



Student Rights & Confidentiality Module

2020-2021

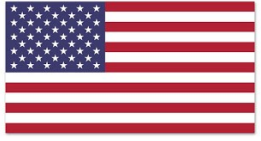


Reading Public Schools

Non-Discrimination Policy

The Reading Public Schools, in accordance with federal and state laws, prohibit discrimination in its operations and provide equal employment and educational opportunities to all persons regardless of race, color, gender, religion, marital status, pregnancy, homelessness, age, sexual orientation, gender identity, national origin or disability. The Reading Public Schools complies with all applicable State and Federal Laws, including but not limited to: Title VI; Title VII; Title IX; Americans with Disabilities Act; Age Discrimination in Employment Act; Pregnancy Discrimination Act; Section 504 of the Rehabilitation Act of 1973; Boy Scouts of America Equal Access Act; and Massachusetts General Laws, c. 151B, c. 151C, c. 76, § 5, and c. 71B.

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Student Rights – Federal Laws

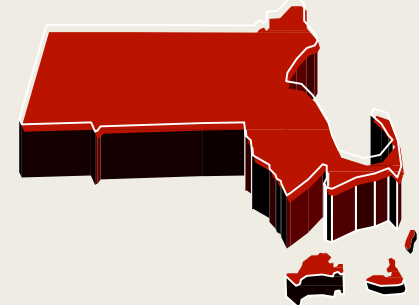
- **Title IX of the Education Amendments of 1972**
 - Prohibits discrimination and harassment on the basis of sex (including sexual orientation and gender identity)
- **Title VI of the Civil Rights Act of 1964**
 - Prohibits discrimination and harassment on the basis of race, color, national origin (including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

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Student Rights

State Laws and Regulations

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

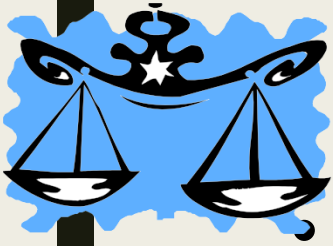


Discrimination & Harassment

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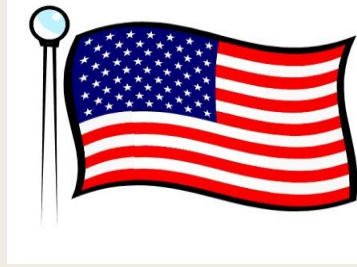
Title VI of the Civil Rights Act of 1964

- Title VI, 42 U.S.C. § 2000d et seq., was enacted as part of the landmark Civil Rights Act of 1964.



Title VI prohibits discrimination on the basis of race, color, and national origin (which includes religion) in programs and activities receiving federal financial assistance.

Federal Employment Laws



- Title VII of the Civil Rights Act prohibits discrimination by covered employers on the basis of race, color, religion, sex (includes pregnancy), or national origin. Title VII also prohibits discrimination against an employee because of his/her association with another individual of a particular race, color, religion, sex (includes pregnancy), or national origin.
- Age Discrimination in Employment Act prohibits discrimination by covered employers on the basis of age (40 years or older).
- Americans with Disabilities Act and Section 504 of the Rehabilitation Act: prohibit employment discrimination of individuals with disabilities.

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M.G.L. c. 76, § 5

- Prohibits discrimination in public schools on the basis of race, color, sex, national origin, religion, sexual orientation and/or gender identity.



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M.G.L. c. 151C

- Prohibits gender discrimination and sexual harassment in public educational facilities.



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Title IX of the Education Amendments of 1972

The Title IX regulations were significantly revised in May 2020, with an effective date of August 14, 2020.



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Title IX

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

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What is a Title IX violation?

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

OR

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

OR

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

Sexual Harassment – New Definition

Sexual harassment is conduct based on sex that satisfies one or more of the following:

1. *Quid pro quo; or*
2. Unwelcome conduct that is so severe, pervasive, and objectively unreasonable that it effectively denies equal access to education program or activity; or
3. Specific Offenses: Sexual Assault (as defined by the Clery Act); Dating Violence, Domestic Violence, and/or Stalking (as defined by the Violence Against Women Act)

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Quid pro
quo Sexual
Harassment

An employee conditions the provision of an aid, benefit, or service of the school district on an individual's participation in unwelcome sexual conduct

Severe,
pervasive, and
objectively
unreasonable

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively unreasonable that it effectively denies a person equal access to the recipient's education program or activity

This is a significant narrowing from prior definition of “sufficiently severe or persistent or pervasive...”

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Clery Act & Violence Against Women Act (VAWA) Offenses

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

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Sexual Assault, Dating Violence, Domestic Violence, or Stalking

Sexual Assault:

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

Sexual Assault, **Dating Violence**, Domestic Violence, or Stalking

Dating Violence:

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

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Sexual Assault, Dating Violence, **Domestic Violence**, or Stalking

Domestic Violence:

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

Sexual Assault, Dating Violence, Domestic Violence, or **Stalking**

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.”

Reporting Sexual Harassment

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



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Some of the Changes Stemming from New Title IX Regulations

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

The logo for Title IX, featuring the words "TITLE IX" in a bold, sans-serif font, centered between two horizontal lines.

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New Title IX Grievance Procedures Establish Distinct Roles for Multiple Staff



- Multiple staff members will now have a role:
- *Title IX Coordinator*
- *Investigator*
- *Decision-maker*
- *Appeal Officer*
- *Informal Resolution Facilitator*
- These staff will undergo a separate detailed mandatory training in accordance with the revised regulations

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Title IX Formal Complaint Triggers New Mandatory Grievance Process

- When a Formal Complaint is filed, a mandatory formal grievance process is triggered, involving multiple steps:
 - *Including, but not limited to, providing the parties with an opportunity to review the evidence, to review the investigation report, and to pose relevant written questions to each other*
- See updated District Title IX Grievance Procedures for details
- <https://www.reading.k12.ma.us/district-information/>

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- Only Title IX sexual harassment allegations, which is conduct that meets the new Title IX definition of sexual harassment, is required to be processed through the new Title IX Sexual Harassment Grievance Procedures.
- Other reports of harassment (i.e., harassment based on race, disability, and other protected categories), as well as all complaints of discrimination or retaliation may continue to be handled in the same manner as before, through the District's Civil Rights Grievance Procedures

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Always Report All Discrimination or Harassment

- Any individual who believes that he/she has been subjected to harassment or discrimination or has witnessed or been informed about the discrimination/harassment of another should notify the building Principal, Title IX Coordinator, 504 Coordinator, Civil Rights Coordinator or the Superintendent.



M.G.L. c. 76, § 5

- Prohibits discrimination in public schools on the basis of race, color, sex, national origin, religion, sexual orientation and/or gender identity.



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M.G.L. c. 151C

- Prohibits gender discrimination and sexual harassment in public educational facilities.



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Responding to Harassment & Discrimination

- Respond to ALL reports and complaints of harassment or discrimination.
 - To respond is to:
 - Intervene;
 - Report;
 - Investigate; and
 - Communicate.

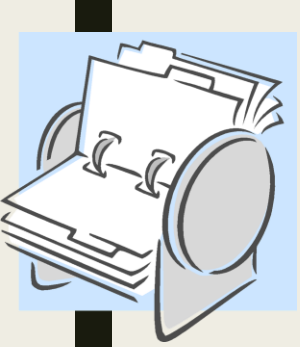




Reporting Harassment and Discrimination

- Any individual who believes that he/she has been discriminated or harassed or has witnessed or been informed about the harassment or discrimination of another should notify the building Principal, Title IX Coordinator, 504 Coordinator, Civil Rights Coordinator or the Superintendent.

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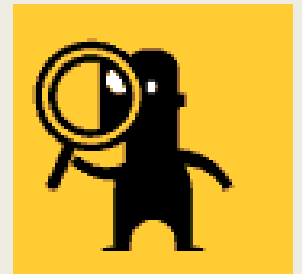
Reading Public Schools Civil Rights Coordinators

- Section 504 : Jennifer Stys, Director of Student Support
- Civil Rights : Chris Kelley, Assistant Superintendent
- Title IX : Chris Kelley, Assistant Superintendent
- Homeless Liaison: Jennifer Stys, Director of Student Support
- Title II Liaison: Chris Kelley, Assistant Superintendent
- Title I Coordinator : Chris Kelley, Assistant Superintendent
- EL Coordinator : Carla Pennacchio, English Learner (EL) Coordinator/
PreK-12 teacher

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Investigation

- All complaints of discrimination and harassment will be investigated.
- Upon completion of the investigation, the complainant and accused will be informed of the outcome and a written report will be filed with the appropriate coordinator.



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Corrective Action to Remedy Harassment or Discrimination

- Corrective action should be immediate and reasonably calculated to eliminate the harassment or discrimination.
 - Restore nondiscriminatory environment for the victim.
 - Provide emotional and psychological support.

Protections for Students who are Homeless

The Every Student Succeeds Act (2016) amended the McKinney-Vento Homeless Assistance Act:

- A student's homelessness status is confidential information protected by FERPA;
- School Districts must have policies that remove barriers to enrollment and retention of students who are homeless;
- School Districts must have policies to prevent students who are homeless from being stigmatized or segregated on the basis of their status as homeless

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**Thank you for participating in our
Student Rights & Confidentiality
module**

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