscrimination on the Basis of Disabilities

Grievance Procedure (continued)

- C. The Superintendent shall investigate the complaint and render a decision in writing within thirty (30) days.
- D. If the complainant is not satisfied with the decision of the Superintendent of Schools, the complainant may appeal to the Board of Education within ten (10) days of receipt of the decision of the Superintendent.
- E. Such an appeal shall be filed in writing with the Superintendent of Schools in his capacity as the executive agent of the Board of Education.
- F. The Board of Education shall cause the complaint to be investigated and, if it deems necessary, conduct a hearing to gather additional information.
- G. The Board of Education shall render a decision on any such appeal, in writing, within twenty (20) days of its being filed, or if a hearing should be held, within twenty (20) days of the conclusion of such hearing.

(cf. 0521 – Nondiscrimination)

(cf. 4112.4/4212.4 – Health Examinations)

Legal Reference: Connecticut General Statutes
19-581 through 585 AIDS testing and medical information.
10-209 Records not to be public.
46a-60 Discriminatory employment practices prohibited.
Section 504 and the Federal Vocational Rehabilitation Act of 1973, 20 U.S.C. 706 (7)(b).
American Disability Act of 1989, as amended by the ADA Amendments Act of 2008.
29 CFR, Part 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, as amended, published in the Federal Register, Vo. 76, No. 58, 3/25/11.
Chalk v. The United States District Court of Central California, 840F.2d701 (9th Cir. 1988).
Amendments of Americans with Disabilities Act, Title II and Title III, Regulation to Implement ADA Amendments Act of 2008. Federal Register, Vol. 81, No. 155 (28 CFR Parts 35 & 36)

Specific Impairments Considered to be Disabilities

As indicated in the implementing regulations to the ADA, the following impairments should be easily concluded to be disabilities:

Autism
Bipolar Disorder
Blindness
Cancer
Cerebral Palsy
Deafness
Diabetes
Epilepsy
HIV Infection
Intellectual Disability
Major Depression Disorder
Bipolar Disorder
Multiple Sclerosis
Mobility impairment requiring use of a wheelchair
Muscular Dystrophy
Obsessive-Compulsive Disorder
Partially or completely missing limbs
Traumatic Brain Injury
Post-traumatic Stress Disorder
Schizophrenia

Personnel - Certified/Non-Certified

Sex Discrimination and Sexual Harassment in the Workplace

It is the policy of the Newtown Board of Education (the “Board”) for the Newtown Public Schools that any form of sex discrimination or sexual harassment is prohibited in the Board’s education programs and activities, whether by students, Board employees or third parties subject to substantial control by the Board. It is the policy of the Board to maintain a working environment free from harassment, insults or intimidation on the basis of an employee’s sex and free from discrimination based on sex.

The Board does not discriminate on the basis of sex in the education programs or activities that it operates and the Board is required by Title IX of the Education Amendments of 1972 and its implementing regulations (“Title IX”), Title VII of the Civil Rights Act of 1964 (“Title VII”), and Connecticut law not to discriminate in such a manner. Students, Board employees and third parties are required to adhere to a standard of conduct that is respectful of the rights of all parties. Any employee or student who engages in conduct prohibited by this Policy shall be subject to disciplinary action, up to and including termination or expulsion, respectively. Third parties who engage in conduct prohibited by this Policy shall be subject to other sanctions, which may include exclusion from Board property and/or activities. Individuals who engage in acts of sex discrimination or sexual harassment may also be subject to civil and criminal penalties.

For conduct to violate Title IX, the conduct must have occurred in an education program or activity of the Board; the conduct must have occurred within the United States of America; and the complainant must be participating in or attempting to participate in the education program or activity of the Board. Conduct that does not meet these requirements still may constitute a violation of Title VII, Connecticut law, and/or another Board policy.

The Superintendent of Schools shall develop Administrative Regulations implementing this Policy and in accordance with Title IX, Title VII, and Connecticut law (the “Administrative Regulations”).

Sex discrimination occurs when an employer refuses to hire, disciplines or discharges any individual, or otherwise discriminates against an individual with respect to his or her compensation, terms, conditions, or privileges of employment on the basis of the individual’s sex. Sex discrimination also occurs when a person, because of the person’s sex, is denied participation in or the benefits of any education program or activity receiving federal financial assistance.

Sexual harassment under Title IX means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the Board conditioning the provision of an aid, benefit, or service of the Board on an individual’s participation in unwelcome sexual conduct (*i.e.*, *quid pro quo*);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Board’s education programs or activities; or
- (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Sexual harassment under Title VII and Connecticut law means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Reporting Sex Discrimination or Sexual Harassment

It is the express policy of the Board to encourage victims of sex discrimination and/or sexual harassment to report such claims. Employees are encouraged to report complaints of sex discrimination and/or sexual harassment promptly in accordance with the appropriate process set forth in the Administrative Regulations. The Board directs its employees to respond to such complaints in a prompt and equitable manner.

Violations of this Policy by employees will not be permitted and may result in discipline up to and including discharge from employment. Individuals who engage in acts of sex discrimination or sexual harassment may also be subject to civil and criminal penalties. Retaliation against any employee for complaining about sex discrimination or sexual harassment is prohibited under this Policy and illegal under state and federal law.

Any Board employee with notice of sex discrimination and/or sexual harassment allegations shall immediately report such information to the building principal and/or the Title IX Coordinator, or if the employee does not work in a school building, to the Title IX Coordinator. **Reports made to the building principal will be reported to the Title IX Coordinator for investigation.**

The Newtown Public Schools administration (the "Administration") shall provide training to Title IX Coordinator(s), investigators, decision-makers, and any person who facilitates an informal resolution process (as set forth in the Administrative Regulations), which training shall include, but need not be limited to, the definition of sex discrimination and sexual harassment, the scope of the Board's education program and activity, how to conduct an investigation and implement the grievance process, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The Administration shall make the training materials used to provide these trainings publicly available on the Board's website. The Administration shall also periodically provide training to all Board employees on the topic of sex discrimination and sexual harassment under Title IX, Title VII, and Connecticut law, which shall include but not be limited to when reports of sex discrimination and/or sexual harassment must be made. The Administration shall distribute this Policy and the Administrative Regulations to employees, union representatives, students, parents and legal guardians and make the Policy and the Administrative Regulations available on the Board's website to promote an environment free of sex discrimination and sexual harassment.

The Board's Title IX Coordinator is the Assistant Superintendent of Schools. Any individual may make a report of sex discrimination and/or sexual harassment directly to the Title IX Coordinator using any one, or multiple, of the following points of contact:

Office of the Assistant Superintendent of Schools

3 Primrose Street

Newtown, CT 06470

(203) 426-7617

(Electronic mail address is included in the Administrative Regulations)

Any individual may also make a report of sexual harassment and/or sex discrimination to the U.S. Department of Education:
Office for Civil Rights, Boston Office
U.S. Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921
(617-289-0111)

Employees may also make a report of sexual harassment and/or sex discrimination to the Connecticut Commission on Human Rights and Opportunities:
Connecticut Commission on Human Rights and Opportunities
450 Columbus Blvd.
Hartford, CT 06103-1835
(860-514-3400)

Legal References:

Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e-2(a).

Equal Employment Opportunity Commission Policy Guidance on Current Issues of Sexual Harassment (N-915.050), March 19, 1990.

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq.

Title IX of the Education Amendments of 1972, 34 CFR § 106, et seq.

Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)

Conn. Gen. Stat. § 46a-54 - Commission powers Connecticut

Conn. Gen. Stat. § 46a-60 - Discriminatory employment practices prohibited.

Conn. Gen. Stat. § 46a-81c - **Sexual orientation discrimination: Employment**

Conn. Gen. Stat. § 10-153 - Discrimination on the basis of sex, gender identity or expression or marital status prohibited

Conn. Agencies Regs. §§ 46a-54-200 through § 46a-54-207

[Note: The following administrative procedures are not part of the sex discrimination and sexual harassment policy and need not be approved by the Board. However, because a complaint procedure is legally required, these administrative regulations are included for your convenience.]

R 4118.112/R 4218.112

Personnel - Certified/Non-Certified

Sex Discrimination and Sexual Harassment in the Workplace

It is the policy of the Newtown Board of Education (the “Board”) for the Newtown Public Schools that any form of sex discrimination or sexual harassment is prohibited in the Board’s education programs and activities, whether by students, Board employees or third parties subject to substantial control by the Board. Students, District employees and third parties are expected to adhere to a standard of conduct that is respectful of the rights of students, District employees, and third parties. It is the policy of the Board to maintain a working environment free from harassment, insults or intimidation on the basis of an employee's sex and free from discrimination based on sex. Verbal or physical conduct by a supervisor or co-worker relating to an employee's sex that has the effect of creating an intimidating, hostile or offensive work environment, unreasonably interfering with the employee's work performance, or adversely affecting the employee's employment opportunities is prohibited.

Any employee or student who engages in conduct prohibited by the Board’s Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) shall be subject to disciplinary action. Any third party who engages in conduct prohibited by the Board’s Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) shall be subject to remedial measures, which may include exclusion from school property.

Sex discrimination occurs when a person, because of the person’s sex, is denied participation in or the benefits of any education program or activity receiving federal financial assistance.

Sexual harassment under Title IX means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the Board conditioning the provision of an aid, benefit, or service of the Board on an individual’s participation in unwelcome sexual conduct (i.e., *quid pro quo*);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education programs or activities; or
- (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30). These definitions can be found in Appendix A of these Administrative Regulations.

Sexual harassment under Title VII and Connecticut law means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Although not an exhaustive list, the following are other examples of conduct prohibited by the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel):

1. Unwelcome sexual advances from a co-worker or supervisor, such as unwanted hugs, touches, or kisses;
2. Unwelcome attention of a sexual nature, such as degrading, suggestive or lewd remarks or noises;
3. Dirty jokes, derogatory or pornographic posters, cartoons or drawings;
4. The threat or suggestion that continued employment advancement, assignment or earnings depend on whether or not the employee will submit to or tolerate harassment;
5. Circulating, showing, or exchanging emails, text messages, digital images or websites of a sexual nature;
6. Using computer systems, including email, instant messaging, text messaging, blogging or the use of social networking websites, or other forms of electronic communications, to engage in any conduct prohibited by the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel).

NOTICE OF THE TITLE IX COORDINATOR

The District's Title IX Coordinator is the Assistant Superintendent. Any individual may make a report of sex discrimination and/or sexual harassment directly to the Title IX Coordinator using any one, or multiple, of the following points of contact:

Mrs. Anne Uberti
Assistant Superintendent of Schools
3 Primrose Street
Newtown, CT 06470
(203) 426-7617
ubertia@newtown.k12.ct.us

The Title IX Coordinator manages the District's compliance with Title IX, Title VII and Connecticut law with respect to sexual harassment and/or sex discrimination and is an available resource to anyone seeking information or wishing to file a formal complaint of same. When a student, District employee, or other participant in the District's programs and activities feels that such person has been subjected to discrimination on the basis of sex in any District program or activity, including without limitation being subjected to sexual harassment, such person may contact the Title IX Coordinator or utilize the Title IX, Title VII and Connecticut law grievance systems set forth herein to bring concerns forward for the purpose of obtaining a prompt and equitable resolution.

EXPLANATION OF COMPLAINT PROCESS AND PROCEDURE

The federal regulations implementing Title IX require the adoption and publication of two separate grievance systems: a grievance process for complaints of sex discrimination involving allegations of sexual harassment and grievance procedures for complaints of sex discrimination that are not sexual harassment. Accordingly, the Administration will process any complaints of sex discrimination involving allegations of sexual harassment, as defined above, pursuant to the **grievance process** set forth in Section I of these regulations. The Administration will process any complaints of sex discrimination that are not sexual harassment pursuant to the **grievance procedures** set forth in Section II of these regulations.

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of these Administrative Regulations, including the conduct of any investigation, hearing, or judicial proceeding arising from these Administrative Regulations.

The obligation to comply with Title IX is not obviated or alleviated by the FERPA.

SECTION I. GRIEVANCE PROCESS FOR COMPLAINTS OF SEXUAL HARASSMENT

A. Definitions

- **Bias** occurs when it is proven that the Title IX Coordinator, investigator(s), and/or decision-maker(s) demonstrate actual bias, rather than the appearance of bias. Actual bias includes, but is not limited to, demonstrated personal animus against the respondent or the complainant and/or prejudgment of the facts at issue in the investigation.
- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- A **conflict of interest** occurs when it is proven that the Title IX Coordinator, investigator(s), and/or decision-maker(s) have personal, financial and/or familial interests that affected the outcome of the investigation.
- For purposes of investigations and complaints of sexual harassment, **education program or activity** includes locations, events, or circumstances over which the Board exercises substantial control over both the respondent and the context in which the sexual harassment occurs.
- **Employee** means (A) a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, school counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by the Board or working in a public elementary, middle or high school; or (B) any other individual who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in a public elementary, middle or high school, pursuant to a contract with the Board.
- **Formal complaint** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the

Administration investigate the allegation of sexual harassment. A “document filed by a complainant” means a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

- **Respondent** means an individual who has been alleged to be the perpetrator of conduct that could constitute sexual harassment.
- **Supportive measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the District’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual restrictions on contact between the parties, increased security and monitoring, and other similar measures.

B. Reporting Sexual Harassment

1. It is the express policy of the Board to encourage victims of sexual harassment to report such claims. Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator. If the District receives notice of sexual harassment or alleged sexual harassment against a person in the District’s education program or activity, the Title IX Coordinator or designee will promptly contact the complainant to discuss the availability of supportive measures, whether or not the complainant has filed a formal complaint, and will consider the complainant’s wishes with respect to such measures. If the complainant has yet to file a formal complaint, the Title IX Coordinator or designee will explain to the complainant the process for doing so.
2. The District will treat complainants and respondents equitably. A respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility will be made at the conclusion of the grievance process if a formal complaint is filed. Nothing in these Administrative Regulations shall preclude the District from placing an employee respondent on administrative leave during the pendency of the grievance process. Further, nothing in these Administrative Regulations shall limit or preclude the District from removing a respondent from the District’s education program or activity on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. If a respondent is removed on an emergency basis, the District shall provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

C. Formal Complaint and Grievance Process

1. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the District's education programs or activity. A formal complaint may be signed by the Title IX Coordinator. If the complaint being filed is against the Title IX Coordinator, the formal complaint should be filed with the Superintendent. If the formal complaint being filed is against the Superintendent, the formal complaint should be filed with the Board Chair, who will then retain an independent investigator to investigate the matter.
2. The District may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. If possible, formal complaints should be filed within ten (10) school days of the alleged occurrence in order to facilitate the prompt and equitable resolution of such claims. The District will attempt to complete the formal grievance process within ninety (90) school days of receiving a complaint. This timeframe may be temporarily delayed or extended in accordance with Subsection G of this Section.
3. Upon receipt of a formal complaint, if the Title IX Coordinator or designee has not already discussed the availability of supportive measures with the complainant, the Title IX Coordinator or designee will promptly contact the complainant to discuss the availability of such measures and consider the complainant's wishes with respect to them. The Title IX Coordinator or designee may also contact the respondent, separately from the complainant, to discuss the availability of supportive measures for the respondent. The District will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide supportive measures.
4. Within ten (10) school days of receiving a formal complaint, the District will provide the known parties with written notice of the allegations potentially constituting sexual harassment and a copy of this grievance process. The written notice must also include the following:
 - i. The identities of the parties involved in the incident, if known;
 - ii. The conduct allegedly constituting sexual harassment as defined above;
 - iii. The date and the location of the alleged incident, if known;
 - iv. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
 - v. A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and
 - vi. A statement of any provision in the District's policies that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that are not included in the written notice, the District must provide notice of the additional allegations to the parties whose identities are known.

5. The parties may have an advisor of their choice accompany them during any grievance proceeding at which the party's attendance is required. The District may, in its discretion, establish certain restrictions regarding the extent to which an advisor may participate in the proceedings. If any such restrictions are established, they will be applied equally to all parties.
6. The Title IX Coordinator will, as applicable, promptly commence an investigation of the formal complaint, designate a school administrator to promptly investigate the formal complaint, or dismiss the formal complaint in accordance with Subsection F of this Section. The standard of evidence to be used to determine responsibility is the preponderance of the evidence standard (i.e., more likely than not). The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the District and not on the parties.
7. The parties will be given an equal opportunity to discuss the allegations under investigation with the investigator(s) and are permitted to gather and present relevant evidence. This opportunity includes presenting witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The District will provide to a party whose participation is invited or expected (including a witness) written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
8. Both parties will be given an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. Prior to completion of the investigative report, the District will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have ten (10) school days to submit a written response, which the investigator(s) will consider prior to completion of the investigative report, as described in Paragraph 9 of this section.
9. The investigator(s) will create an investigative report that fairly summarizes relevant evidence. The investigator(s) will send the investigative report, in an electronic format or hard copy, to each party and to each party's advisor for their review and written response at least ten (10) school days prior to the time a determination regarding responsibility is made.
10. The Superintendent will appoint a decision-maker(s), who shall be a District employee or third-party contractor and who shall be someone other than the Title IX Coordinator or investigator(s). If the complaint filed is against the Superintendent, the Board Chair shall

appoint the decision-maker, who shall be someone other than the Title IX Coordinator or investigator(s). The investigator(s) and the decision-maker(s) shall not discuss the investigation's facts and/or determination while the complaint is pending. The decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) will explain to the party proposing the questions any decisions to exclude a question as not relevant.

11. The decision-maker(s) will issue a written determination regarding responsibility. The written determination will include: (1) identification of the allegations potentially constituting sexual harassment; (2) a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (3) findings of fact supporting the determination; (4) conclusions regarding the application of the District's code of conduct to the facts; (5) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District will impose on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant; and (6) the District's procedures and permissible bases for the complainant and respondent to appeal. If the respondent is found responsible for violating the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel), the written determination shall indicate whether the respondent engaged in sexual harassment as defined by the Board's Policy and these Administrative Regulations. The written determination will be provided to both parties simultaneously.
12. Student respondents found responsible for violating the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) may be subject to discipline up to and including expulsion. Employee respondents found responsible for violating the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) may be subject to discipline up to and including termination of employment. Other respondents may be subject to exclusion from the District's programs, activities and/or property. In appropriate circumstances, the District may make a criminal referral. Remedies will be designed to restore or preserve equal access to the District's education programs or activities.
13. After receiving notification of the decision-maker(s)' decision, or after receiving notification that the District dismissed a formal complaint or any allegation therein, both complainant and respondent may avail themselves of the appeal process set forth in Section E of this Regulation.

D. Informal Resolution

At any time prior to reaching a determination regarding responsibility, but only after the filing of a formal complaint, the District may suggest to the parties the possibility of facilitating an

informal resolution process, such as mediation, to resolve the formal complaint without the need for a full investigation and adjudication. If it is determined that an informal resolution may be appropriate, the Title IX Coordinator or designee will consult with the parties.

Prior to facilitating an informal resolution to a formal complaint, the Title IX Coordinator or designee will provide the parties with written notice disclosing the sexual harassment allegations, the requirements of an informal resolution process, and any consequences from participating in the informal resolution process. Upon receipt of this document, complainants and respondents have five (5) school days to determine whether they consent to participation in the informal resolution. The District must obtain voluntary, written consent to the informal resolution process from both parties.

Prior to agreeing to any resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. If a satisfactory resolution is reached through this informal process, the matter will be considered resolved. If these efforts are unsuccessful, the formal grievance process will continue.

Nothing in this section precludes an employee from filing a complaint of retaliation for matters related to an informal resolution, nor does it preclude either party from filing complaints based on conduct that is alleged to occur following the District's facilitation of the informal resolution.

An informal resolution is not permitted to resolve allegations that an employee sexually harassed a student.

E. Appeal Process

After receiving notification of the decision-maker(s)' decision, or after receiving notification that the District dismissed a formal complaint or any allegation therein, both complainant and respondent have five (5) school days to submit a formal letter of appeal to the Title IX Coordinator specifying the grounds upon which the appeal is based.

Appeals will be appropriate only in the following circumstances:

- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- procedural irregularity that affected the outcome of the matter;
- the Title IX Coordinator, investigator(s), and/or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. A conflict of interest or bias does not exist solely because the Title IX Coordinator, investigator(s), and/or decision-maker(s) previously worked with or disciplined the complainant or respondent.

The District will provide the other party with written notice of such appeal. Both parties will then have an opportunity to submit a written statement in support of, or challenging, the outcome. Such written statement must be submitted ten (10) school days after receiving written notice of the appeal. Upon receipt of an appeal, the Superintendent shall appoint a decision-maker(s) for the appeal, who shall be someone other than the Title IX Coordinator, investigator(s), or initial decision-maker(s). The decision-maker(s) for the appeal, in their discretion, will determine the appropriate procedure for the appeal. After considering the parties' written statements, the

decision-maker(s) for the appeal will provide a written decision. If it is found that one of the bases for appeal exists, the decision-maker(s) for the appeal will issue an appropriate remedy. Supportive measures for either or both parties may be continued throughout the appeal process.

F. Dismissal of a Formal Complaint

The Title IX Coordinator shall dismiss any formal complaint that, under Title IX, 1) would not constitute sexual harassment as defined under Title IX even if proved, 2) did not occur in the District's education program or activity, or 3) did not occur against a person in the United States. Such dismissal does not preclude action under another Board policy.

The District may dismiss a formal complaint or any allegations therein, if at any time during the investigation or hearing a complainant notifies the Title IX Coordinator in writing that 1) the complainant would like to withdraw the formal complaint or any allegations therein; 2) the respondent is no longer enrolled or employed in the District; or 3) specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal, the District will promptly and simultaneously send written notice of the dismissal and reason(s) therefor to each party. Either party can appeal from the District's dismissal of a formal complaint or any allegations therein using the appeals procedure.

In the event a formal complaint is dismissed prior to the issuance of a decision under Title IX, the Title IX Coordinator shall determine if the allegations of sexual harassment shall proceed through the grievance procedures identified in Section II of these Administrative Regulations for claims of sex discrimination for consideration as to whether the allegations constitute sexual harassment under Title VII or Connecticut law.

A dismissal pursuant to this section does not preclude action by the District under the Student Discipline policy, Code of Conduct for students/or and employees, or any other applicable rule, policy, and/or collective bargaining agreement.

G. Miscellaneous

1. Any timeframe set forth in these Administrative Regulations may be temporarily delayed or extended for good cause. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; concurrent activity by the Department of Children and Families; or the need for language assistance or accommodation of disabilities. If any timeframe is altered on a showing of good cause, written notice will be provided to each party with the reasons for the action.
2. If a sexual harassment complaint raises a concern about discrimination or harassment on the basis of any other legally protected classification (such as race, religion, color, national origin, age, or disability), the Title IX Coordinator or designee shall make a referral to other appropriate personnel within the District (e.g. Section 504 Coordinator, etc.), so as to ensure that any such investigation complies with the requirements of policies regarding nondiscrimination.

3. If the sexual harassment complaint results in reasonable cause to suspect or believe that a child has been abused or neglected, has had a nonaccidental physical injury, or injury which is at variance with the history given of such injury, is placed at imminent risk of serious harm, or that a student has been sexually assaulted by a school employee, then, the person to whom the complaint is given or who receives such information shall report such matters in accordance with the Board's policy on the Reports of Suspected Child Abuse or Neglect of Children.
4. Retaliation against any individual who complains pursuant to the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) and these Administrative Regulations is strictly prohibited. The District will take actions designed to prevent retaliation as a result of filing a complaint. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination described herein.
5. The District will maintain for a period of seven (7) years records of:
 - i. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the Board's education program or activity;
 - ii. Any appeal and the result therefrom;
 - iii. Any informal resolution and the result therefrom; and
 - iv. All material used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The Board will make these training materials publicly available on its website.

If the District has actual knowledge of sexual harassment in an education program or activity of the Board, and for any report or formal complaint of sexual harassment, the District will create and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. The District will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the Board's education program or activity. If the District does not provide a complainant with supportive measures, then the District will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

SECTION II. GRIEVANCE PROCEDURES FOR CLAIMS OF SEX DISCRIMINATION (OTHER THAN SEXUAL HARASSMENT UNDER TITLE IX)

A. Definitions

- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sex discrimination.

- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sex discrimination.

B. Reporting Sex Discrimination Other than Sexual Harassment under Title IX

It is the express policy of the Board to encourage victims of sex discrimination to report such claims. Any person may report sex discrimination (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator. If the District receives notice of sex discrimination or alleged sex discrimination against a person in the District's education program or activity, the Title IX Coordinator or designee will promptly notify the complainant of the grievance process. The District will treat complainants and respondents equitably during the grievance process. Sexual harassment is a form of sex discrimination, and any incident of sexual harassment under Title IX, as defined above, shall be handled pursuant to Section I of these Administrative Regulations. Any allegations of sexual harassment under Title VII or Connecticut law, as defined above, shall be handled pursuant to this Section II of these Administrative Regulations.

C. Grievance Procedures

1. As soon as an employee feels that he or she has been subjected to sex discrimination other than sexual harassment as defined under Title IX (including, without limitation, sexual harassment under Title VII or Connecticut law), he/she should make a written complaint to the Title IX Coordinator or to the building principal, or his/her designee. The employee will be provided a copy of the Board's policy and Administrative Regulations and made aware of his or her rights. Preferably, complaints should be filed within ten (10) school days of the alleged occurrence. Timely reporting of complaints facilitates the investigation and resolution of such complaints.
2. The complaint should state the:
 - i. Name of the complainant;
 - ii. Date of the complaint;
 - iii. Date(s) of the alleged discrimination;
 - iv. Name(s) of the discriminator(s);
 - v. Location where such discrimination occurred;
 - vi. Names of any witness(es) to the discrimination;
 - vii. Detailed statement of the circumstances constituting the alleged discrimination; and
 - viii. Remedy requested.
3. Any employee who makes an oral complaint of sex discrimination to any of the above-mentioned personnel will be provided a copy of these Administrative Regulations and will be requested to make a written complaint pursuant to the above procedure.
4. All complaints are to be forwarded immediately to the building principal or designee unless that individual is the subject of the complaint, in which case the complaint should be forwarded directly to the Superintendent of Schools or his/her designee. In addition, a copy of any complaint filed under this Policy shall be forwarded to the Title IX Coordinator. If the complaint being filed is against the Title IX Coordinator, the complaint should be filed with the Superintendent. If the complaint being filed is against

the Superintendent, the complaint should be filed with the Board Chair, who will then retain an independent investigator to investigate the matter.

5. The Title IX Coordinator or designee shall investigate all complaints of sex discrimination against an employee, regardless of whether the conduct occurred on or off-school grounds. Complaints will be investigated promptly within the timeframes identified below. Timeframes may be extended as needed given the complexity of the investigation, availability of individuals with relevant information, and other extenuating circumstances. The investigation shall be conducted discreetly, maintaining confidentiality insofar as possible while still conducting an effective and thorough investigation.
6. Any employee who makes a complaint shall be notified of the District's intent to investigate the complaint. In the event the employee requests confidentiality or that an investigation not be conducted, the District will take reasonable steps to investigate and respond to the complaint to the extent possible, given the request for confidentiality or that the District not investigate the complaint. If the employee insists that his/her information not be shared with the alleged discriminator(s), the employee will be informed that the District's ability to investigate and/or take corrective action may be limited.
7. Upon receipt of a sex discrimination complaint, the Title IX Coordinator shall either promptly commence an investigation of the complaint, or shall designate a school administrator to promptly investigate the complaint. The Title IX Coordinator or designee shall:
 - i. offer to meet with the complainant and respondent (if applicable) separately within ten (10) school days to discuss the nature of the complaint, identify individuals the complainant and respondent (if applicable) believe have relevant information, and obtain any relevant documents the complainant and respondent may have;
 - ii. provide the complainant and respondent (if applicable) with a copy of the Board's sex discrimination policy and accompanying regulations;
 - iii. consider whether any interim measures may be appropriate to protect the complainant or respondent (if applicable), pending the outcome of the investigation;
 - iv. conduct an investigation that is adequate, reliable, and impartial. Investigate the factual basis of the complaint, including, as applicable, conducting interviews with individuals deemed relevant to the complaint;
 - v. consider whether alleged sex discrimination has created a hostile work environment, including consideration of the effects of off-campus conduct on the school;
 - vi. communicate the outcome of the investigation in writing to the complainant, to the respondent, and to any individual properly identified as a party to the complaint (to the extent permitted by state and federal confidentiality requirements), within ninety (90) school days from the date the complaint was

received by the Superintendent's office. The investigator may extend this deadline for no more than fifteen (15) additional school days if needed to complete the investigation. The complainant and respondent (if applicable) shall be notified of such extension. The written notice shall include a finding whether the complaint was substantiated and if so, shall identify, to the extent possible, how the District will remedy the discrimination, adhering to the requirements of state and federal law; and

- vii. when sex discrimination has been found, take steps that are reasonably calculated to end the discrimination, take corrective and/or disciplinary action aimed at preventing the recurrence of the discrimination, as deemed appropriate by the Superintendent or his/her designee, and take steps to remedy the effects of the sex discrimination.
8. If a complaint is made during summer recess, the complaint will be reviewed and addressed as quickly as possible given the availability of staff and/or other individuals who may have information relevant to the complaint. If fixed timeframes cannot be met, the complainant and respondent will receive notice and interim measures may be implemented as necessary.
9. If the complainant or respondent (if applicable) is dissatisfied with the findings of the investigation, he or she may file a written appeal within five (5) school days to the Title IX Coordinator, or, if he/she conducted the investigation, to the Superintendent of Schools, who shall review the Title IX Coordinator or designee's written report, the information collected by the Title IX Coordinator or designee together with the recommended disposition of the complaint to determine whether the alleged conduct constitutes sex discrimination. The Title IX Coordinator or Superintendent of Schools may determine if further action and/or investigation is warranted. After completing this review, the Title IX Coordinator or Superintendent of Schools shall respond to the complainant and respondent (if applicable), in writing, within fifteen (15) school days following the receipt of the written request for review.

D. Miscellaneous

1. If a sex discrimination complaint raises a concern about discrimination or harassment on the basis of any other legally protected classification (such as race, religion, color, national origin, age, or disability), the Title IX Coordinator or designee shall make a referral to other appropriate personnel within the District (e.g. Section 504 Coordinator, etc.), so as to ensure that any such investigation complies with the requirements of policies regarding nondiscrimination.
2. If the sex discrimination complaint results in reasonable cause to suspect or believe that a child has been abused or neglected, has had a nonaccidental physical injury, or injury which is at variance with the history given of such injury, is placed at imminent risk of serious harm, or that a student has been sexually assaulted by a school employee, then, the person to whom the complaint is given or who receives such information shall report such matters in accordance with the Board's policy on the Reports of Suspected Child Abuse or Neglect of Children.
3. Retaliation against any individual who complains pursuant to the Board's Policy regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) and these Administrative Regulations is strictly prohibited. The District will take actions

designed to prevent retaliation as a result of filing a complaint. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination described herein.

Section III. Further Reporting

At any time, a complainant alleging sex discrimination or sexual harassment may also file a formal complaint with the U.S. Department of Education:

Office for Civil Rights, Boston Office
U.S. Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921
(617-289-0111)

Employees may also make a report of sexual harassment and/or sex discrimination to the Connecticut Commission on Human Rights and Opportunities:

Connecticut Commission on Human Rights and Opportunities
450 Columbus Blvd.
Hartford, CT 06103-1835
(860-514-3400).

Copies of these Administrative Regulations will be distributed to all employees.

Appendix A

Sexual Assault: An offense classified as forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Rape—(Except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of the person's age or because of the person's temporary or permanent mental or physical incapacity.

Sodomy—Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of the person's age or because of the person's temporary or permanent mental or physical incapacity.

Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of the person's age or because of the person's temporary or permanent mental or physical incapacity.

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 the person's age or because of the person's temporary or permanent mental or physical incapacity.

Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

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; and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: Includes felony or misdemeanor crimes 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 receiving grant monies, or 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.

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.

Affirmative Consent means an active, clear and voluntary agreement by a person to engage in sexual activity with another person.

For the purposes of an investigation conducted pursuant to these Administrative Regulations, the following principles shall be applied in determining whether consent for sexual activity was given and/or sustained:

- A. Affirmative consent is the standard used in determining whether consent to engage in sexual activity was given by all persons who engaged in the sexual activity.
- B. Affirmative consent may be revoked at any time during the sexual activity by any person engaged in the sexual activity.
- C. It is the responsibility of each person to ensure that he or she has the affirmative consent of all persons engaged in the sexual activity to engage in the sexual activity and that the affirmative consent is sustained throughout the sexual activity.
- D. It shall not be a valid excuse to an alleged lack of affirmative consent that the respondent to the alleged violation believed that the complainant consented to the sexual activity:
 - (i) because the respondent was intoxicated or reckless or failed to take reasonable steps to ascertain whether the complainant affirmatively consented, or
 - (ii) if the respondent knew or should have known that the complainant was unable to consent because such individual was unconscious, asleep, unable to communicate due to a mental or physical condition, unable to consent due to the age of the individual or the age difference between the individual and the respondent, or incapacitated due to the influence of drugs, alcohol or medication.
- E. The existence of a past or current dating or sexual relationship between the complainant and the respondent, in and of itself, shall not be determinative of a finding of affirmative consent.

**COMPLAINT FORM REGARDING SEXUAL HARASSMENT UNDER TITLE IX
(PERSONNEL)**

Name of the complainant _____

Date of the complaint _____

Date of the alleged sexual harassment _____

Name(s) of the sexual harasser(s) _____

Location where such sexual harassment occurred _____

Name(s) of any witness(es) to the sexual harassment _____

Detailed statement of the circumstances constituting the alleged sexual harassment

Remedy requested _____

Signature of Complainant or Title IX Coordinator: _____

COMPLAINT FORM REGARDING SEX DISCRIMINATION
(OTHER THAN SEXUAL HARASSMENT UNDER TITLE IX)
(PERSONNEL)

Name of the complainant _____

Date of the complaint _____

Date(s) of the alleged sex discrimination _____

Name(s) of the sex discriminator(s) _____

Location where such sex discrimination occurred _____

Name(s) of any witness(es) to the sex discrimination _____

Detailed statement of the circumstances constituting the alleged sex discrimination

Remedy requested _____

Signature: _____

SAMPLE WRITTEN NOTICE FOR FORMAL COMPLAINTS OF SEXUAL HARASSMENT
[LETTERHEAD]

NOTICE OF SEXUAL HARASSMENT ALLEGATIONS UNDER TITLE IX

In accordance with the Board's Policy and Administrative Regulations regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel), a formal complaint of sexual harassment has been filed with the Title IX Coordinator.

Identities of the parties involved, if known:

_____ (Complainant(s))
_____ (Respondent(s))

The conduct allegedly constituting sexual harassment: _____

The date and the location of the alleged incident, if known: _____

The Title IX Coordinator or designee will contact the parties regarding the next step in the grievance process. Questions can be directed to the Title IX Coordinator:

Mrs. Anne Uberti
Assistant Superintendent of Schools
3 Primrose Street
Newtown, CT 06470
(203) 426-7617
ubertia@newtown.k12.ct.us

The respondent is presumed not responsible for the alleged conduct. A determination regarding responsibility is made at the conclusion of the grievance process.

All parties involved may have an advisor of their choice who may be, but it not required to be, an attorney. This advisor may inspect and review evidence as permitted by the Board's Administrative Regulations regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel).

Any employee who knowingly makes false statements or knowingly submits false information during this grievance process is subject to discipline, up to and including termination. Additionally, it is a violation of the Board's Student Discipline Policy to lie to school officials or otherwise engage in dishonest behavior, which includes knowingly making false statements or knowingly submitting false information during the grievance process. Any student who knowingly makes false statements or knowingly submits false information during this grievance process will be subject to sanctions pursuant to the Board's Student Discipline Policy.

A copy of the Board's Policy and Administrative Regulations regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel) is included with this notice.

*SAMPLE WRITTEN NOTICE FOR THE INFORMAL RESOLUTION PROCESS FOR
SEXUAL HARASSMENT COMPLAINTS*

[LETTERHEAD]

NOTICE OF INFORMAL RESOLUTION PROCESS FOR SEXUAL HARASSMENT
COMPLAINTS UNDER TITLE IX

In accordance with the Board's Policy and Administrative Regulations regarding the Prohibition of Sex Discrimination and Sexual Harassment (Personnel), a formal complaint of sexual harassment has been filed with the Title IX Coordinator. The Board has an informal resolution process to promptly and equitably resolve such complaints using mediation *[alternatively, could be restorative justice]*. This informal resolution process will only be utilized if both the Complainant and Respondent agree to do so.

The conduct allegedly constituting sexual harassment: _____

If both parties agree to the informal resolution process, it shall preclude the parties from resuming a formal complaint arising out of the same allegations. However, either party may withdraw from the informal resolution process at any time before agreeing to a resolution and resume the grievance process for formal complaints of sexual harassment.

If both parties agree to a resolution, that resolution is binding upon both parties and cannot be changed or appealed.

The District will maintain for a period of seven (7) years records of the informal resolution process and results therefrom.

I voluntarily consent to the informal resolution process:

Complainant

Date

Respondent

Date

[To be posted in a conspicuous place readily available for viewing by employees and emailed to employees within three months of hire with the subject line “Sexual Harassment Policy” or words of similar import]

SEXUAL HARASSMENT IS ILLEGAL

AND IS PROHIBITED BY

THE CONNECTICUT DISCRIMINATION EMPLOYMENT PRACTICES ACT

(Section 46a-60(a)(8) of the Connecticut General Statutes)

AND

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

(42 United States Code Section 2000e et seq.)

Sexual harassment means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

EXAMPLES OF SEXUAL HARASSMENT INCLUDE:

UNWELCOME SEXUAL ADVANCES
SUGGESTIVE OR LEWD REMARKS
UNWANTED HUGS, TOUCHES, KISSES
REQUESTS FOR SEXUAL FAVORS
RETALIATION FOR COMPLAINING ABOUT SEXUAL HARASSMENT
DEROGATORY OR PORNOGRAPHIC POSTERS, CARTOONS, OR DRAWINGS.

REMEDIES FOR SEXUAL HARASSMENT MAY INCLUDE:

CEASE AND DESIST ORDERS
BACK PAY
COMPENSATORY DAMAGES
PUNITIVE DAMAGES
HIRING, PROMOTION, OR REINSTATEMENT

RETALIATION AGAINST ANY EMPLOYEE FOR COMPLAINING ABOUT SEXUAL HARASSMENT IS PROHIBITED UNDER THIS POLICY AND ILLEGAL.

VIOLATION OF THIS POLICY IS GROUNDS FOR DISCIPLINE, INCLUDING DISCHARGE.

INDIVIDUALS WHO ENGAGE IN ACTS OF SEXUAL HARASSMENT MAY ALSO BE SUBJECT TO CIVIL AND CRIMINAL PENALTIES.

AN INFRACTION OF THIS POLICY BY SUPERVISORS OR CO-WORKERS SHOULD BE REPORTED IMMEDIATELY TO ANNE UBERTI, ASSISTANT SUPERINTENDENT OF SCHOOLS. CONFIDENTIALITY WILL BE MAINTAINED TO THE EXTENT POSSIBLE.

ANY EMPLOYEE WHO BELIEVES THAT HE OR SHE HAS BEEN HARASSED OR DISCRIMINATED AGAINST
IN THE WORKPLACE IN VIOLATION OF THIS POLICY MAY ALSO CONTACT:

THE CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
450 COLUMBUS BLVD.
HARTFORD, CT 06103-1835
(860-514-3400)

AND/ OR:

THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
BOSTON AREA OFFICE
JOHN F. KENNEDY FEDERAL BUILDING
475 GOVERNMENT CENTER
BOSTON, MA 02203
PHONE (800) 669-4000

CONNECTICUT LAW REQUIRES THAT A FORMAL WRITTEN COMPLAINT BE FILED WITH THE
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES WITHIN THREE HUNDRED (300) DAYS OF
THE DATE WHEN THE ALLEGED HARASSMENT/ DISCRIMINATION OCCURRED.