

## **SECTION A**

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## SCHOOL DISTRICT LEGAL STATUS

The legal basis for public education in the District is vested in the will of the people as expressed in the Constitution of Massachusetts and state statutes pertaining to education.

Under the General Laws of Massachusetts,

"... Every town shall maintain... a sufficient number of schools for the instruction of all children who may legally attend a public school therein."

The public educational system of Auburn structurally is a department of the town operated under laws pertaining to education and under regulations of the Massachusetts Board of Education. The area served by the Auburn Public Schools is coterminous with the Town of Auburn.

Established by law

LEGAL REFS.: Constitution of Massachusetts, Part II, Chapter V, Section II  
M.G.L. 71:1

CROSS REF.: BB, School Committee Legal Status

Historical Note: Massachusetts has the oldest public school system in the nation. Dating back to 1647, the laws of the Massachusetts Bay Colony required towns to provide for a program of public education.

SOURCE: MASC

**Reviewed, revised, updated:** September 4, 2019

## THE PEOPLE AND THEIR SCHOOL DISTRICT

The School Committee has the dual responsibility for implementing statutory requirements pertaining to public education and local citizens' expectations for the education of the community's youth. It also has an obligation to determine and assess citizens' desires. When citizens elect delegates to represent them in the conduct of public education, their representatives have the authority to exercise their best judgment in determining policies, making decisions, and approving procedures for carrying out the responsibility.

The School Committee therefore affirms and declares its intent to:

1. Maintain two-way communication with citizens of the community. The public will be kept informed of the progress and problems of the school system, and citizens will be urged to bring their aspirations and feelings about their public schools to the attention of this body, which they have chosen to represent them in the management of public education.
2. Establish policies and make decisions on the basis of declared educational philosophy and goals. All decisions made by this Committee will be made with priority given to the purposes set forth, most crucial of which is the optimal learning of the children enrolled in our schools.
3. Act as a truly representative body for members of the community in matters involving public education. The Committee recognizes that ultimate responsibility for public education rests with the state, but individual school committees have been assigned specific authority through state law. The Committee will not relinquish any of this authority since it believes that decision-making control over the children's learning should be in the hands of local citizens as much as possible.

SOURCE: MASC

Reviewed, revised, updated: September 4, 2019

## NONDISCRIMINATION

Public schools have the responsibility to overcome, insofar as possible, any barriers that prevent children from achieving their potential. The public school system will do its part. This commitment to the community is affirmed by the following statements that the School Committee intends to:

1. Promote the rights and responsibilities of all individuals as set forth in the State and Federal Constitutions, pertinent legislation, and applicable judicial interpretations.
2. Encourage positive experiences in human values for children, youth and adults, all of whom have differing personal and family characteristics and who come from various socioeconomic, racial and ethnic groups.
3. Work toward a more integrated society and to enlist the support of individuals as well as groups and agencies, both private and governmental, in such an effort.
4. Use all appropriate communication and action techniques to air and reduce the grievances of individuals and groups.
5. Carefully consider, in all the decisions made within the school system, the potential benefits or adverse consequences that those decisions might have on the human relations aspects of all segments of society.
6. Initiate a process of reviewing policies and practices of the school system in order to achieve to the greatest extent possible the objectives of this statement.

The Committee's policy of nondiscrimination will extend to students, staff, the general public, and individuals with whom it does business. No person shall be excluded from or discriminated against in admission to a public school of any town or in obtaining the advantages, privileges, and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin, sexual orientation, pregnancy or pregnancy related conditions or disability. If someone has a complaint or feels that they have been discriminated against because of their race, color, sex, gender identity, religion, national origin, sexual orientation or disability, their complaint should be registered with the Title IX compliance officer.

SOURCE: MASC

LEGAL REFS.: Title VI, Civil Rights Act of 1964  
Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972  
Executive Order 11246, as amended by E.O. 11375  
Equal Pay Act, as amended by the Education Amendments of 1972  
Title IX, Education Amendments of 1972  
Rehabilitation Act of 1973  
Education for All Handicapped Children Act of 1975  
M.G.L. 71B:1 et seq. (Chapter 766 of the Acts of 1972)  
M.G.L. 76:5; Amended 2011  
M.G.L.76:16 (Chapter 622 of the Acts of 1971)

Board of Education BESE regulations 603CMR 26.00 Amended 2012 BESE regulations 603CMR 28.00

Pregnancy Fairness Act of 2018

CROSS REFS.: ACA- ACE, Subcategories for Nondiscrimination

GBA, Equal Employment Opportunity

JB, Equal Educational Opportunities

**First Reading:** August 8, 2012

**Second Reading:** September 5, 2012

**Approved:** September 5, 2012

**Reviewed, revised and updated:** April 4, 2018

## **NONDISCRIMINATION ON THE BASIS OF SEX**

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

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

The Committee will designate an individual to act as the school system's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.

**SOURCE:** MASC

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

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

M.G.L. 76:5; 76:16 (Chapter 622 of the Acts of 1971)

Board of Education Chapter 622 Regulations Pertaining to Access to

Equal Educational Opportunity, adopted 6/24/75, amended  
10/24/78

Board of Education BESE 603 CMR 26:00

**CROSS REF.:** AC, Nondiscrimination

**First Reading:** August 8, 2012

**Second Reading:** September 5, 2012

**Approval:** September 5, 2012

## HARASSMENT

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

Harassment prohibited by the District includes, but is not limited to, harassment on the basis of race, sex, gender identity, creed, color, national origin, sexual orientation, religion, marital status or disability. Students whose behavior is found to be in violation of this policy will be subject to disciplinary action up to and including suspension or expulsion pursuant to disciplinary codes. Employees who have been found to violate this policy will be subject to discipline up to and including, termination of employment, subject to contractual disciplinary obligations.

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

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

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

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

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

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

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

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

**Sexual harassment** is unwelcome conduct of a sexual nature. The definition includes unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity it also, includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment includes conduct by an employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct, often called quid pro quo harassment and, sexual assault as the Federal Clery Act defines that crime. Sexual violence is a form of

sexual harassment. Sexual violence, as the Office of Civil Rights (OCR) uses the term, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion. Massachusetts General Laws Ch. 119, Section 51 A, requires that public schools report cases of suspected child abuse, immediately orally and file a report within 48 hours detailing the suspected abuse to the Department of Children and Families. For the category of sexual violence, in addition to Section 51A referrals these offences and any other serious matters shall be referred to local law enforcement. Schools must treat seriously all reports of sexual harassment that meet the definition of sexual harassment and the conditions of actual notice and jurisdiction as noted above. Holding a school liable under Title IX can occur only when the school knows of sexual harassment allegations and responds in a way that is deliberately indifferent (clearly unreasonable in light of known circumstance).

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment, depending on the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances—whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

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

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

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

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

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



## **NOTICE OF SEXUAL HARASSMENT**

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

The regulation highlights the importance of supportive measures designed to preserve or restore access to the school's education program or activity, with or without a formal complaint. Where there has been a finding of responsibility, the regulation would require remedies designed to restore or preserve access to the school's education program or activity.

## **DUE PROCESS PROTECTIONS**

Due process protections include the following:

- 1) A presumption of innocence throughout the grievance process, with the burden of proof on the school;
- 2) A prohibition of the single investigator model, instead requiring a decision-maker separate from the Title IX Coordinator or investigator;
- 3) The clear and convincing evidence or preponderance of the evidence, subject to limitations;
- 4) The opportunity to test the credibility of parties and witnesses through cross examination, subject to "rape shield" protections;
- 5) Written notice of allegations and an equal opportunity to review the evidence;
- 6) Title IX Coordinators, investigators, and decision-makers must be free from bias or conflict of interest;
- 7) Equal opportunity for parties to appeal, where schools offer appeals;
- 8) Upon filing a formal complaint the school must give written notice to the parties containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation. For K-12 schools a hearing is optional but the parties must be allowed to submit written questions to challenge each other's credibility before the decision-maker makes a determination. After the investigation, a written determination must be sent to both parties explaining each allegation, whether the respondent is responsible or not responsible, including the facts and evidence on which the conclusion was based by applying either the preponderance of the evidence or the clear and convincing standard; however, a school can use the lower preponderance standards only if it uses that standard for conduct code violations that do not involve sexual harassment but carry the same maximum disciplinary sanction. As long as the process is voluntary for all parties, after being fully informed and written consent is provided by both parties, a school may facilitate informal resolution of a sexual complaint.

A district may establish an informal investigation process that may, upon the request of the complainant be followed by a formal process.

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

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

### **RECORD KEEPING REQUIREMENTS**

Schools must create and maintain records documenting every Title IX sexual harassment complaint. This could include mediation, restorative justice, or other models of alternative dispute resolution. Schools must keep records regarding the school's response to every report of sexual harassment of which it becomes aware even if no formal complaint was filed, including documentation of supportive matters offered and implemented for the complainant.

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

List the name and phone number of the District's Title IX Coordinator

List the appropriate party by name and phone number to receive a complaint in each District School

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

The Complainant may also file a complaint with:

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

LEGAL REF.: M.G.L. 151B:3A  
Title IX of the Education Amendments of 1972  
BESE 603 CMR 26:00  
34 CFR 106.44 (a), (a)-(b)  
34 CFR 106.45 (a)-(b) (1)  
34 CFR 106.45 (b)(2)-(b)(3,4,5,6,7) as revised through June 2020

SOURCE: MASC July 2020

**Reviewed, revised and updated:** November 24, 2020

## NONDISCRIMINATION ON THE BASIS OF DISABILITY

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

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

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

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

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

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

**Notice:** The District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the American with Disabilities Act (ADA) and

its applicability to the services, programs, or activities of the District. The information shall be made available in such a manner as the School Committee and Superintendent find necessary to apprise such persons of the protections against discrimination assured them by the ADA.

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

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

SOURCE: MASC July 2016  
LEGAL REFS.: Rehabilitation Act of 1973, Section 504, as amended  
Education for All Disabled Children Act of 1975  
M.G.L. 71B:1 et seq. (Chapter 766 of the Acts of 1972)  
Title II, Americans with Disabilities Act of 1992, as amended  
Board of Education Chapter 766 Regulations, adopted 10/74, as amended through 3/28/78  
CROSS REFS.: IGB, Support Services Programs

**Reviewed, Revised and Updated:** October 4, 2017

## SECTION 504 THE REHABILITATION ACT OF 1973 - AN OVERVIEW

Section 504 of the Rehabilitation Act of 1973 is a broad civil rights law that protects the rights of disabled individuals in programs that receive federal funds.

Under this act a qualified disabled person *is*, "one who has had a physical or mental impairment which substantially limits a major life activity or, has a record of such impairment or is regarded as disabled by others." Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring, for one's self and performing manual tasks. A disability need only limit one major life activity for an individual to be eligible.

Chapter 766 in Massachusetts and the Individuals With Disabilities Education Act (IDEA), which is the Federal Special Education Law, also deal with disabled students. To be eligible under these laws, however, a disability must be shown to cause the student not to be performing satisfactorily in school. Under Section 504 no relationship to school performance is needed. All that is needed *is* an identified disability that limits a major life activity.

Typically students with disabilities who do not qualify for special education Chapter 766 or IDEA do qualify under Section 504. These disabilities might include students with Attention Deficit Disorder (ADD), students with AIDS, students with heart conditions, and other physical disabilities such as severe asthma, juvenile diabetes, severe arthritis, cerebral palsy, etc. All of these conditions under 504 allow a student to receive the necessary related services to make their education comparable to non-disabled students.

Services given to students under Section 504 are considered the responsibility of regular education, as they are not in need of basic skills help and can function with accommodations in the regular classroom.

Many of the specific regulations found in Chapter 766 or IDEA do not apply to Section 504. However, the due process rights of students and parents are protected and a specific Grievance procedure must be in place including the right to mediation or an impartial hearing, and the right to be represented by an attorney. If a student *is* thought to have a disability under Section 504, they have a right to an evaluation, and a decision made by persons knowledgeable about the student as well as a placement as much as possible with his/her non-disabled peers (least restrictive environment). A written plan must be developed documenting the presence of a disability which limits a major life activity and a statement of the accommodations that will be made.

The enclosed materials give more detailed information on Section 504 and includes sample forms, Appendix A, and notices. Appendix B.

## **POLICIES AND PROCEDURE**

### **STATEMENT OF INTENT**

It is the policy of Auburn Public Schools to comply with all the relevant and applicable provisions of Section 504. The Auburn Public Schools will not discriminate against its personnel or students because of a person's physical or mental disability. The Auburn Public Schools also will make reasonable accommodations when necessary for all employees, applicants with disabilities and students in accordance with state and federal law.

The Auburn Public Schools' policy of nondiscrimination applies to all personnel and employment practices (see AIDA policies and practices) and all public preschool, elementary and secondary programs and activities.

### **Access to Programs and Services**

The Auburn Public Schools will review all procedures used to identify and evaluate a student's eligibility under Section 504, and access to appropriate educational services. To ensure access to programs and services Auburn will:

- Ensure that persons with impaired vision and hearing, can obtain information as to the location of services and activities that are accessible to disabled persons.
- Identify and locate all disabled persons residing in the district who are not receiving, public education.
- Notify disabled persons and their parents of Auburn's obligation under Section 504.
- Provide special education and related services without cost to the disabled person or his parent or guardian except for those needs that are imposed on non-disabled persons or their parent or guardian.
- Ensure that adequate transportation to and from a program outside the district is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were in a program in the district.
- Provide, where necessary, placements in public or private residential facilities including non-medical care and room and board at no cost to the disabled person or his or her parents or guardian as per IDEA and Massachusetts Special Education Law.
- Ensure that no qualified disabled person is excluded from public elementary or secondary education.
- Educate each qualified disabled person to the maximum extent appropriate with persons who are not disabled. Where this is not possible the proximity of the alternative setting will be taken into account.
- Arrange for non-academic and extracurricular services so that disabled persons participate to the maximum extent appropriate with non disabled persons.

- Ensure that any facility identified as being for disabled persons is comparable to the facilities, services, and activities in the Auburn Public Schools.
- Conduct evaluation of any person, who because of a disability, needs or is believed to need special education or related service prior to initial placement or any substantial change in placement.
- Use tests and other evaluation material validated for the purpose for which they are used and administered by trained personnel in conformance with instructions by their producer.
- Use tests and other material tailored to assess specific areas of educational need and not merely to provide a single general intelligence quotient.
- Ensure that students with impaired sensory, manual or speaking skills are administered tests that accurately reflect the students aptitude or achievement level.
- Make placement decisions based upon information from a variety of sources and by persons knowledgeable about the child.
- Establish procedures to ensure that information from all sources is carefully considered and documented and that the student who is provided special education and related services is reevaluated periodically.
- Provide non-academic and extracurricular services and activities in a manner that offers disabled persons an equal opportunity to participate in these services and activities.
- Provide disabled persons the opportunity to participate in any preschool or adult education program or activity offered with the Auburn Public Schools.

### **Administration and Implementation**

The person directly responsible for Section 504 for the Auburn Public Schools has the complete support of management in the implementation of this program. They will be responsible for the following functions:

- Development of policy statements, guidelines, and internal and external communications about the requirements of the Section 504 and the district's compliance program.
- Meeting with employees to discuss any problems or concerns that may arise in accommodating individuals with disabilities to ensure that the program is being followed.
- Determining the need for remedial action and designing policies to correct deficiencies in the program.
- Serving as liaison between the Auburn Public Schools and enforcement agencies, persons with disabilities, and organizations representing individuals with disabilities.
- Any person having inquiries concerning the Auburn Public Schools compliance with is directed to contact: (508)832-7755.

### **Dissemination of Policy**

The Auburn Public Schools will make every effort to ensure that all interested parties are informed about and assist in the implementation of Section 504.

The following actions will be taken to ensure proper dissemination of information about the Auburn Public Schools program:

- All employees will be notified about the program.

- Internal procedures to ensure dissemination will be developed, including training sessions and briefings on the program for all employees.
- This program or parts of it will be printed in the Auburn Public Schools policy and personnel manuals as well as other circulated publications.
- This program will be available for inspection by employees and applicants in and during, regular working hours. Announcements to this effect have been posted on each facility's bulletin boards,

### **Internal Review Procedures (Grievance Procedure)**

Any student or parent or guardian who believes that he or she has been discriminated against on the basis of disability or who has a complaint of this nature should immediately bring the problem to the attention of the Director of Pupil Services. The Auburn Public Schools has established an internal review procedure (Grievance procedure) to investigate and resolve discrimination complaints expeditiously.

No student, parent or guardian will be subject to coercion, intimidation, interference, or discrimination for registering a complaint or for assisting in an investigation of any alleged violation of laws prohibiting discrimination on the basis of disability.

**Reviewed, Revised and Amended:**



## GRIEVANCE PROCEDURE CONCERNING DISABILITIES

### A. DEFINITIONS

A "Grievance " is a complaint made pursuant to, and arising out of, the Auburn Public Schools' obligations under 34 C.F.R. Part 104.

An "Aggrieved Party" is a person or persons making the complaint.

### B. PURPOSE

The purpose of this grievance procedure is to secure, at the lowest possible administrative cost, prompt and equitable solutions to grievances which may from time to time arise within the Auburn Public Schools. This grievance procedure shall comply in all respects with 34 C.M.R. 5104.7.

### C. GENERAL

No aggrieved person will be subject to coercion, intimidation, interference, or discrimination for registering a complaint or for assisting in the investigation of any alleged complaint within the context of this grievance procedure.

All documents, communications and records dealing with the filing of a grievance will be kept completely confidential to the extent provided by law;

Forms for filing, Grievances and other necessary documentation will be provided upon request by the Auburn Public Schools.

Since it is important that Grievances be acted upon as rapidly as possible, it is urged that complaints be filed, if at all, as close to the subject action **as** is reasonably possible;

The Superintendent shall designate a "responsible employee" pursuant to 34 C.F.R. 5 104.7  
(a)

### D. PROCEDURE

A party with a grievance will report such grievance in writing immediately to Director of Pupil Services, 5 West Street, Auburn, Massachusetts 01501.

Within 30 calendar days after receipt of the written Grievance the responsible employee shall meet with the achieved party in the effort to resolve it (the "hearing").

The hearing shall be open to the public and shall be held at a time and place mutually convenient to both the aggrieved party and to the responsible employee.

The hearing procedure will follow appropriate due process standards including:

- a. The opportunity for the aggrieved party to present the Grievance in any suitable manner;
- b. The right of the aggrieved party to a neutral and unbiased hearing officer;
- c. The right of the aggrieved party to a prompt decision with reasons given therefore;
- d. The opportunity for the aggrieved party to be represented by counsel.

The decision shall be issued no later than 90 days after the date of hearing.

#### E. OTHER

In the event that the responsible employee is disqualified, a suitable substitute shall be named forthwith by the Superintendent.

The responsible employee shall have the authority to conduct the hearing in any way that is consistent with appropriate due process standards.

**Reviewed, Revised and Amended:**

## **AFTER ONE YEAR - REQUIREMENTS**

1. Evaluate policies and practices with disabled persons or organizations. In consultation with interested disabled persons or organizations to modify policies or practices that do not meet the standard.

Take any remedial steps necessary.

2. For Three Years after Evaluation:

Maintain a file and make available for public inspection:

- I. A list of the persons consulted;
- II. A description of areas examined and problems identified;
- III. A description of modifications made and remedial action taken.

## **ACCOMMODATIONS**

Structural Changes: Must be made within three (3) years.

### **I. Transition Plan:**

- A. Must develop a transition plan within six months stating steps necessary to complete these changes.
- B. Plan shall be developed with assistance of interested persons including disabled persons or organizations representing disabled persons.
- C. Copy of transition plan will be made available for public inspection.

### **II. Plan shall:**

- A. Identify physical obstacles that limit accessibility to programs and activities for disabled persons.
- B. Describe in detail methods that will be used to make facilities accessible.
- C. Specify the schedule for taking, the steps necessary to achieve full program accessibility. If more than one (1) year, identify steps that will be taken during each subsequent year.
- D. Indicate the person responsible for the implementation of the plan.

### **III. Definition of a "qualified individual with a disability", under Section 504:**

- A. A person with a disability is any person who:
  1. Has a physical or mental 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 (34 C.F.R. S 104.3 (j)).

Note: The second and third parts of the definition referring to individuals with a "record" of or "regarded as" having an impairment is relevant only when some negative action is taken based on

the perception or record. "They cannot be the basis upon which the requirement for free appropriate public education (FAPE) is triggered. "OCR Policy Memorandum, August 3, 1992.

- A. A "qualified" person with a disability for public preschool, elementary, secondary or adult education services *is* a person with a disability:
  - 1. of an age during which persons without a disability are provided such services;
  - 2. of an age during which it is mandatory under state law to provide such services to persons with disabilities; or
  - 3. to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (EDEA). (34 C.F.R. 5 104.3 (k)).
- B. Physical or Mental Impairment (34 C.F.R. 5 104.3 (j) (2) (0)).
  - 1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems; neurological; muscular-skeletal; special sense organs; respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary; hermic and lymphatic; skin; and endocrine; or
  - 2. any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- C. Major Life Activities (34 C.F.R. 5 104.3 0) (2) (ii))
  - 1. Functions such as caring for one's self, performing, manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- D. An individual with disabilities does not include an individual who is currently engaging in the illegal use of drugs when a covered entity acts on the basis of such use. (29U.5.C. 706 (8) (C) (i)) amended by the Americans Disabilities Act).

## DEFINITIONS AND EXAMPLES

- A. The definition of a qualified person with a disability under Section 504 covers a , broader population than the definition of a student with a disability under Chapter 766 or the Individuals with Disabilities Act (IDEA).
- B. Examples of individuals with disabilities under Section 504 not covered by 766 or IDEA,
1. Alcohol/Drug Addiction
    - a. Alcoholism and drug addiction are physical impairments which fall under the coverage of Section 504 but only if the student is currently no longer using drugs. (OCR Memorandum, 17 IDELR 609 (1991). See *Mazur vs South Burlington School District Civil Action 99-30 (VT 1988)*).
  2. Communicable Diseases - AIDS, etc.
    - a. Individuals with AIDS, or asymptomatic carriers of the AIDS virus (IIIV) are considered "persons with disabilities" under Section 504 *Thomas vs. Alascadero Unified School District et. Al. (1987-88 IDELR 559:113 (C.D.C.A. 1987); District No. 27 Community School vs. The Board of Education of the City of New York. (1985-86 IDELR 557:241 (Sup. Ct. NY 1986))*.
    - b. Hepatitis B carrier is a person with a disability. *Clare-Gladwin Inter. School District, 16 IDELR 105 (OCR 1989)*.
  3. Injured students- broken leg, etc.
    - a. Students with physical disabilities such as those who use crutches are disabled under Section 504 even though they may not be part of the district's special education program. *School District of Pittsburgh, PA (IDELR 257:492 (OCR 1984))*,
  4. Students with severe allergies or chronic asthmas (See *Berlin Brothers Valley School District, (IDELR 353:124 (OCR 1988))*; *Middlebury Community Schools IDELR 257-593 (OCR 1984)*).
  5. Students with environmental illness. *Montpelier, VT Public Schools, 18 IDELR 1054 (OCR 1992)*. Student allergic to fumes from new carpeting,. See also *Simmons College Complaint 01-90-241 (OCR 1990)*.
  6. Attention Deficit Hyperactive Disorder *Fairfield-Suisun Unified School District, IDELR 353-204 (OCR 1989)*: \_ADD diagnosis but no substantial limitation on learning *Jefferson Parish Public Schools. 16 IDELR 755 (OCR 1990)*. However, if child with ADD is determined to be in need of special education, such child is eligible under 766. See *Joint Policy Memorandum from OSEP/OCR 18 IDELR 116 (OSERS 1991)*.
  7. Parents who have a disabling condition, *Rothschild vs. Grottenthaler 907 F. 2d, 28 G (U.S. Court of Appeals, 2' Circuit (1990)*. Employees

## EXAMPLES OF DISCRIMINATION UNDER SECTION 504

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies a disabled person the opportunity to participate in or benefit from an aid, benefit or service which is afforded non-disabled students (e.g., district practice of refusing to allow any student the opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her disability; expelling a student for behavior related to his/her disability; refusing to dispense medication to a student who could not attend school, otherwise).
2. Fails to afford the disabled person an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded others (e.g., applying a policy that conditions interscholastic sports eligibility on the student's receiving, passing, grades in five subjects without regard to the student's disability).
3. Fails to provide aids, benefits, or services to the disabled person that are as effective as those provided to non-disabled persons (e.g. placing a student with a hearing, impairment in the front row as opposed to providing, her with an interpreter). Note: "Equally effective" means equivalent as opposed identical. Moreover, to be equally effective, an aid, benefit or service need not produce equal results; it must merely afford an equal opportunity to achieve equal results.
4. Provide different or separate aids, benefits or services unless such action is necessary to be as effective as the aids, benefits or services provided to non-disabled students (e.g., segregating students in separate classes, schools or facilities, unless necessary).
5. Aids or perpetuates discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of disability (e.g., sponsoring a student organization that excludes persons with disabilities).
6. Denies a person with disabilities the opportunity to participate as a member of a planning, or advisory board strictly because of his/her disability.
7. Other-wise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others (e.g., prohibiting a person who *is* blind from using a service dog in school).
8. In determining the site or location of a facility, makes selections which effectively exclude persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination. In *Henricks vs. Gilhool*, EHLR 441:352 (1989), the Pennsylvania Department of Education was found to have violated this section and the EHA by allowing students with disabilities to be located in inferior facilities, such as trailers, wines in basements and unnecessarily restrictive classrooms due to a lack of classroom space.

## **MISSION STATEMENT**

In today's society our children are continuously excited by new and challenging stimuli; adaptability to change therefore becomes a paramount objective of learning.

The mastery of basic skills is essential to our children as they prepare to function as responsible individuals. Children must also know how to direct their own learning by mastering the skills of independent inquiry, because circumstances do not enable us to predict with certainty just what today's children will need to know when they become tomorrow's adults. The optimum environment should be sought so that all children can develop physically and emotionally and acquire the information, academic skills of, critical judgment, and creativity needed to lead to a better understanding of themselves, each other and the world around them.

The School District must continually strive to create, implement, and improve programs that are compatible with appropriate curricula and provide opportunities for innovation in teaching and learning. If this is accomplished, children will then come to realize more fully their own potential as individuals and be better prepared to appreciate and act responsibly in the society in which they live.

SOURCE: MASC

CROSS REFS.: ADA, School District Goals and Objectives  
IA, Instructional Goals

**Reviewed, revised, updated:** September 4, 2019

## TOBACCO PRODUCTS ON SCHOOL PREMISES PROHIBITED

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

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

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

This policy shall be promulgated to all staff and students in appropriate handbook(s) and publications. Signs shall be posted in all school buildings informing the general public of the District policy and requirements of state law.

SOURCE: MASC July 2016

LEGAL REF: M.G.L. 71:37H; 270:6

**Reviewed, revised and updated:** October 4, 2017



## BACKGROUND CHECKS

It shall be the policy of the Auburn Public School District that, as required by law, a state and national fingerprint criminal background check will be conducted to determine the suitability of full or part time current and prospective school employees, who may have direct and unmonitored contact with children. School employees shall include, but not be limited to any apprentice, intern, or student teacher or individuals in similar positions, who may have direct and unmonitored contact with children. The School Committee shall only obtain a fingerprint background check for current and prospective employees for whom the School Committee has direct hiring authority. In the case of an individual directly hired by a School Committee, the chair of the School Committee shall review the results of the national criminal history check. The Superintendent shall also obtain a state and national fingerprint background check for any individual who regularly provides school related transportation to children. The School Committee, Superintendent or Principal, as appropriate, may obtain a state and national fingerprint criminal background check for any volunteer, subcontractor or laborer commissioned by the School Committee, school or employed by the city or town to perform work on school grounds, who may have direct and unmonitored contact with children. School volunteers and subcontractors/laborers who may have direct and unmonitored contact with children must continue to submit state CORI checks.

The fee charged by the provider to the employee and educator for national fingerprint background checks will be \$55.00 for school employees subject to licensure by DESE and \$35.00 for other employees, which fee may from time to time be adjusted by the appropriate agency. The employer shall continue to obtain periodically, but not less than every 3 years, from the department of criminal justice information services all available Criminal Offender Record Information (CORI) for any current and prospective employee or volunteer within the school district who may have direct and unmonitored contact with children.

Direct and unmonitored contact with children is defined in DESE regulations as contact with a student when no other employee who has received a suitability determination by the school or district is present. "Contact" refers to any contact with a student that provides the individual with opportunity for physical touch or personal communication.

This policy is applicable to any fingerprint-based state and national criminal history record check made for non-criminal justice purposes and requested under applicable federal authority and/or state statute authorizing such checks for licensing or employment purposes. Where such checks are allowable by law, the following practices and procedures will be followed.

### **Requesting CHRI (Criminal History Record Information) Checks**

Fingerprint-based CHRI checks will only be conducted as authorized by state and federal law, in accordance with all applicable state and federal rules and regulations. If an applicant or employee is required to submit to a fingerprint-based state and national criminal history record check, he/she shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for submitting fingerprints. In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment.

### **Access to CHRI**

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts CORI laws and regulations. CHRI cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the

Massachusetts Department of Criminal Justice Information Services (DCJIS) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Federal law and regulations provide that the exchange of records and information is subject to cancellation if dissemination is made outside of the receiving entity or related entities. Furthermore, an entity can be charged criminally for the unauthorized disclosure of CHRI.

### **Storage of CHRI**

CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with the most recent CJIS Security Policy have been implemented to ensure the security and confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards.

In addition to the above, each individual involved in the handling of CHRI will strictly adhere to the policy on the storage, retention and destruction of CHRI.

### **Retention and Destruction of CHRI**

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes **only**:

- Historical reference and/or comparison with future CHRI requests,
- Dispute of the accuracy of the record
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in a secure location in the office of the superintendent. When no longer needed, CHRI and any summary of CHRI data must be destroyed by shredding paper copies and/or by deleting all electronic copies from the electronic storage location, including any backup copies or files. The shredding of paper copies of CHRI by an outside vendor must be supervised by an employee of the district.

### **CHRI Training**

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at the district will review and become familiar with the educational and relevant training materials regarding SAFIS and CHRI laws and regulations made available by the appropriate agencies, including the DCJIS.

### **Determining Suitability**

In determining an individual's suitability, the following factors will be considered: these factors may include, but not necessarily be limited to: the nature and gravity of the crime and the underlying conduct, the time that has passed since the offense, conviction and/or completion of the sentence, nature of the position held or sought, age of the individual at the time of the offense, number of offenses, any relevant evidence of rehabilitation or lack thereof and any other factors deemed relevant by the district.

A record of the suitability determination will be retained. The following information will be included in the determination:

- The name and date of birth of the employee or applicant;
- The date on which the school employer received the national criminal history check results; and, The suitability determination (either "suitable" or "unsuitable").

A copy of an individual's suitability determination documentation must be provided to another school employer, or to the individual, upon request of the individual for whom the school employer conducted a suitability determination.

### **Relying on Previous Suitability Determination**

The school employer may obtain and may rely on a favorable suitability determination from a prior employer, if the following criteria are met:

- The suitability determination was made within the last seven years; and
- The individual has not resided outside of Massachusetts for any period longer than three years since the suitability determination was made; and either
- The individual has been employed continuously for one or more school employers or has gaps totaling no more than two years in his or her employment for school employers; or
- If the individual works as a substitute employee, the individual is still deemed suitable for employment by the school employer who made a favorable suitability determination. Upon request of another school employer, the initial school employer shall provide documentation that the individual is still deemed suitable for employment by the initial school employer.

### **Adverse Decisions Based on CHRI**

If inclined to make an adverse decision based on an individual's CHRI, the district will take the following steps prior to making a final adverse determination:

- Provide the individual with a copy of his/her CHRI used in making the adverse decision;
- Provide the individual with a copy of this CHRI Policy;
- Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI; and
- Provide the individual with information on the process for updating, changing, or correcting CHRI

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time depending on the particular circumstances not to exceed thirty days to correct or complete the CHRI.

If a school employer receives criminal record information from the state or national fingerprint-based background checks that includes no disposition or is otherwise incomplete, the school employer may request that an individual, after providing him a copy of said background check, provide additional information regarding the results of the criminal background checks to assist the school employer in determining the applicant's suitability for direct and unmonitored contact with children, notwithstanding the terms of General Laws chapter 151B, S. 4, (9,9 ½).

Furthermore, in exigent circumstances, a school employer may, pursuant to the terms of DESE regulations (see specific regulations in legal refs), hire an employee on a conditional basis without first receiving the results of a national criminal background check. After exhausting several preliminary steps as contained in the above referenced regulation the district may require an individual to provide information regarding the individual's history of criminal convictions;

However, the individual cannot be asked to provide information about juvenile adjudications or sealed convictions. The superintendent is advised to confer with legal counsel whenever he/she

solicits information from an individual concerning his/her history of criminal convictions.

### **Secondary Dissemination of CHRI**

If an individual's CHRI is released to another authorized entity, a record of that dissemination must be made in the secondary dissemination log. The secondary dissemination log is subject to audit by the DCJIS and the FBI.

The following information will be recorded in the log:

- Subject Name;
- Subject Date of Birth;
- Date and Time of the dissemination;
- Name of the individual to whom the information was provided;
- Name of the agency for which the requestor works;
- Contact information for the requestor; and
- The specific reason for the request.

### **Reporting to Commissioner of Elementary and Secondary Education**

Pursuant to state law and regulation, if the district dismisses, declines to renew the employment of, obtains the resignation of, or declines to hire a licensed educator or an applicant for a Massachusetts educator license because of information discovered through a state or national criminal record check, the district shall report such decision or action to the Commissioner of Elementary and Secondary Education in writing within 30 days of the employer action or educator resignation. The report shall be in a form requested by the Department and shall include the reason for the action or resignation as well as a copy of the criminal record check results. The superintendent shall notify the employee or applicant that it has made a report pursuant to the regulations to the Commissioner.

Pursuant to state law and regulation, if the district discovers information from a state or national criminal record check about a licensed educator or an applicant for a Massachusetts educator license that implicates grounds for license action pursuant to regulations, the Superintendent shall report to the Commissioner in writing within 30 days of the discovery, regardless of whether the district retains or hires the educator as an employee. The report must include a copy of the criminal record check results. The school employer shall notify the employee or applicant that it has made a report pursuant to regulations to the Commissioner and shall also send a copy of the criminal record check results to the employee or applicant.

### **C.O.R.I. REQUIREMENTS**

It shall be the policy of the district to obtain all available Criminal Offender Record Information (CORI) from the department of criminal justice information services of prospective employee(s) or volunteer(s) of the school department including any individual who regularly provides school related transportation to children, who may have direct and unmonitored contact with children, prior to hiring the employee(s) or to accepting any person as a volunteer. State law requires that school districts obtain CORI data for employees of taxicab companies that have contracted with the schools to provide transportation to pupils.

The Superintendent, Principal, or their certified designees shall periodically, but not less than every three years, obtain all available Criminal Offender Record Information from the department of criminal justice informational services on all employees, individuals who regularly provide school related transportation to children, including taxicab company employees, and volunteers who may have direct and unmonitored contact with children, during their term of employment or volunteer service.

The Superintendent, Principal, or their certified designees may also have access to Criminal Offender Record Information for any subcontractor or laborer who performs work on school grounds, and who may have direct and unmonitored contact with children, and shall notify them of this requirement and comply with the appropriate provisions of this policy.

Pursuant to a Department of Education regulation, "Direct and unmonitored contact with children means contact with students when no other employee, for whom the employer has made a suitability determination of the school or district, is present." "Contact" refers to any contact with a student that provides the individual with opportunity for physical touch or personal communication. The school employer may determine when there is potential for direct and unmonitored contact with children by assessing the circumstances and specific factors including but not limited to, whether the individual will be working in proximity with students, the amount of time the individual will spend on school grounds, and whether the individual will be working independently or with others. An individual shall not be considered to have the potential for direct and unmonitored contact with children if he or she has only the potential for incidental unsupervised contact in commonly used areas of the school grounds."

In accordance with state law, all current and prospective employees, volunteers, and persons regularly providing school related transportation to children of the school district shall sign an acknowledgement form authorizing receipt by the district of all available CORI data from the department of criminal justice information services. In the event that a current employee has a question concerning the signing of the acknowledgement form, he/she may meet with the Principal or Superintendent; however, failure to sign the CORI acknowledgement form may result in a referral to local counsel for appropriate action. Completed acknowledgement forms must be kept in secure files. The School Committee, Superintendent, Principals or their designees certified to obtain information under the policy, shall prohibit the dissemination of school information for any purpose other than to further the protection of school children.

CORI is not subject to the public records law and must be kept in a secure location, separate from personnel files and may be retained for not more than three years. CORI shall be shared with the individual to

Individual to whom it pertains, pursuant to law, regulation and the following model policy, and in the event of an inaccurate report the individual should contact the department of criminal justice informational services.

Access to CORI material must be restricted to those individuals certified to receive such information. In the case of prospective employees or volunteers, CORI material should be obtained only where the Superintendent had determined that the applicant is qualified and may forthwith be recommended for employment or volunteer duties.

The hiring authority, subject to applicable law and the model policy, reserves the exclusive right concerning any employment decision.

The Superintendent shall ensure that on the application for employment and/or volunteer form there shall be a statement that as a condition of the employment or volunteer service the school district is required by law to obtain Criminal Offender Record Information for any employee, individual who regularly provides transportation, or volunteer who may have direct and unmonitored contact with children.

d contact with children. Current employees, persons regularly providing school related transportation, and volunteers shall also be informed in writing by the Superintendent prior to the periodic obtaining of their Criminal Offender Record Information.

Records sealed pursuant to law shall not operate to disqualify a person in any examination, appointment or application for public service on behalf of the Commonwealth or any political subdivision thereof.

The Superintendent shall revise contracts with special education schools and other providers to require a signed statement that the provider has met all legal requirements of the state where it is located relative to criminal background checks for employees and others having direct and unmonitored contact with children.

**LEGAL REFS:** M.G.L. 6:167-178; 15D:7-8; 71:38R, 151B, 276:100A  
P.L. 92-544; Title 28 U.S.C. § 534; Title 28 C.F.R. 20.33(b) 42 U.S.C. § 16962  
603 CMR 51.00; 803 CMR 2.00; 803 CMR 3.05 (Chapter 149 of the Acts of 2004)  
FBI Criminal Justice Information Services Security Policy Procedure for correcting a criminal record  
FAQ -Background Checks  
SOURCE: MASC May 2014

**NOTE:** The Department of Criminal Justice Information Services (DCJIS) has adopted regulations requiring that it maintain a model CORI policy and that any written policy must meet the minimum standards as found in the model. Therefore, MASC recommends that school districts retain both the school district specific policy incorporated here and the DCJIS model policy attached as ADDA-R.

**First Reading:** July 9, 2014  
**Second Reading:** August 13, 2014  
**Approved:** August 13, 2014

**Update Approved:** November 3, 2014

**Auburn Public Schools**

## **CORI POLICY**

This policy is applicable to the criminal history screening of prospective and current employees, subcontractors, volunteers and interns, and professional licensing applicants.

Where Criminal Offender Record Information (CORI) and other criminal history checks may be part of a general background check for employment, volunteer work, licensing purposes, the following practices and procedures will be followed.

### **CONDUCTING CORI SCREENING**

CORI checks will only be conducted as authorized by the Department of Criminal Justice Information Systems (DCJIS), state law, and regulation, and only after a CORI Acknowledgement Form has been completed.

If a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, the subject shall be given seventy two (72) hours notice that a new CORI check will be conducted.

### **ACCESS TO CORI**

All CORI obtained from the DCJIS is confidential, and access to the information must be limited to those individuals who have a "need to know". This may include, but not be limited to, hiring managers, staff submitting the CORI requests, and staff charged with processing job applications. The district must maintain and keep a current list of each individual authorized to have access to, or view, CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.

### **CORI TRAINING**

An informed review of a criminal record requires training. Accordingly, all district personnel authorized to review or access CORI will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

### **USE OF CRIMINAL HISTORY IN BACKGROUND SCREENING**

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied.

Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

### **VERIFYING A SUBJECT'S IDENTITY**

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.

If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

### **INQUIRING ABOUT CRIMINAL HISTORY**

In connection with any decision regarding employment, volunteer opportunities, or professional licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the

subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

### **DETERMINING SUITABILITY**

If a determination is made, based on the verification of identity information as provided in this policy, that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- (a) Relevance of the record to the position sought;
- (b) The nature of the work to be performed;
- (c) Time since the conviction;
- (d) Age of the candidate at the time of the offense;
- (e) Seriousness and specific circumstances of the offense;
- (f) The number of offenses;
- (g) Whether the applicant has pending charges;
- (h) Any relevant evidence of rehabilitation or lack thereof; and
- (i) Any other relevant information, including information submitted by the candidate or requested by the organization.

The applicant is to be notified of the decision and the basis for it in a timely manner.

### **ADVERSE DECISIONS BASED ON CORI**

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DCJIS' *Information Concerning the Process for Correcting a Criminal Record*.



**SECONDARY DISSEMINATION LOGS**

All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record any dissemination of CORI outside this organization, including dissemination at the request of the subject.

SOURCE: MASC May 2014

**First Reading:** July 9, 2014  
**Second Reading:** August 13, 2014  
**Approved:** August 13, 2014

## Wellness Policy for Auburn Public Schools

Wellness Guidelines in Support of Federal Law PL 108. 265 & PL 111. 296 Section 204

The School Committee recognizes the relationship between student well-being and student achievement as well as the importance of a comprehensive district wellness program designed to promote healthy behaviors and decision-making, and encourage lifelong behaviors of balanced nutrition, exercise, and emotional and physical well-being. The wellness program will be implemented in a multidisciplinary fashion and will be evidence based.

### Our Goal

Increase student and school, community awareness of the importance of healthy food choices and participation in daily physical activity, enabling students to make informed decisions with regard to their health and well-being.

### Our Mission

Committed to providing a healthful school environment where students have access to high-quality foods, nutrition, health and physical education and activity that promotes lifelong wellness.

## Wellness Committee

The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) requires all local educational agencies participating in Federal Child Nutrition programs to establish and implement, for all schools under its jurisdiction, local school wellness policies that meet minimum standards designed to promote sound nutrition, student health, reduce childhood obesity, and provide transparency to the public on the school nutrition environment.

The Auburn Public School System has established a district-wide wellness team to develop, implement and promote a wellness policy through school and community involvement. It will consist of at least one (1): parent, student, nurse, school food service representative, School Committee member, school administrator, teacher, member of the public, and other community members as appropriate. If available, a qualified, credentialed nutrition professional will be a member of the wellness committee. The Superintendent will offer consultation and provide input on implementation and evaluation of the policy to ensure compliance; will assess for integration in the district curriculum and alignment with core frameworks; and will ensure that the policy supports the district strategic plan. The Wellness Committee will meet at least quarterly to review initiatives & policy updates, and make recommendations to the School Committee for review and adoption of policy revisions. The Committee will plan for implementation and evaluation of this policy annually.

Therefore, the school district will provide nutrition programs that meet USDA and MA nutrition standards. Nutrition education will be provided in all schools. Physical education and physical activities will be promoted to support lifelong health benefits from movement. And, school health education and nursing programs will enhance the overall health and well being of all students in Auburn Public Schools. All school-based activities will observe criteria contained within this policy and activities will be consistent with Auburn Public School System's Wellness Policy.

## I. Nutrition Standards & Nutrition Programs

- All food and beverage sales on all school campuses must comply with current USDA Nutrition Standards and will utilize the most current nutrition standards for K-12. School meals follow the USDA regulations and reinforce guidelines that met lower fat, more whole grains, fruits and vegetables, and meet standards for nutrient analysis and menu plans.
- School meals should be a healthy and happy experience, with adequate time or lunch time. This allows children to consume a nutritious lunch in a relaxed atmosphere. Schools will consider scheduling recess before lunch, to enhance nutrition intakes.
- Only food purchased from the school cafeteria or lunch from home is permitted in school cafeterias. All food and beverages sold outside the school meals programs shall contain nutrition label information to inform consumers of potential allergen exposure. Specific guidance related to this section of the policy will be made available at each school.
- Opportunities will be integrated to increase Farm to School initiatives, and **Smarter Lunchroom** techniques to increase student access to locally grown foods, and increase student awareness of healthy foods offered each day.
- Promotion of school based gardens is a priority to increase student knowledge of growing nutritious foods.
- All food and beverages sold outside the school nutrition program should contain nutrition and ingredient information.
- Progressive efforts to improve student health will also recommend the addition of healthier options in school vending machines and school stores are required.
- All elementary schools will consider a schedule of recess before lunch. All schools will eliminate the sale of carbonated beverages per USDA Smart Snacks and MA Competitive Foods in Schools legislation. Any food offered at school must also comply with the SMART SNACKS Competitive Foods and MA Competitive Foods Bill of 2012.
- All food sold or made available to students must meet federal and state regulations. School staff will not utilize food and/or beverages as a reward or punishment for students, unless a specific provision is included in a student I.E.P.
- Organizations are encouraged to offer non-food for fundraisers.
- School cafeterias must be maintained in a healthful manner, with adequate ventilation, lighting and seating.
- Classroom celebrations should include a variety of healthy choices and will be limited per the approval of each school Principal.

## II. Nutrition Education

- Integration into Curriculum will be implemented through introduction of nutrition topics into subject areas such as Math, Science, English Language Arts, Fine Arts, Social Studies, Physical Education, to educate and foster knowledge needed for lifelong health.

- Nutrition education is provided in cafeterias or District websites, and comprehensively through school nursing departments. The goal is to foster healthy weight, fitness, and the prevention of chronic diseases.
- Collaboration between the school nutrition program and academic programs will encourage activities and utilize resources in each school to promote healthy eating programs.
- All food and beverages made available on school grounds during the school day will be consistent with current USDA nutrition standards and MA Competitive food law. Emphasis will be to promote and provide high quality, nutrient dense foods. They will adhere to all food safety, local board of health and food security guidelines.
- Professional development will be provided to school nutrition staff to enhance their basic knowledge of nutrition combined with the skills training to promote healthy food preparation and guidance to share with students in order to promote healthy eating habits. Staff will provide activities and programs in each school to promote nutrition education.
- Nutrition education will also include community involvement and parent/custodial resources will be made available in an effort to reinforce messages that students are provided in school regarding healthy eating. Nutrition education will involve sharing information with the community and encourage activities that develop consistent messaging both at home and at school.

### III. Physical Education

- Physical education programs will develop physically literate students who have the knowledge, skills and confidence to enjoy a lifetime of healthy physical activity. Certified physical education teachers will teach all physical education classes.
- All Physical education will be provided in accordance with the MA Health Curriculum Frameworks and the National Standards for Physical Education (NASPE).
- All students in K – 12 including students with disabilities, special health-care needs, and alternative educational programs will participate in physical education classes.
- Specific learning goals and objectives will be guided by implementing a sequential, developmentally appropriate curriculum to implement and evaluate knowledge, motor skills and self-management.
- Physical education classes will be offered in an environment where students learn, practice and are assessed on developmentally appropriate motor skills, social skills and knowledge of what they learn.
- Students will be provided safe, physical and socially beneficial physical education programs that will support and sustain life-long interest in physical activity.
- Physical Education department will communicate the benefits and programs available at school to parents/ guardians and the community.
- Public Awareness campaigns will be developed to highlight the relationship between good nutrition, physical activity and the capacity of students to develop and learn.

### IV. Physical Activity

- Auburn schools will encourage staff to include physical activities throughout the school day such as stretching and simple classroom exercises. Recess will be offered when weather permits and children will not be kept out of activities for discipline or to make up school assignments.
- Walk to School programs will be promoted to staff, students, and families to promote a positive life choice to increase physical activity through walking or riding bicycles rather than utilizing other forms of transportation.
- The school environment will offer opportunities to further increase their physical activity such as intramural sports, after school activities, walking clubs, fun runs, field days, etc.

## VI. School Health Education

- A comprehensive program of health education will be designed to promote healthful living.
- Health classes will be offered to reinforce nutrition, a healthy lifestyle and educate students about the importance of all facets of lifestyle that impact overall health to promote healthy living and to discourage health-risk behaviors.
- Health education will be an integral part of a coordinated school-based health program. It will be consistent with the MA Health Curriculum Frameworks and National Health Education Standards. District health education curriculum standards and procedures will address both nutritional and physical education and will be delivered as part of a comprehensive school physical education or health education curriculum.
- Curriculum integration will include nutrition education, administered as a separate course and/or integrated into other subject areas.

## V. Nursing Services

- School nursing programs are intended to complement and support student achievement while promoting and improving students' overall health.
- School health and nursing programs are based upon a partnership between faculty, staff, school administration, external health care providers, parents and the community.
- Communication with students and families through newsletter articles, bulletin board/poster displays assist the outreach to improve overall access to individualized student health care.
- Recommendations and outreach for student physical exams and immunizations are enforced according to the MA DPH guidelines. Annual screenings are completed each year and information is shared with parents for appropriate follow-up care. Sun safety and dental care recommendations are provided.
- Food allergen training and information is managed to support student health whether through the use of epi-pens, CPR or Choke Prevention trainings are scheduled district wide annually. Guidance on emergency care for all students and staff is provided.
- Health insurance, WIC and SNAP Benefits programs are promoted to improve student health and food security.
- Community health education and emotional health guidance is provided to coordinate appropriate health services.

## VI. Other Implementation and Evaluation

- Promotion of access to USDA income eligible breakfast, lunch and any future USDA programs is an important part of student wellness. Ongoing outreach to increase participation in reduced and free priced meals is a priority at the school and district level, and within the community.
- The Wellness Committee, in consultation with the Assistant Superintendent for Teaching, Learning and Curriculum and/or Superintendent, will assess all education curricula and materials pertaining to wellness for accuracy, completeness, balance, and consistency with the state and district's educational goals and standards. The Wellness Committee shall ensure dissemination of the Wellness Policy and shall review all school practices against the policy to ensure that such practices are consistent with the policy's provisions. The Wellness Committee will meet quarterly to review district health data indicators, such as aggregate district health statistics, to assess wellness initiatives that are needed to improve the overall health of students, and to make future programming recommendations and policy revision

recommendations. Wellness Committee representatives will report to the Superintendent annually in February, with a report provided to the School Committee.

#### Resources and References:

~105 CMR: MA Department of Public Health. 105CMR 225.00 Nutrition Standards for Competitive Foods & Beverages in Public Schools  
~"Healthy, Hunger-Free Kids Act of 2010", Public Law 111-296, sec. 204 and the Richard B Russell National School Lunch Act, sec. 9A.

~Summary of Healthy Hunger Free Kids Act: Accessed online 5-12-15: [http://www.fns.usda.gov/sites/default/files/PL111-296\\_Summary.pdf](http://www.fns.usda.gov/sites/default/files/PL111-296_Summary.pdf)

~Nutrition Standards for School Meals: Accessed online 5-12-15: <http://www.fns.usda.gov/school-meals/nutrition-standards-school-meals>

MA Health and Human Services School Physical Activity Resources: Accessed online 5-12-15: <http://www.mass.gov/eohhs/gov/departments/dph/programs/community-health/mass-in-motion/school/resources/>

~National Standards for Physical Education: Accessed online 5-12-15: <http://www.skillastics.com/wp-content/uploads/National-Standards-for-K-12-Physical-Education.pdf>

~Physical Education, Chapter 71, Section 3. Massachusetts Department of Public Health.

~ Massachusetts Department of Public Health 105 CMR 200.000 Physical Examination of School Children.

~USDA Team Nutrition Policy – Accessed online 5-12-15: <http://www.fns.usda.gov/tn/local-school-wellness-policy>

~ Local School Wellness Policy Implementation under the Healthy, Hunger Free Kids Act of 2010: Summary of the Proposed Rule  
<http://www.fns.usda.gov/sites/default/files/LWPproprulesummary.pdf>

~The Massachusetts Department of Elementary and Secondary Education, Comprehensive Health Curriculum Framework, 1999.

~Guidance for Implementing the Massachusetts School Nutrition Standards for Competitive Foods and Beverages Massachusetts General Law (MGL) School Nutrition Law, Chapter 111 Section 223. Massachusetts General Law (MGL) Public Schools

~Massachusetts Department of Public Health, Massachusetts Department of Elementary and Secondary Education, John C Stalker Institute, Harvard School of Public Health, and Boston Public Health Commission, 2012. Healthy Students, Healthy Schools: Revised.

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<b>Approved:</b>	June 3, 2015

## **COMMITMENT TO ACCOMPLISHMENT**

The School Committee accepts ultimate responsibility for all facets of school operations. Because it is accountable to residents of the District, the School Committee will maintain a program of accountability consisting of the following elements:

- Clear statements of expectations and purpose as these relate to operations, programs, departments, and positions.
- Provisions for the staff, resources, and support necessary to achieve stated expectations and purposes, subject to financial support by residents of the District.
- Evaluation of operations and instructional and staff development programs to determine how well expectations and purposes are being met.
- Specific performance objectives to enable individuals to direct their own efforts to the goals and objectives of the District.
- Evaluation of the efforts of employees in line with stated objectives, with the first purpose of evaluation being to help each individual make a maximum contribution to the goals of the District.

Every effort will be made by the School Committee, Superintendent, and staff to fulfill the responsibilities inherent in the concept of accountability.

SOURCE: MASC