

NEW MILFORD BOARD OF EDUCATION
New Milford Public Schools
50 East Street
New Milford, Connecticut 06776

POLICY SUB-COMMITTEE
MEETING NOTICE

DATE:	February 2, 2021
TIME:	6:45 P.M.
PLACE:	Sarah Noble Intermediate School Library Media Center

While this is an in-person meeting for Board of Education members and district staff, due to COVID-19 restrictions on capacity and social distancing requirements that make public attendance impossible, members of the public will be permitted to attend the meeting via the Zoom link provided below.

There will be live public comment offered through the Zoom format for items on the agenda. Public comment may also be emailed to suptoffice@newmilfordps.org for distribution to Board members no later than 3 PM of the meeting date.

Join Zoom Meeting

<https://zoom.us/j/92797193221?pwd=UkFWcWpnYzRiK20yOWNvdVhDYllnZz09>

Meeting ID: 927 9719 3221

Passcode: 366361

One tap mobile

+19292056099,,92797193221#,,,,*366361# US (New York)

+13017158592,,92797193221#,,,,*366361# US (Washington D.C.)

Dial by your location

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington D.C.)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 927 9719 3221

Passcode: 366361

Find your local number: <https://zoom.us/u/ac84kuQDuh>

AGENDA

New Milford Public Schools Mission Statement

The mission of the New Milford Public Schools, a collaborative partnership of students, educators, family, and community, is to prepare each and every student to compete and excel in an ever-changing world, embrace challenges with vigor, respect and appreciate the worth of every human being, and contribute to society by providing effective instruction and dynamic curriculum, offering a wide range of valuable experiences, and inspiring students to pursue their dreams and aspirations.

1. Call to Order

RECEIVED
TODAY
2021 JAN 29 A 7:59

NEW MILFORD, CT

2. Public Comment

An individual may address the Board concerning any item on the agenda for the meeting subject to the following provisions:

- A. A three-minute time limit may be allocated to each speaker with a maximum of twenty minutes being set aside per meeting. The Board may, by a majority vote, cancel or adjust these time limits.
- B. If a member of the public comments about the performance of an employee or a Board member, whether positive, negative, or neutral, and whether named or not, the Board shall not respond to such comments unless the topic is an explicit item on the agenda and the employee or the Board member has been provided with the requisite notice and due process required by law. Similarly, in accordance with federal law pertaining to student confidentiality, the Board shall not respond to or otherwise discuss any comments that might be made pertaining to students.

3. Discussion and Possible Action

- A. Policy Recommended for Revision and Approval at Initial Board Presentation in accordance with Board Bylaw 9311:
 - 1. 4118.112/4218.112 Sexual and Other Unlawful Harassment

4. Items of Information

- A. Regulation Revisions:
 - 1. 4118.112/4218.112 Sexual and Other Unlawful Harassment
 - 2. 5145.7 Procedures for Reports and Complaints of Sexual Harassment of Students

5. Discussion

- A. Next Policy series for review

6. Public Comment

An individual may address the Board concerning any item on the agenda for the meeting subject to the following provisions:

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- B. If a member of the public comments about the performance of an employee or a Board member, whether positive, negative, or neutral, and whether named or not, the Board shall not respond to such comments unless the topic is an explicit item on the agenda and the employee or the Board member has been provided with the requisite notice and due process required by law. Similarly, in accordance with federal law pertaining to student confidentiality, the Board shall not respond to or otherwise discuss any comments that might be made pertaining to students.

7. Adjourn

Sub-Committee Members: Olga I. Rella, Chairperson
Joseph Failla
Tammy McInerney
Vacancy

Alternates: Wendy Faulenbach
Brian McCauley

<p style="text-align: center;">RECOMMENDED FOR APPROVAL AT INITIAL BOARD PRESENTATION</p>
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COMMENTARY: In 2019 the General Assembly passed legislation requiring all Connecticut employers with three or more employees (including boards of education) to provide sexual harassment recognition and prevention training to all existing employees by October 1, 2020. Governor Ned Lamont's Executive Order No. 7DDD, as amended by Executive Order No. 9L extended this Oct 1st Sexual Harassment Prevention Training deadline to February 9, 2021. It is unclear at this point in time whether another Executive Order will be issued to extend the February 9, 2021 deadline back further in light of the COVID pandemic. If and when that happens this policy should be amended to reflect a later date. Also, once the deadline has passed the policy should be amended to remove references to any training deadline and simply state that employees must be trained within six months of their date of hire.

In addition, as shown in the highlighted text the District needs to update the Title IX coordinator reference since Ellamae Baldelli is no longer with the District. All other policies that reference the District's Title IX coordinator position should be updated as well.

4118.112(a)

4218.112(a)

Personnel -- Certified/Non-Certified

Sexual and Other Unlawful Harassment

It is the policy of the New Milford Board of Education to maintain a working and learning environment that is free from sexual and other unlawful harassment. The Board will not tolerate the harassment of any applicant, employee, independent contractor, volunteer, student or visitor based on sex, sexual orientation, gender identity or expression, race, color, religion, national origin, ancestry, marital status, age, disability, genetic information or status as a veteran. All forms of harassment are prohibited whether verbal, physical or visual, and regardless of the medium through which it occurs. Such harassment violates Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 and/or the Connecticut Fair Employment Practices Act.

This policy prohibits sexual and other unlawful harassment by employees, teachers, administrators, Board members, volunteers, and others contractually or otherwise under the control of the school system. It also protects against harassment by any third person who is on school premises, at a school workplace or who otherwise comes in contact with school personnel in connection with their employment at the school system.

Definition of Unlawful Harassment

Unlawful harassment means unwelcome and offensive conduct that has the purpose or effect of unreasonably interfering with an employee's performance and/or employment opportunities or that is sufficiently severe, pervasive or persistent so as to create an intimidating, hostile or offensive working environment. All forms of harassment are prohibited whether verbal, written, visual or physical and regardless of the medium through which it occurs.

Personnel -- Certified/Non-Certified

Sexual and Other Unlawful Harassment

Definition of Sexual Harassment

Unwelcome sexual advances, requests for sexual favors and other inappropriate verbal, non-verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of the conduct by an individual is used as the basis of employment decisions affecting the individual;
- The conduct has the purpose or effect of substantially interfering with an individual's work performance, and/or is sufficiently severe, pervasive or persistent that it creates an intimidating, hostile or offensive work environment; or
- Such conduct constitutes sexual harassment whether or not a threat of adverse job consequences is carried out and whether or not the employee actually suffers any tangible adverse job consequences.

Sexual harassment includes a wide range of behaviors - from pressure or requests for sexual activities to unwelcome sexual comments and innuendo to verbal abuse of a sexual nature. Unwelcome sexual flirtations and advances, offensive touching of an individual, graphic or verbal commentaries about an individual's body, sexually degrading words used to describe an individual, and displays in the work place of sexually suggestive objects or pictures are some of the additional behaviors that constitute sexual harassment. Behavior appropriate in a social setting may not be appropriate in the school and work environment. Sexual harassment may be subtle and even unintentional. It may be directed towards members of the opposite or same sex.

Definition of Corrective Action

Corrective action means actions taken by an employer in response to an employee's claim of sexual harassment. Corrective action may include but is not limited to, employee relocation, assigning an employee to a different work schedule or other substantive changes to an employee's terms or conditions of employment.

The District shall not take immediate corrective action that modifies the conditions of a complaining employee's employment unless such employee agrees, in writing, to any modification of the terms of employment, or the District determines that such corrective action is reasonable and not of detriment to the employee who has brought a complaint of sexual harassment.

Personnel -- Certified/Non-Certified

Sexual and Other Unlawful Harassment

Examples of Sexual Harassment

While an exhaustive list is not possible, the following are examples of specific conduct that violate the law and policy and which, if severe and pervasive, constitute sexual harassment. In each case, such a determination will depend upon the totality of the circumstances, including the severity of the conduct and its pervasiveness. Sexual harassment includes, but is not limited to:

- Suggestive or obscene letters, notes, all electronic messages, voice mail messages, invitations, derogatory comments, slurs, jokes, epithets, touching, impeding or blocking movement, leering, gestures, noises, pulling at clothes, display of sexually suggestive objects, pictures or cartoons, sexual assault, attempted sexual assault;
- Continuing to express sexual interest after learning of or being informed that the interest is unwelcome.
- Coercive sexual behavior used to control, influence, or affect the career, salary and/or work environment of another employee, such as threats of reprisal, implying or withholding support for an appointment, promotion, transfer, or change of assignment;
- Discussion of one's own sexual activities or inquiries into others' sexual experiences;
- Suggesting a poor performance evaluation will be prepared or that a probationary period of employment will not be completed successfully;
- The creation of an atmosphere of sexual harassment or intimidation, or a hostile or offensive working environment; and
- Inappropriate attention of a sexual nature.

Remedies Available to Address Sexual Harassment

Victims of sexual harassment may have a number of remedies available to them including, but not limited to: cease and desist orders, back pay, compensatory damages, hiring, promotion or reinstatement.

Personnel -- Certified/Non-Certified

Sexual and Other Unlawful Harassment

Relationships at the Workplace

Sexual or romantic relationships between employees and students are strictly prohibited whether or not they constitute sexual harassment as defined in this policy. In addition, those working for the school system, and especially those in position of authority, should be sensitive to the questions about mutuality of consent that may be raised, and to the conflicts of interest that may exist, in personal relationships with other school personnel.

Examples of Other Unlawful Harassment

Unwelcome speech or conduct of an offensive or hostile nature based on an individual's race, color, national origin, sex, age, disability, religion, sexual orientation, gender identity or expression, marital status, ancestry, genetic information or status as a veteran is also prohibited by this policy. Examples of such unlawful harassment include, but are not limited to, the following:

- Intimidation and implied or overt threats of physical violence or physical acts of aggression or assault upon another or damage to another's property that is motivated by race, color, national origin, sex, age, disability, religion, sexual orientation, gender identity or expression, marital status, ancestry, genetic information, status as a veteran or any other basis prohibited by local, state and federal law;
- Depending upon the circumstances and context, demeaning jokes, taunting, slurs, derogatory nicknames, innuendos or other negative or offensive remarks relating to an individual's race, color, national origin, sex, age, disability, religion, sexual orientation, gender identity or expression, marital status, ancestry, genetic information, status as a veteran or any other basis prohibited by local, state and federal law;
- Depending upon the circumstances and context, graffiti, slogans, or visual displays such as cartoons, graphics or posters depicting slurs or derogatory sentiments relating to an individual's race, color, national origin, sex, age, disability, religion, sexual orientation, gender identity or expression, marital status, ancestry, genetic information, status as a veteran or any other basis prohibited by local, state and federal law.

Complaint Procedure

All members of the school community are responsible for helping to assure that sexual and other unlawful harassment is avoided. Any person who has observed or otherwise becomes aware of the conduct prohibited by this policy should bring the matter to the immediate attention of the Title IX Coordinator. The District's Title IX Coordinator is:

Personnel -- Certified/Non-Certified

Sexual and Other Unlawful Harassment

~~Ellamae Baldelli~~ Catherine Gabianelli
Director of Human Resources
50 East Street
New Milford, CT 06776
860-210-2200

Supervisors and administrators who become aware of possible violations of this policy and fail to report them may be subject to discipline.

The Superintendent of Schools is authorized to develop and maintain regulations establishing a complaint procedure for reporting violations of this policy. Any person who feels he or she has been harassed or victimized in violation of this policy should process a complaint in accordance with the Complaint Procedure described in the accompanying regulations.

All complaints will be promptly investigated in as confidential a manner as practical and appropriate corrective action will be taken when warranted. Any employee, volunteer or other individual under the control of the school system who is determined after an investigation to have engaged in harassment in violation of this policy will be subject to discipline, including possible dismissal. He or she may also be personally liable in any legal action brought against him or her.

District employees and job applicants who feel that they have been the victim of sexual or other unlawful harassment may also file a complaint with the Connecticut Commission on Human Rights and Opportunities ("CHRO"). More information concerning the illegality of sexual harassment, remedies available to the victims of sexual information and CHRO complaint filing procedures is available online at:

https://www.ct.gov/chro/libichro/Sexual_Harassment_Flyer.pdf

Retaliation

Retaliation against an individual because she or he has reported harassment or has cooperated in an investigation of alleged harassment is a violation of Board policy and state and federal law. Such retaliation is a form of harassment and will be handled in the same manner as other forms of unlawful harassment.

Personnel -- Certified/Non-Certified

Sexual and Other Unlawful Harassment

Responsibilities of the Title IX Coordinator

The Title IX Coordinator is responsible for the following:

1. Ensuring that all complaints of unlawful harassment are investigated in a prompt and objective manner;
2. Ensuring the school district's compliance with various statutory record keeping, notice and training requirements in the area of harassment. This includes the requirement of posting in a prominent and accessible location information concerning the illegality of sexual harassment and remedies available to victims of sexual harassment;
3. Reviewing the Board's policy on harassment and these accompanying administrative regulations periodically for appropriate updating, and monitoring them on an on-going basis for effective implementation;
4. Ensuring that the Board's policy and administrative regulations are distributed to all employees annually;
5. Ensuring that the definition of "harassment" as well as the process by which any person may make a complaint of sexual, racial or other unlawful harassment is part of the orientation for all employees at the start of the school year and new employees during the school year;
6. Ensuring employees are aware of who is serving as Title IX Coordinator for personnel for the District and how he or she may be reached.

Sexual Harassment Training

All district employees must attend a two-hour, school-sponsored sexual harassment training program. Such training shall include, at minimum, a description of the state and federal laws prohibiting sexual harassment, the definition of sexual harassment, a discussion of the types of conduct that may constitute sexual harassment, a description of the remedies available in such cases, a discussion of strategies to prevent sexual harassment and the warning that individuals who commit acts of sexual harassment may be subject to civil and criminal penalties.

Personnel -- Certified/Non-Certified

Sexual and Other Unlawful Harassment

Such training shall be provided to all existing employees by ~~October 1, 2020~~ **February 9, 2021**, except that employees who received such training after October 1, 2018 shall not be required to attend such training a second time. Any new employee hired on or after October 1, 2019 shall receive such training not later than six months after his or her date of hire. All employees shall receive periodic supplemental training at least once every ten years after attending their initial sexual harassment training program.

Dissemination of Policy

A copy of this policy and its accompanying administrative regulation shall be emailed to all employees who have been assigned a New Milford Public Schools' email account and all employees who have not been assigned a New Milford Public Schools' email account but who have provided the District with a personal email account. Such email correspondence shall be sent by the District within three months of the employee's start date. A copy of this policy and its accompanying administrative regulation shall also be accessible via the District's website.

Legal References:

Connecticut General Statutes

10-153 Discrimination Based on Marital Status
46a-54(15) Commission powers
46a-60(a) Connecticut Fair Employment Practices Act
46a-81c Sexual Orientation Discrimination- Employment
~~Public Act 19-16 An Act Combatting Sexual Assault and Sexual Harassment~~
~~Public Act 19-93 An Act Concerning Sexual Harassment and Sexual Assault~~
R.S.C.A. 46a-54-200 through 46a-54-207

Connecticut Executive Orders:

Exec. Order No. 7DDD (June 29, 2020)
Exec. Order No. 9L (Nov. 9, 2020)

United States Code

20 U.S.C. 1681 Title DC of the Education Amendments of 1972
29 U.S.C. 623 Age Discrimination in Employment Act
29 U.S.C. 794 Section 504 of the Rehabilitation Act of 1973
42 U.S.C. 2000d and 2000e Titles VI and VII of the Civil Rights Act of 1964
42 U.S.C. 2000ff Genetic Information Nondiscrimination Act of 2008
42 U.S.C. 6101 Age Discrimination Act of 1975
42 U.S.C. 12101 Americans with Disabilities Act
29 C.F.R. 1604.11 EEOC Guidelines on Sexual Harassment

4118.112(h)
4218.112(h)

Personnel -- Certified/Non-Certified

Sexual and Other Unlawful Harassment

Policy adopted: December 9, 2003
Policy revised: November 7, 2005
Policy revised: June 14, 2011
Policy revised: October 11, 2011
Policy revised: May 12, 2015
Policy revised: February 27, 2018
Policy revised: October 15, 2019

NEW MILFORD PUBLIC SCHOOLS
New Milford, CT

ITEM OF INFORMATION REGULATION REVISION
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COMMENTARY: Change to Human Resources Director name.

4118.112(a)

4218.112(a)

Personnel – Certified/Non-Certified

Sexual and Other Unlawful Harassment

Complaint Procedures

It is the policy of the New Milford Board of Education to encourage victims of sexual, racial or harassment as defined by Board policy 4118.112/4218.112 to promptly report such complaints. Timely reporting of complaints facilitates the investigation and resolution of such complaints.

Any employee who feels that he/she has been harassed on the basis of sex, sexual orientation, gender identity or expression, race, color, religion, national origin, ancestry, marital status, age, disability, genetic information or any other basis prohibited by local, state and federal law should bring this/her complaint to the Principal, Assistant Principal or District Title IX Coordinator. The Principal or Assistant Principal will immediately inform the District Title IX Coordinator upon receipt of any such complaint, or the Superintendent if the District Title IX Coordinator is the subject of the complaint.

All complaints will be investigated promptly and corrective action will be taken when allegations are verified. Confidentiality will be maintained to the extent practical. Any reprisals or retaliations found to have occurred as a result of reporting sexual or other unlawful harassment may result in disciplinary action against the retaliator, up to and including discharge. All reports of conduct that violates this policy shall be reviewed regardless of whether the report has been made in writing.

The school district will provide staff development for new district administrators and other supervisors and will publish its policy and complaint procedure to employees in an effort to maintain an environment free of sexual and other unlawful harassment.

Responsibilities of Personnel

All Employees. Any staff member who feels that he or she is a victim of sexual, racial or other unlawful harassment is strongly urged to immediately report the incident to the Building Principal or Title IX Coordinator. If possible, the victim should consider firmly and immediately notifying the offender that his or her behavior is unwelcome and request that it stop. It is extremely important for victims to report any form of harassment to the Building Principal or Title IX Coordinator even if the offender has been told that his or her behavior is unwelcome and has been asked to stop the unwelcome conduct. If the Building Principal is the subject of the complaint, then the employee must make the complaint to the Title IX Coordinator. If the Title IX Coordinator is the subject of the complaint, then the employee must make the complaint to the Superintendent.

Personnel – Certified/Non-Certified

Sexual and Other Unlawful Harassment

Any employee, supervisor or administrator who has not been victimized but is aware of a possible violation of the Board's policy on sexual and other unlawful harassment should likewise report such information verbally or in writing. Administrators and supervisors who fail to report possible violations of this policy may be subject to discipline up to and including termination of employment.

Administrators. Any complaint or other communication from an applicant for employment, an employee, a visitor, a government agency, or an attorney concerning sexual and/or other harassment should be immediately shared with the District Title IX Coordinator, who has responsibility for the proper resolution of all reports and complaints. If notification to the District Title IX Coordinator is impractical or inappropriate under the circumstances, the Superintendent should be contacted. Any and all investigations should be conducted with the guidance of the District Title IX Coordinator or Superintendent of his or her designee.

Title IX Coordinator. The Title IX Coordinator shall be responsible for the investigation of all verbal and written complaints of alleged discrimination including unlawful harassment. The Title IX Coordinator shall ensure a prompt and equitable resolution of all complaints.

Notice of Board Policy and Administrative Regulation

A copy of the Board's sexual and other unlawful harassment policy and this accompanying administrative regulation, shall be emailed to all employees who have been assigned a New Milford Public Schools' email account and all employees who have not been assigned a New Milford Public Schools' email account but who have provided the District with a personal email account. Such email correspondence shall be sent by the District within three months of the employee's start date and shall bear the subject line "Sexual Harassment Policy."

Copies of the Board's sexual and other unlawful harassment policies and this accompanying administrative regulation shall also be accessible via the District's website.

Reporting a Complaint of Unlawful Harassment

Any applicant or employee who feels that he/she has been harassed on the basis of race, color, national origin, sex, age, disability, religion, sexual orientation, gender identity or expression, marital status, ancestry, or genetic information should immediately bring his/her complaint to the attention of one of the following school officials: Building Principal or district's Title IX Coordinator.

4118.112(c)
4218.112(c)

Personnel – Certified/Non-Certified

Sexual and Other Unlawful Harassment

The district's Title IX Coordinator is:

~~Ellamae Baldelli~~ Catherine Gabianelli
Director of Human Resources
50 East Street
New Milford, CT 06776
860-210-2200

Upon any notice from an employee that illegal harassment may be occurring, the school official taking the complaint should inform the employee of the school district's policy and regulations, including the school district's legal obligation to investigate every report even where the complainant is hesitate to pursue the complaint. If the complaint is not in writing, the administrator should encourage the employee to commit the complaint to writing and provide the employee a form that he or she may use for this purpose. The administrator may assist the employee in writing the complaint.

The written complaint should state the following (the form in Appendix A may be provided for the convenience of the complainant, but is not required):

1. name of the complainant;
2. date that the complaint was made;
3. name(s) of the alleged harasser(s);
4. date and place of the alleged harassment;
5. names of any witnesses, if any;
6. list of documentary evidence, if any;
7. statement of the facts supporting this complaint of harassment.

The school official should document the complaint even if the complainant refuses to commit the complaint to writing. In such instance, the school official should ask the complainant to review the complaint for accuracy and ask the complainant sign. If the complainant chooses not to sign, the school official should note so on the official's report of the complaint.

The administrator should advise the employee that confidentiality will be maintained to the extent possible and should advise participants in the investigation not to discuss the subject with others in the workplace. The administrator cannot make a blanket promise of complete confidentiality since information gained from the investigation may have to be disclosed to other school personnel or may be needed in subsequent government or court proceedings.

4118.112(d)
4218.112(d)

Personnel – Certified/Non-Certified

Sexual and Other Unlawful Harassment

The administrator should carefully document his or her knowledge of all communications and efforts concerning employee complaints, including any employee failure to take advantage of the opportunities provided by the school district's policy and procedure. Such documentation should be maintained in a separate investigative file.

The Building Principal shall immediately forward the complaint to the district's Title IX Coordinator without screening or investigating the report.

If the Title IX Coordinator is the subject of the complaint, the complaint should be submitted to the Superintendent, who shall investigate or appoint a designee to do so. If the Superintendent is the subject of the complaint, it shall be submitted to the Board of Education and the Board shall appoint the investigator.

Investigation of the Complaint

Investigator: The Title IX Coordinator is responsible for investigating or supervising the investigation of any complaints of unlawful harassment. The advice of legal counsel should be sought as necessary. The investigation may also be conducted by outside counsel or an outside investigator.

Interim measures: The investigator shall assess whether there is a necessity to take immediate interim measures to prevent further allegations of unlawful harassment or retaliation of any kind while the investigation is pending.

Investigation: The investigation shall be conducted with objectivity and completed in a timely manner. The investigator shall consult with all individuals believed to have relevant information including the complainant, the person(s) accused of the unlawful harassment, potential witnesses and other possible victims of the alleged harassment. The investigation shall be carried on discreetly, maintaining confidentiality insofar as possible while still conducting an effective and thorough investigation. Throughout the investigative process, the due process rights of the alleged harasser(s) shall be preserved. The investigator shall keep the complainant apprised of the status of the investigation on a periodic basis.

Documentation: The investigator should carefully document all aspects of the investigation. Documentation should be maintained in an investigative file. Documentation of disciplinary actions taken should be maintained in the employee's personnel file or the student's disciplinary file.

4118.112(e)
4218.112(e)

Personnel – Certified/Non-Certified

Sexual and Other Unlawful Harassment

Written Report: After an impartial and prompt investigation of the complaint, the investigator should ascertain (1) whether the alleged conduct occurred, and (2) whether such conduct constitutes a violation of the Board's policy. In determining whether there is a violation of the policy, the investigator should consider the surrounding circumstances, the nature of the behavior, past incidents or patterns of behavior, the relationships between the parties involved and context in which the incidents occurred. If there is a violation, the investigator should determine what remedial action is necessary to eradicate the harassment and prevent any recurrence of such conduct in the future. The investigator should commit the findings and recommendations to writing and forward the report to the Superintendent of Schools. Unless unusual circumstances exist, the written report shall be completed without delay. If the Superintendent is the subject of the investigation, the Board of Education shall receive the findings and recommendations.

Notification of Results of Investigation: The results of the investigation will be communicated to the parties involved in a manner consistent with state and federal laws regarding data and records privacy.

Request for Review: If the complainant is unsatisfied with the results of the investigation, he/she may request a review by the Superintendent of Schools within 10 school days of the notification of the results of the investigation. The Superintendent (or designee) shall review the investigator's written report and further investigation may be conducted if necessary. The complainant may present additional evidence or witnesses for the reviewer to consider. Absent unusual circumstances, the Superintendent shall promptly notify the complainant in writing of the results of his/her review.

Corrective Action: Corrective action means actions taken by an employer in response to an employee's claim of sexual harassment. Corrective action may include but is not limited to, employee relocation, assigning an employee to a different work schedule or other substantive changes to an employee's terms or conditions of employment.

If unlawful harassment in violation of Board policy is determined to have occurred, the school district will take prompt corrective action that is reasonably calculated to stop the harassment and prevent any recurrence of such behavior. As part of such remedial action, the offender may be subject to appropriate disciplinary action which may include, but is not limited to one or a combination of the following: counseling, awareness training, warning, reprimand, reassignment, transfer, suspension, termination or expulsion. School district action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and other school district policies.

4118.112(f)
4218.112(f)

Personnel – Certified/Non-Certified

Sexual and Other Unlawful Harassment

The District shall not take immediate corrective action that modifies the conditions of a complaining employee's employment unless such employee agrees, in writing, to any modification of the terms of employment, or the District determines that such corrective action is reasonable and not of detriment to the employee who has brought a complaint of sexual harassment.

Alternative Complaint Procedures

The Connecticut Commission of Human Rights and Opportunities (CHRO) investigates complaints of harassment based upon race, color, national origin, sex, age, disability, religion, sexual orientation, gender identity or expression, marital status, ancestry, or genetic information. CHRO may be contacted at 21 Grand Street, Hartford, CT 06106 (860-541-5737). More information concerning illegal harassment and remedies available to address illegal harassment is available at:

https://www.ct.gov/chro/lib/chro/Sexual_Harassment_Flyer.pdf

The U. S. Equal Employment Opportunity Commission (EEOC) investigates complaints of harassment based upon race, color, sex, religion, national origin, age, or disability. The EEOC may be contacted at John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203, 1-800-669-4000.

The EEOC applies a statute of limitation of one hundred and eighty (180) days to complaints of harassment. The CHRO applies statute of limitation periods of either one hundred and eighty (180) days or three hundred (300) days depending on when the alleged harassment occurred.

Regulation approved: December 9, 2003
Regulation revised: November 7, 2005
Regulation revised: June 14, 2011
Regulation revised: October 11, 2011
Regulation reviewed: February 24, 2015
Regulation revised: October 1, 2019

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut

ITEM OF INFORMATION REGULATION REVISION
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COMMENTARY: Change to Human Resources Director name.

5145.7(a)

Students

Procedures for Reports and Complaints of Sexual Harassment of Students

Sexual harassment is prohibited within the New Milford Public Schools. Examples of conduct that may be sexual harassment include, but are not limited to, the following:

1. Where submission to, or rejection of, the conduct by the individual is used as the basis of academic decisions affecting the individual.
2. Where a person is subjected to unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a District education program or activity.
3. Where submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding services, honors, programs, or activities available at or through the District.
4. Suggestive or obscene letters, notes, invitations, slurs, jokes, epithets, or gestures, derogatory comments, assault, touching, impeding or blocking movement, leering, display of sexually suggestive objects, pictures or cartoons.
5. Continuing to express sexual interest after being informed that the interest is unwelcome.
6. Coercive sexual behavior used to control, influence, or affect the educational opportunities, grades, and/or learning environment of students, including promises or threats regarding grades, course admission, performance evaluations, or recommendations; enhancement or limitation of student benefits or services (e.g. scholarships, financial aid, work study job).
7. Inappropriate attention of a sexual nature from peer(s), i.e. student to student, employee to employee.
8. Sexual assault, dating violence, domestic violence or stalking.

How to Report Sexual Harassment

Any person may report sexual harassment, whether or not the person reporting is a person who is alleged to be the victim of conduct that could constitute sexual harassment. Such report may be made in person, by mail, by telephone or by electronic mail to a school-based Title IX coordinator or his/her designee. Such reports may be made anonymously. Individuals who believe that they have been sexually harassed at a District education program or activity, or those who have knowledge of sexual harassment occurring at or during a District education program or activity should report the same to the school-based Title IX coordinator for the school at which the harassment is alleged to have occurred.

Students

Procedures for Reports and Complaints of Sexual Harassment of Students

School employees who receive reports of sexual harassment should immediately send the report to the school-based Title IX coordinator with a copy to the school principal.

Upon receipt of a report of sexual harassment, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the wishes of the complainant with regard to supportive measures, inform the complainant of the availability of supportive measures whether or not the complainant files a formal complaint, and explain to the complainant the process for filing a formal complaint.

Supportive measures may include, but are not limited to:

1. A change in class schedule;
2. Additional time to make up assignments/tests missed due to the alleged harassment;
3. Ability to withdraw from elective classes without penalty;
4. Separating the parties as much as possible during the school day;
5. Provision of support by the guidance counselor, school social worker or other designated individual;
6. Increased monitoring, supervision or security in locations or activities where the alleged misconduct occurred; and
7. Other similar measures.

Supportive measures provided must be kept confidential unless disclosure is necessary for the supportive measure's effectiveness.

The Title IX Coordinator must document that they have taken measures designed to restore or preserve equal access to the District's education program or activity and such documentation should address why the response was not deliberately indifferent. The Title IX Coordinator must document all supportive measures offered to and/or provided to the complainant. If the Title IX Coordinator does not provide supportive measures to a complainant, the Title IX Coordinator must document why such a response was not clearly unreasonable in light of the known circumstances.

A report of sexual harassment or sex discrimination is not a request for a formal Title IX complaint investigation. A complainant who wants a formal complaint investigation must file a formal written complaint with the District-wide Title IX Coordinator as outlined in the formal grievance procedure below.

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Formal Grievance Procedure

The formal grievance procedure is designed to provide for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Title IX and its implementing regulations. The grievance procedure applies only to claims of sex discrimination occurring in the District's education programs or activities. The formal grievance procedure is only initiated if the complainant or the complainant's parent/guardian signs a formal complaint or the Districtwide Title IX Coordinator signs a formal complaint alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment.

The Title IX Coordinator, investigator, decision-maker and any person designated to facilitate an informal resolution process will recuse themselves if they have a conflict of interest or a bias for or against complainants or respondents generally or to an individual complainant or respondent.

There is a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. "Responsible for the alleged conduct" is determined by the preponderance of the evidence standard whereby the respondent is responsible for the conduct if there is more than a 50% chance that they engaged in the alleged conduct.

The grievance process will be completed within a reasonable time frame. Although each complaint is different, a reasonable time frame generally means that the grievance process will be completed within sixty (60) days of when the formal complaint is filed. Time frames may be extended for good cause. Both the complainant and respondent should be informed in writing of any extension of the time frame and the reason for the extension. Good cause may include, but is not limited to, the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity or Department of Child and Family investigation; or the need for language assistance or accommodation of disabilities.

If a respondent is found to be responsible for the alleged conduct and the alleged conduct is found to be a violation to Title IX, the respondent may be subject to discipline up to and including expulsion from school. If the respondent is found to be responsible for the alleged conduct and it is determined that the conduct does not violate Title IX as set forth in the regulations implementing Title IX but the conduct violates another Board policy or school rule, the respondent also may be subject to discipline up to and including expulsion from school if the respondent is a student or termination of employment if the respondent is an employee.

1. A written formal complaint should include:
 - a. The name of the complainant,

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- b. The date of the complaint,
 - c. The date of the alleged harassment,
 - d. The name or names of the harasser or harassers (if known),
 - e. Identification of the location where such harassment occurred,
 - f. A detailed statement of the circumstances constituting the alleged harassment.
2. Upon receipt of a formal complaint, the Title IX Coordinator must provide the following written notice to the parties who are known:
 - a. Notice of the District's grievance process including any informal resolution processes that are available.
 - b. Notice of the allegations of sexual harassment including sufficient details known at the time including the identifies of the parties involved in the incident (if known), the conduct allegedly constituting sexual harassment in violation of Title IX, and the date and location of the alleged incident (if known).
 - c. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process.
 - d. A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
 - e. A statement that each party will have the opportunity to inspect and review evidence provided.
 - f. A statement that parties who knowingly make false statements or knowingly submit false information during the grievance process may be disciplined.
3. If, during the course of the investigation, the investigator decides to investigate allegations not included in the original notice, the investigator will provide notice of the additional allegations to the parties whose identities are known.
4. Risk Assessment: Upon receipt of a formal Title IX written complaint, the Districtwide Title IX Coordinator and/or designee will undertake an individualized safety and risk analysis. If the Districtwide Title IX Coordinator and/or their designee determines that there is an immediate threat to the physical health or safety of any student or other individual arising from the

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allegations of sexual harassment that justifies removal of the respondent from the school setting, the Title IX Coordinator and/or their designee, in conjunction with the School Principal, if the respondent is a student, or the Director of Human Resources, if the respondent is an employee, will immediately remove the respondent from the school setting. If the respondent is a student, any decision to suspend or expel the student will follow the District's normal suspension/expulsion process. If the respondent is an employee, the District will follow its normal exclusionary proceedings for employees, including but not limited to placement on administrative leave.

5. The Title IX Coordinator will evaluate whether a report must be made to the Connecticut Department of Children and Families.
6. The District may consolidate two or more formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances.
- 7a. Mandatory Dismissal of Formal Complaint: If, during the course of the investigation, it is determined that the respondent's conduct, even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, pursuant to the Title IX Regulations, the District is required to dismiss the formal complaint with regard to that conduct. Such dismissal must be approved by the Superintendent and/or designee. Such a dismissal does not preclude discipline under another provision of the District's Code of Conduct or another District policy including but not limited to Board Policies 4118.112/4218.112 (Sexual and Other Unlawful Harassment – Personnel) and 5145.5 (Sexual and Other Unlawful Harassment of Students).
- 7b. Permissive Dismissal of Formal Complaint: The District may dismiss the formal complaint or specific allegations therein, if (a) any time during the investigation or decision-making process, the complainant notifies the Districtwide Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, (b) the respondent is no longer enrolled or employed by the District, or (c) specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. Such dismissal must be approved by the Superintendent and/or designee. Such a dismissal does not preclude discipline under another provision of the District's Code of Conduct or another District policy including but not limited to Board Policies 4118.112/4218.112 (Sexual and Other Unlawful Harassment – Personnel) and 5145.5 (Sexual and Other Unlawful Harassment of Students).
8. Upon mandatory or permissive dismissal, the District must promptly send simultaneous written notice of the dismissal to all parties.

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9. The exercise of rights protected under the First Amendment does not constitute sexual harassment under Title IX.

Formal Investigation Process:

1. The investigator must be free from bias and conflicts of interest and trained to serve impartially.
2. The investigator must ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District, not the parties.
3. The investigator and decision makers cannot access, consider, disclose or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment of the party, unless the investigator or decision maker obtains that party's parent's/guardian's voluntary, written consent to do so (or the written consent of the party if the party is over the age of eighteen).
4. The investigator will provide an equal opportunity for all parties to present witnesses, including fact and expert witnesses, and other evidence.
5. No party will be prohibited from discussing the allegations under investigation or gathering and presenting relevant evidence.
6. Each party may be accompanied to any meeting or proceeding by an advisor of their choosing. The advisor, however, is merely there to provide advice to the party and may not actively participate in the meeting or proceeding. The advisor will not be allowed to ask or answer questions during the meeting or proceeding.
7. Each party will be given written notice of the date, time, location, participants and purpose of all hearings, investigative interview or other meetings to which the party is invited, at least two days in advance in order to provide the party sufficient time to prepare to participate.
8. To the extent the documents and information are not protected from disclosure by the Family Educational Rights and Privacy Act (FERPA), the Americans with Disabilities Act, the Individuals with Disabilities in Education Act or any other federal law, both parties will be given an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation

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9. Prior to completing the investigative report, the investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will be given a minimum of ten (10) calendar days to submit a written response to that information. The investigator must consider any written response prior to completing the investigative report.
10. After completing the investigation, the investigator must create an investigative report that fairly summarizes the relevant evidence and, at least ten (10) days before the decision maker makes a determination of responsibility, send a copy of the investigation report to each party and the party's advisor, if any, in an electronic format or hard copy, for their review and written response.
11. Credibility determinations may not be based on a person's status as a complainant, respondent or witness.
12. The investigative report must include the following:
 - a. The identity of the parties;
 - b. The conduct potentially constituting sexual harassment;
 - c. A list of the evidence reviewed; and
 - d. Findings of fact.

The Formal Decision-Making Process The Decision maker will be the Superintendent of Schools.

1. The Decision-maker be the same person as the Title IX Coordinator or the investigator.
2. Before making a decision, the decision-maker must give each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness. After posing the relevant questions to the party or witness, the decision-maker must provide each party with the answers and allow for additional, limited follow-up questions from each party.
3. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant unless offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's sexual behavior with respect to the respondent and are offered to prove consent.
4. The Decision maker may not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privileged has waived the privilege.

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5. If the Decision maker chooses to exclude any requested questions, the decision-maker should explain to the party proposing the questions the decision to exclude a question as not relevant. To the extent that explanation is given verbally, the Decision maker should document the decision in writing.
6. The Decision maker must make a determination regarding whether the respondent is responsible for sexual harassment in violation of Title IX. To reach the determination, the Decision maker must use the preponderance of the evidence standard. This standard is met if there is more than a fifty percent (50%) chance that the respondent is responsible for sexual harassment in violation of Title IX.
7. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
8. The Decision maker must issue a written determination that includes:
 - a. Identification of the allegations potentially constituting sexual harassment;
 - b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence and hearings held;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of the District's code of conduct to the facts;
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility. The formal report also must include any disciplinary sanctions the District imposes on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant. To the extent that the District does not have permission from the relevant party to reveal the discipline, remedies provided, or other information protected by FERPA, the IDEA, the ADA or other federal law, such portion of the report must be redacted before providing it to the other party.
 - f. The District's appeal procedures and permissible bases for the complainant and respondent to appeal the decision.
9. The written decision must be provided to both parties simultaneously.

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10. The decision is not considered final until after the date the District provides a written determination of any appeal or the deadline for appeal passes.
11. To the extent that the Decision maker determines that the conduct in question meets the District's criteria for expulsion, the provisions of C.G.S. §10-233d and Board policy must be followed prior to the institution of an expulsion.
12. The Title IX coordinator is responsible for effective implementation of any remedies.
13. Conduct that is not found to rise to the level of a Title IX violation may still constitute prohibited discrimination on the basis of sex or another protected category as defined in federal, state or local law, Board policy or the school's code of conduct. A finding of no responsibility under Title IX does not prohibit the District from investigating and determining that the respondent's conduct violated another provision of Board policy and/or the student code of conduct including but not limited to Board Policies 4118.112/4218.112 (Sexual and Other Unlawful Harassment – Personnel) and 5145.5 (Sexual and Other Unlawful Harassment of Students).

The Formal Appeal Process The Board of Education Student and Personnel Hearing Committee will make the final appeal decision.

Both parties have a right to appeal the determination of responsibility and/or the District's decision to dismiss the formal complaint or any allegations thereon. Appeals are only available on the following bases:

1. Procedural irregularities that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, and that could affect the outcome of the matter; and/or
3. The Title IX Coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The appeal Decision maker will not be the same individual as the original Decision maker, the investigator and/or the Title IX Coordinator.

If an appeal is received, the appeal Decision maker will notify the other party in writing.

Before issuing his/her decision, the Decision maker must give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

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The Decision maker must provide his/her/their written decision simultaneously to both parties. The written decision must describe the results of the appeal and the rationale for the result.

Informal Resolution Process

After a formal complaint has been filed, the parties may voluntarily agree to participate in the District's informal resolution process. The parties may not be required to participate in the informal resolution process as a condition of continued enrollment or employment or the enjoyment of any right to an investigation and/or adjudication of the formal complaint of sexual harassment.

Prior to participating in any informal resolution process, the parties will be provided with written notice disclosing the following:

1. The allegations;
2. The circumstances under which the informal resolution process would preclude the parties from resuming a formal complaint arising from the same allegations;
3. The right of any party to withdraw from the informal resolution process at any time prior to the parties agreeing to a resolution and to require the resumption of the formal complaint process after such withdrawal; and
4. The consequences resulting from participating in the informal resolution process, including whether records will be maintained or could be shared.

Each party must give written consent to engage in the informal resolution process. Such consent may be withdrawn at any time.

The informal resolution process may not be used to resolve allegations that an employee sexually harassed a student.

The District provides the following types of informal resolution processes:

1. Mediation,
2. An agreement to truncate the steps of the grievance procedure where the parties agree to some or all of the facts.

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Recordkeeping

The District must maintain the following records for a minimum of seven years from the end of the grievance process:

1. The records of each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

The District must maintain for a minimum of seven years all materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The District will make such training materials publicly available on its website.

Prohibition on Retaliation

Retaliation against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding a claimed Title IX violation is prohibited. Retaliation shall include intimidation, threats, coercion or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment if the purpose is to interfere with any right or privilege secured by Title IX.

Complaints of retaliation must be filed through the formal complaint process.

The exercise of rights protected under the First Amendment does not constitute prohibited retaliation.

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Confidentiality

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by FERPA or as required

by law, or to carry out the purposes of 34 C.F.R. part 106, including the conduct of any investigation, hearing or other proceedings arising thereunder.

Materially False Statements

A complainant, respondent or witness who is found to have made a materially false statement in bad faith during the grievance process shall be subject to discipline up to and including expulsion from school. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation. A determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Title IX Coordinator

The Title IX Coordinator(s) for the New Milford Board of Education are:

STUDENTS:

Ms. Alisha DiCorpo
Assistant Superintendent
50 East Street
New Milford, CT 06776
Phone number: 860-354-3235
dicorpoa@newmilfordps.org

STAFF:

~~Ellamae Baldelli~~ Catherine Gabianelli
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Publication

A copy of this regulation must be provided to all students, parents or legal guardians of elementary and secondary school students, employees, and all unions holding collective bargaining agreements with the District.

Students**Procedures for Reports and Complaints of Sexual Harassment of Students****Training**

All Title IX coordinators, investigators, decision-makers and any person who facilitates an informal resolution process, will receive training on the definition of sexual harassment in 34 C.F.R. §106.30, the scope of the District's education program or activity, how to conduct an investigation and grievance process including hearings, appeals and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision makers will receive training on issues of relevance of questions and evidence, including when questions and evidence about a complainant's sexual predisposition or prior sexual behaviors are not relevant. Investigators will receive training on issues of relevance to create an investigation report that fairly summarizes relevant evidence.

Legal Reference: 20 U.S.C. § 1681 Title IX of the Education Amendments of 1972
34 CFR Section 106 Regulations implementing Title IX
Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)

Regulation adopted: August 18, 2020

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut