



MALDEN PUBLIC SCHOOLS
Malden, Massachusetts

CIVIL RIGHTS STAFF HANDBOOK

Dear Staff, Parents and Students,

The Malden Public Schools wants to ensure the safety of all members of our school community. With that goal in mind, we are providing this handbook as one strategy to increase awareness and understanding of our many civil rights that are protected by State and Federal laws. Below is a summary of the laws referred to in this handbook: The Civil Rights Handbook also outlines policies and procedures that are designed to help ensure that the laws are honored, and outlines steps for one to take if one thinks rights have been violated.

Carol Keenan, Assistant Superintendent, is the district administrator for each of the statutes below:

- **Title I of the Americans with Disabilities Act of 1990:** Prohibits discrimination, exclusion from participation, and denial of benefits on the basis of disability in the areas of employment.
- **Title II of the Americans with Disability Act of 1990:** Prohibits discrimination, exclusion from participation, and denial of benefits on the basis of disability in the areas of educational programming.
- **Title IX of the Educational Amendments of 1972:** Prohibits discrimination, exclusion from participation, and denial of benefits in educational programs and activities on the basis of sex.
- **Title VI of the Civil Rights Act of 1964:** Prohibits discrimination, exclusion from participation, and denial of benefits in programs and activities based on race, color and/or national origin.
- **Section 504 of the Rehabilitation Act of 1973:** Prohibits discrimination, exclusion from participation, and denial of benefits based on disability.
- **MGL, CH.76, Section 5 of the Massachusetts General Laws:** Prohibits discrimination in all public schools on the basis of race, color, sex, national origin, religion, and sexual orientation.
- **McKinney-Vento Homeless Assistance Act:** this federal grant is to facilitate the enrollment attendance, supplement enrichment activities, support professional development and support the well being of homeless children and youth in school. The Malden Public Schools shall ensure that each child of a homeless individual and each homeless youth has equal access to a free, appropriate public education, including a public preschool education.

As an educational institution, the Malden Public School district is committed to creating and maintaining schools that prevent discrimination of all types at the same time as they ensure the health and safety of all who work and learn there. This Civil Rights Handbook, as required by law, is part of our student and faculty handbooks. Please take time to review this material in depth.

Sincerely,

Dr. Charles A. Grandson IV
Superintendent

CIVIL RIGHTS AND SAFETY

Mandated Reading and Training Documents

POLICY AND PROCEDURES

1) **Statement of Policy**

It is the policy of the Malden Public Schools to provide a safe and secure learning environment for all the school community without distinction based on race, religion, ethnicity, disability, gender, or sexual orientation. Discrimination, sexual and bias-motivated harassment, and violations of civil rights disrupt the educational process and will not be tolerated.

It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel to engage in sexual or bias-related harassment (referred to as “wrongful harassment”) or violate the civil rights of any pupil, teacher, administrator, or other school personnel. Conduct amounting to hate crime is a particularly serious infraction that will result in referral to law enforcement agencies.

The School will act to investigate all complaints, either formal or informal, verbal or written, of sexual or bias-related harassment or violations of civil rights and to take appropriate action against any pupil, teacher, administrator, or other school personnel who is found to have violated this policy.

2) **Commitment to Prevention**

This institution is committed to prevention, remediation, and accurate reporting of bias incidents and civil rights violations, to the end that all students can enjoy the advantages of a safe and tolerant learning environment where individual differences are respected. The school undertakes to engage in activities and programming such as training of all school personnel, intended to foster respect for diversity, civil rights, and non-violence in school settings.

3) **Zero Tolerance for Known Civil Rights Violations: Required Reporting and Intervention to Stop Harassment**

- a) School employees must intervene in ongoing civil rights violations and episodes of wrongful harassment whenever witnessed or reported; to the extent intervention can be done safely. School employees must report a civil rights violation or episode of wrongful harassment to the school civil rights administrator. Designated administrators must intervene in ongoing matters of civil rights violations and episodes of wrongful harassment, summoning assistance as necessary.
- b) The primary objective of school intervention in a civil rights matter is to put a swift end to, and prevent any recurrence of, any wrongful conduct, so as to ensure the safety of the school community and a school environment free of wrongful harassment and civil rights

violations. Intervention should be undertaken immediately, as needed on a short-term basis, and more comprehensively once a civil rights violation has been found to have occurred. The school will take all necessary steps within its authority to implement the objective of stopping continuing civil rights violations and wrongful harassment, and restoring and preserving an environment free of such conduct.

- c) Effective, and if need be escalating, measures should be used to definitively stop harassment and violence. School officials should immediately consider and use regular administrative actions to defuse a civil rights situation wherever possible: separating victim or complainant and offender, ordering the offender to stay away from the victim, or assigning additional security. Relevant school disciplinary hearings should begin and proceed on an expedited basis where there is a threat of ongoing interference with civil rights. Disciplinary action appropriate to the offender's conduct should be taken when a violation is found. Potential criminal conduct should be reported to law enforcement, and legal remedies pursued as necessary to protect civil rights.

4) Designation of Civil Rights Administrators

The principal of each school in the Malden Public Schools will designate at least one employee whose responsibility it will be to respond to matters of civil rights that arise in the school setting. The designee shall be given a title and prominently identified as available to receive reports and complaints of civil rights violations from students, faculty, or staff. The designee will receive specialized civil rights training and take responsibility for upholding school civil rights and safety policies. The designee will also serve as a liaison with law enforcement agencies, and assist the principal and superintendent in making referrals of possible criminal matters to law enforcement.

5) Identification of Prohibited Conduct

a) Definitions:

- i) **BIAS INCIDENT** means any act, including conduct or speech, directed at or which occurs to a person or property because of actual or perceived race, religion, ethnicity, disability, gender, or sexual orientation. A bias incident may or may not be a criminal act.
- ii) **BIAS INDICATORS** are objective facts and circumstances, which suggest that an action was motivated in whole or in part by a particular type of bias.
- iii) **BIAS MOTIVES** recognized at Massachusetts law as causing hate crimes include prejudice based on race, religion, ethnicity, disability, gender, and sexual orientation.
- iv) **CIVIL RIGHTS VIOLATIONS** involve interfering by threats, intimidation, or coercion, with someone's enjoyment of constitutional or statutory rights. Rights protected against interference include non-discrimination in access to advantages and privileges of a public school education. The term "civil rights violation" also covers bias-related and sexual harassment and bias crimes, so the term is applied generically to any civil or criminal law infractions.
- v) **DISCRIMINATION** consists of actions taken against another(s), which treat them

unequally because of race, religion, national origin, disability, sexual orientation, or gender bias.

- vi) **HARASSMENT** consists of unwelcome verbal, written or physical conduct targeting specific person(s), which is sufficiently severe, persistent, or pervasive to create an intimidating, hostile, humiliating, or offensive school environment, or substantially interfere with the progress of a student's education or the employee's working environment.
 - (1) **BIAS-RELATED HARASSMENT** will present bias indicators, most commonly epithets: name-calling derogatory to a particular racial, religious, or sexual orientation group;
 - (2) **SEXUAL HARASSMENT** covers instances of physical or verbal conduct of a sexual nature, not limited to but including sexual advances, which foster a hostile educational environment for the victim.
- vii) **HATE CRIMES** include any criminal acts to which recognized types of bias motives are an evident contributing factor. Criminal bias-motivated conduct entails, at a minimum, threats. Criminal conduct includes acts putting someone in fear of immediate physical harm (assaults), and actual physical violence (assault and battery), and grows most serious if a victim suffers any bodily injury. Repeated threatening or menacing actions like following someone can amount to the crime of stalking.
- viii) **HOSTILE ENVIRONMENT** exists when any member of the school community has been or is subjected to threats, intimidation, or coercion by another (or others) or is reasonably in fear for his or her safety. Whether a school environment has become hostile must be evaluated based on the totality of the circumstances. Repeated instances of bias-related and sexual harassment create a hostile environment for the victim. A single act of harassment can also create a hostile or intimidating environment if sufficiently severe. A hostile environment does not necessarily entail that a student exhibits quantifiable harm, such as a drop in grades.
- ix) **STALKING**, a felony, consists of intentional conduct involving 1) 2 or more acts directed at a specific person, 2) which would cause an average person substantial distress, 3) where the perpetrator has made threats causing the targeted person fear of death or injury.

b) Common Bias Indicators:

- i) Bias-related oral comments or epithets
- ii) Bias-related markings, drawings, or graffiti
- iii) Use of bias-related symbols
- iv) No clear economic motive for an assault and battery
- v) Crime involving disproportionate cruelty or brutality
- vi) Offender history of crimes with similar m.o. and victims of the same group

See G.L. 22C, Sec. 33; 501 CMR 4.04(1) (the Hate Crimes Reporting Act, Classification Criteria).

c) Examples of Civil Rights Violations and Bias Incidents:

- i) Unwelcome verbal, written, or physical conduct directed at the characteristics of a person's race or color, such as nicknames emphasizing stereotypes, racial slurs, comments on manner of speaking, and negative references to racial customs (racial and color harassment)
- ii) Unwelcome verbal, written, or physical conduct, directed at the characteristics of a person's religion, such as derogatory comments regarding surnames, religious tradition, or religious clothing, or religious slurs, or graffiti. (religious harassment)
- iii) Conduct directed at the characteristics of a person's national origin, such as negative comments regarding surnames, manner of speaking, customs, language, or ethnic slurs (national origin harassment).
- iv) Conduct directed at the characteristics of a person's sexual orientation—actual, perceived, or asserted—such as negative name calling and imitating mannerisms (sexual orientation harassment).
- v) Conduct directed at the characteristics of a person's disabling condition, such as imitating manner of speech or movement, or interference with necessary equipment (disability harassment).
- vi) Physical conduct putting someone in fear of imminent harm, coupled with name-calling of a bigoted nature (crime of assault)
- vii) Repeated, purposeful following of someone, coupled with evident bias against the victim's actual or perceived group status (civil rights violation or crime of stalking)
- viii) Painting swastikas on walls or other public or private property (crime of vandalism)
- ix) Hitting someone because of their actual or perceived group status (crime of battery)

d) Scope of Policy and Procedures:

These apply to bias crimes, civil rights violations, bias incidents, and bias-related harassment occurring on school premises or property, or in the course of school-sponsored activities, including those outside of school if there is a detrimental effect on the school or educational climate.

6) Procedures for Responding to and Investigating Incidents

- a) Whenever a staff person witnesses, or some third party reports, a possible civil rights violation, the school's designated civil rights administrator must be notified. The school's civil rights designee, in conjunction with school safety personnel and the principal's office, should immediately begin an investigation. In an emergency, 911 must be called.

- b) Any member of the school community coming forward to report a civil rights violation s/he has experienced should be directed to the school's designated civil rights administrator, after any emergency needs are attended. Consideration should be given to whether any immediate or interim steps are necessary to ensure the safety of and avert retaliation against the complainant.
- c) The investigation must determine whether a civil rights violation has in fact occurred. An immediate aim of the investigation should be preservation and gathering of evidence from the scene of an incident. Bias-related graffiti should be photographed then removed. The investigator should seek to interview all victims and witnesses at the scene, or as soon thereafter as possible, then interview others who may have relevant knowledge as well. The investigation may also consist of any other methods and documents deemed relevant and useful.
- d) All the circumstances as found should be carefully evaluated for the presence of bias indicators that would characterize the matter as a civil rights violation. The investigation should make a finding as to whether civil rights infraction in violation of this policy has occurred based on the definitions of wrongful conduct supplied at Section 6.

7) Consequences for Civil Rights Violations and Failures to Act as Required

a) Non-disciplinary corrective actions:

Potential civil rights violations can be addressed with steps that are not punitive in character, without the necessity of disciplinary proceedings. These steps generally lie within the ordinary discretion of principals and school officials. Examples of non-disciplinary actions that may be appropriate in some instances include counseling, assignment to participate in a diversity awareness training program, separating offender and victim, parent conferences, and special work assignments such as a composition on a civil rights-related subject.

b) Disciplinary Proceedings

Violations of the civil rights of any member of the school community which are found to have occurred after a hearing warrant the imposition of sanctions up to and including suspension and expulsion (for students), and suspension or termination (for employees). Disciplinary actions will be taken toward the goals of eliminating the offending conduct, preventing reoccurrence, and reestablishing a school environment conducive for the victim to learn. The school may consider completion of a youth diversion program as a sanction for student violators, standing alone or in conjunction with other disciplinary actions, for violations of civil rights.

c) Failure to Act by Administrators and Teachers

Upon completion of policy dissemination, administrators and teachers have a duty to act to stop witnessed sexual or bias harassment and hate crimes, as safely as can be done and report occurrences to the civil rights administrators and sometimes the police. A clear failure to act as this policy would direct should in the first instance entail that the

individual undergo further training in hate crimes, diversity issues, and the requirements of school policy. The school **administration will develop further** sanctions and actions to address repeated instances of a failure to act in accordance with this policy.

8) Student Complaints and Grievances

The School Committee recognizes that there may be conditions in the school system that are in need of improvement and that students should have some means by which their concerns may be effectively expressed, considered, and dealt with fairly. Such means, if well conceived and understood in advance, can do much to maintain harmonious relationships among the schools and the students and community.

The traditional “open door” policy in the public school system will be continued. Students—and their parents and/or guardians—, who believe that the students have received unfair treatment in the form of disciplinary action, will have the right to appeal. School officials in conducting hearings and reviews of student grievances will follow any applicable provisions of the Massachusetts General Laws or federal law. In general, appeals procedures will begin with the authority imposing the penalty (for example, Principal or teacher) and may ultimately be referred to the Superintendent and on to the School Committee, which possesses the ultimate authority for discipline in the school system.

Every attempt will be made to seek a satisfactory solution to any legitimate grievance in a friendly and informal manner. In order to keep such discussions within a practical size, no more than six student representatives will be permitted to participate with the Principal, staff members, or School Committee members who may be involved.

Legal Reference: M.G.L. 76:17

Note: More detailed procedures can be referenced in the Civil Rights and Safety: Policy and Procedures Manual.

9) Staff Complaints and Grievances

The School Committee will encourage the administration to develop effective means of resolving differences that may arise among employees and between employees and administrators; reduce potential areas of grievances; and establish and maintain recognized channels of communication between the staff, administration, and School Committee

It is the Committee’s desire that grievance procedures provide for prompt and equitable adjustment of differences at the lowest possible administrative level, and that each employee be assured opportunity for an orderly presentation and review of complaints and concerns.

Channels established will provide for the following:

1. Those teachers and other school employees may appeal a ruling of a principal or other administrator to the Superintendent.
2. That all school employees may appeal a ruling of the Superintendent to the Committee, except in those areas where the law has specifically assigned authority to the Principal and/or Superintendent and Committee action would be in conflict with that law.
3. That all hearings of complaints before the Superintendent or Committee be conducted in the presence of the administrator who made the ruling that is the subject of the grievance.

The process established for the resolution of grievances in contracts negotiated with recognized employee bargaining units will apply only to “grievances” as identified in the particular contract.

LEGAL REFS.: M.G.L. 150E: 5 & 8
CONTRACTS REFS.: All Contracts Agreements

10) Commitment to Non-Retaliation

To secure the unimpeded reporting of bias activity called for in this policy, the Malden Public Schools will deal seriously with any and all threats or acts of retaliation for the good faith filing of a complaint. Actual or threatened retaliation for the reporting of a civil rights matter constitutes a separate and additional disciplinary infraction warranting corrective actions. If conduct amounts to stalking, a mandatory referral to law enforcement will be made. Staff will monitor the situations of victims/complainants carefully to ensure that no threats or acts of reprisal are made. Appropriate and immediate non-disciplinary administrative actions to mitigate possible or actual retaliation may also be taken to the extent administrators have discretion to act.

11) Referral to Law Enforcement

Whenever a school employee has reason to believe that a potential hate crime has been, or is about to be committed, s/he should notify the school civil rights designee and, especially in an emergency, the local police. The civil rights designee has chief responsibility for notifying the police of potential hate crimes in non-emergency situations; the referral is mandatory whenever a probable hate crime is at issue.

12) Documentation Requirements

a) Recordkeeping

The designated civil rights administrator will be responsible for keeping records of all civil rights violations and hate crimes reported for the school. These records shall be grouped according to school year and grade. In addition to recording the particulars of the incident itself, the system should record the actions taken in response and the results of the investigation and intervention. The civil rights administrator shall keep this information gathered at a central place such as a school civil rights office.

b) Monitoring and Tracking to Identify Patterns

Records should be maintained so as to permit administrators to detect patterns in civil rights violations, repeat offenders, and problem locations. Responsive action should be tailored based on the pattern information that records reveal.

13) Dissemination of Policy and Training

- a) Related policies shall be conspicuously posted throughout each school building in areas accessible to pupils and staff members.

- b) Related policies shall appear in the faculty and student handbook.
- c) The School District will provide instruction in the provisions of this policy to teachers, other employees, and students.
- d) This policy shall be reviewed at least annually for compliance with state and federal law.

14) Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with a disability in any program receiving federal financial assistance. In order to fulfill obligations under Section 504, the MPS has the responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability should knowingly be permitted in any of the programs and practices of the school system.

The MPS has the responsibility under Section 504 to identify, evaluate, and if the student is determined to be eligible under Section 504, to afford access to appropriate educational services.

If a parent or guardian disagrees with the determination made by the professional staff of the school district he/she has the right to a hearing with an impartial officer.

15) FERPA: The Family Educational Rights and Privacy Act

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html?exp=8>
Family Policy Compliance Office (FPCO) Home

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.

Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

School officials with legitimate educational interest; Other schools to which a student is

transferring; Specified officials for audit or evaluation purposes;
Appropriate parties in connection with financial aid to a student;
Organizations conducting certain studies for or on behalf of the school;
Accrediting organizations;
To comply with a judicial order or lawfully issued subpoena; Appropriate officials in cases of health and safety emergencies; and State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information or technical assistance, you may call (202) 260-3887 (voice). Individuals who use TDD may call the Federal Information Relay Service at 1-800-877-8339. Or you may contact us at the following address: Family Policy Compliance Office
U.S. Department of Education 400 Maryland Avenue, SW Washington, D.C. 20202-5920

16) American with Disabilities Act (ADA)

The MPS is committed to compliance with the Americans with Disabilities Act (ADA) intending to ensure that individuals with disabilities whether they are employed, apply for a position, or visit facilities within the schools are treated fairly and given an equal opportunity to access facilities, programs, activities, and employment. It is unlawful for the MPS to discriminate based on disability against a qualified individual with a disability in regard to:

- b) recruitment, advertising, job application, and employment procedures;
- c) hiring, upgrading, promotion, award of tenure, demotion, transfer, lay off, termination, right of rerun from layoff, and rehiring;
- d) rates of pay or any other form of compensation and changes in compensation;
- e) job assignment, job classifications; organizational structures, position, descriptions, lines of progression, and seniority lists;
- f) leaves of absence, sick leave, or any other leave;
- g) fringe benefits available by virtue of employment, whether or not administered by the covered entity;

- h) selection and financial support for training including apprenticeships, professional meetings, conferences, and other related activities and selection of or leaves of absence to pursue training;
- i) activities sponsored by a covered entity including social and recreational programs'
- j) any other term, condition, or privilege of employment.

The MPS will not isolate individuals with disabilities, discriminate based on disabilities through contracts, avoid using qualifications standards, criteria, methods of administration, or tests that discriminate against individuals with disabilities and will avoid not making reasonable accommodations to an otherwise qualified individual with a disability.

The ADA requires that the district focus on the ability not the disability of the individual. The MPS will consider reasonable accommodations providing the individual can perform essential functions of the position. It is not required, however, to give preferential treatment to individuals with disabilities or lower the expected standards of performance.

The MPS are committed to meeting the intent and spirit of ADA. All employees are urged to help meet these goals. If anyone believes that the MPS has discriminated against him/her or someone else on the basis of disability. Or if any one has questions or concerns about the school system's responsibilities in this regards, please contact the Section 504 ADA Coordinators thorough the Superintendent's office.

17. Homeless Students - Enrollment Rights & Services

The McKinney-Vento Homeless Assistance Act

Reauthorized January 2002

Subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) is amended to read as follows:

Subtitle B-----Education for Homeless Children and Youths

SEC. 721. STATEMENT OF POLICY

The following is the policy of the Congress:

- (1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.
- (2) In any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youths, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.

- (3) Homelessness alone is not sufficient reason to separate students from the mainstream school environment.
- (4) Homeless children and youths should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTHS

(a) **GENERAL AUTHORITY-** The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d) through (g).

(b) **APPLICATION-** No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) **ALLOCATION AND RESERVATIONS-**

(1) **ALLOCATION-** (A) Subject to subparagraph (B), the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 that remains after the Secretary

reserves funds under paragraph (2) and uses funds to carry out section 724(d) and (h), as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 of such Act to all States for that year, except that no State shall receive less than the greater of--

- (i) \$150,000;
- (ii) one-fourth of 1 percent of the amount appropriated under section 726 for that year; or
- (iii) the amount such State received under this section for fiscal year 2001.

(B) If there are insufficient funds in a fiscal year to allot to each State the minimum amount under subparagraph (A), the Secretary shall ratably reduce the allotments to all States based on the proportionate share that each State received under this subsection for the preceding fiscal year.

(2) **RESERVATIONS-** (A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this subtitle, as determined by the Secretary.

(B)(i) The Secretary shall transfer 1 percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), that are consistent with the purposes of the programs described in this subtitle.

(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this subtitle, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in this subtitle. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts

transferred, including appropriate goals, objectives, and milestones.

(3) STATE DEFINED- For purposes of this subsection, the term 'State' does not include the United States Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(d) ACTIVITIES- Grants under this section shall be used for the following:

(1) To carry out the policies set forth in section 721 in the State.

(2) To provide activities for, and services to, homeless children, including preschool-aged homeless children, and youths that enable such children and youths to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs.

(3) To establish or designate an Office of Coordinator for Education of Homeless Children and Youths in the State educational agency in accordance with subsection (f).

(4) To prepare and carry out the State plan described in subsection (g).

(5) To develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youths.

(e) STATE AND LOCAL SUBGRANTS-

(1) MINIMUM DISBURSEMENTS BY STATES- From the sums made available each year to carry out this subtitle, the State educational agency shall distribute not less than 75 percent in subgrants to local educational agencies for

the purposes of carrying out section 723, except that States funded at the minimum level set forth in subsection (c)(1) shall distribute not less than 50 percent in subgrants to local educational agencies for the purposes of carrying out section 723.

(2) USE BY STATE EDUCATIONAL AGENCY- A State educational agency may use funds made available for State use under this subtitle to conduct activities under subsection (f) directly or through grants or contracts.

(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS-

(A) IN GENERAL- Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth in a separate school, or in a separate program within a school, based on such child's or youth's status as homeless.

(B) EXCEPTION- Notwithstanding subparagraph (A), paragraphs (1)(J)(i) and (3) of subsection (g), section 723(a)(2), and any other provision of this subtitle relating to the placement of homeless children or youths in schools, a State that has a separate school for homeless children or youths that was operated in fiscal year 2000 in a covered county shall be eligible to receive funds under this subtitle for programs carried out in such school if--

- (i) the school meets the requirements of subparagraph (C);
- (ii) any local educational agency serving a school that the homeless children and youths enrolled in the separate school are eligible to attend meets the requirements of subparagraph (E);
- and
- (iii) the State is otherwise eligible to receive funds under this subtitle.

(C) SCHOOL REQUIREMENTS- For the State to be eligible under subparagraph (B) to receive funds under this subtitle, the school described in such subparagraph shall--

(i) provide written notice, at the time any child or youth seeks enrollment in such school, and at least twice annually while the child or youth is enrolled in such school, to the parent or guardian of the child or youth (or, in the case of an unaccompanied youth, the youth) that--

(I) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth);

(II) sets forth the general rights provided under this subtitle;

(III) specifically states--

(aa) the choice of schools homeless children and youths are eligible to attend, as provided in subsection (g)(3)(A);

(bb) that no homeless child or youth is required to attend a separate school for homeless children or youths;

(cc) that homeless children and youths shall be provided comparable services described in subsection (g)(4), including transportation services, educational services, and meals through school meals programs; and

(dd) that homeless children and youths should not be stigmatized by school personnel;
and

(IV) provides contact information for the local liaison for homeless children and youths and the State Coordinator for Education of Homeless Children and Youths;

(ii)(I) provide assistance to the parent or guardian of each homeless child or youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent's or guardian's (or youth's) choice of schools, as provided in subsection (g)(3)(A); and

(II) coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services;

(iii) ensure that the parent or guardian (or, in the case of an unaccompanied youth, the youth) shall receive the information required by this subparagraph in a manner and form understandable to such parent or guardian (or youth), including, if necessary and to the extent feasible, in the native language of such parent or guardian (or youth); and

(iv) demonstrate in the school's application for funds under this subtitle that such school--

(I) is complying with clauses (i) and (ii); and

(II) is meeting (as of the date of submission of the application) the same Federal and State standards, regulations, and mandates as other public schools in the State (such as complying with sections 1111 and 1116 of the Elementary and Secondary Education Act of 1965 and providing a full range of education and related services, including services applicable to students with disabilities).

(D) SCHOOL INELIGIBILITY- A separate school described in subparagraph (B) that fails to meet the standards, regulations, and mandates described in subparagraph (C)(iv)(II) shall not be eligible to receive funds under this subtitle for programs carried out in such school after the first date of such failure.

(E) LOCAL EDUCATIONAL AGENCY REQUIREMENTS- For the State to be eligible to receive the funds described in subparagraph (B), the local educational agency described in subparagraph (B)(ii) shall--

(i) implement a coordinated system for ensuring that homeless children and youths--

(I) are advised of the choice of schools provided in subsection (g)(3)(A);

(II) are immediately enrolled, in accordance with subsection (g)(3)(C), in the school selected under subsection (g)(3)(A); and

(III) are promptly provided necessary services described in subsection (g)(4), including transportation, to allow homeless children and youths to exercise their choices of schools under subsection (g)(3)(A);

- (ii) document that written notice has been provided--
 - (I) in accordance with subparagraph (C)(i) for each child or youth enrolled in a separate school under subparagraph (B); and
 - (II) in accordance with subsection (g)(6)(A)(v);
- (iii) prohibit schools within the agency's jurisdiction from referring homeless children or youths to, or requiring homeless children and youths to enroll in or attend, a separate school described in subparagraph (B);
- (iv) identify and remove any barriers that exist in schools within the agency's jurisdiction that may have contributed to the creation or existence of separate schools described in subparagraph (B); and
- (v) not use funds received under this subtitle to establish--
 - (I) new or additional separate schools for homeless children or youths; or
 - (II) new or additional sites for separate schools for homeless children or youths, other than the sites occupied by the schools described in subparagraph (B) in fiscal year 2000.

(F) REPORT-

- (i) **PREPARATION-** The Secretary shall prepare a report on the separate schools and local educational agencies described in subparagraph (B) that receive funds under this subtitle in accordance with this paragraph. The report shall contain, at a minimum, information on--
 - (I) compliance with all requirements of this paragraph;
 - (II) barriers to school access in the school districts served by the local educational agencies; and
 - (III) the progress the separate schools are making in integrating homeless children and youths into the mainstream school environment, including the average length of student enrollment in such schools.
- (ii) **COMPLIANCE WITH INFORMATION REQUESTS-** For purposes of enabling the Secretary to prepare the report, the separate schools and local educational agencies shall cooperate with the Secretary and the State Coordinator for Education of Homeless Children and Youths established in the State under subsection (d)(3), and shall comply with any requests for information by the Secretary and State Coordinator for such State.
- (iii) **SUBMISSION-** Not later than 2 years after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, the Secretary shall submit the report described in clause (i) to--
 - (I) the President;
 - (II) the Committee on Education and the Workforce of the House of Representatives; and
 - (III) the Committee on Health, Education, Labor, and Pensions of the Senate.

(G) DEFINITION- For purposes of this paragraph, the term 'covered county' means--

- (i) San Joaquin County, California;
- (ii) Orange County, California;
- (iii) San Diego County, California; and
- (iv) Maricopa County, Arizona.

(f) FUNCTIONS OF THE OFFICE OF COORDINATOR- The Coordinator for Education of Homeless Children and Youths established in each State shall--

- (1) gather reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youths have in gaining access to public preschool programs and to public elementary schools and secondary schools, the difficulties in identifying the special needs of such children and youths, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the programs under this subtitle in allowing homeless children and youths to enroll in, attend, and succeed in, school;
- (2) develop and carry out the State plan described in subsection (g);
- (3) collect and transmit to the Secretary, at such time and in such manner as the Secretary may require, a report containing such information as the Secretary determines is necessary to assess the educational needs of homeless children and youths within the State;
- (4) facilitate coordination between the State educational agency, the State social services agency, and other agencies (including agencies providing mental health services) to provide services to homeless children, including preschool-aged homeless children, and youths, and to families of such children and youths;
- (5) in order to improve the provision of comprehensive education and related services to homeless children and youths and their families, coordinate and collaborate with--
 - (A) educators, including child development and preschool program personnel;
 - (B) providers of services to homeless and runaway children and youths and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths);
 - (C) local educational agency liaisons designated under subsection (g)(1)(J)(ii) for homeless children and youths; and
 - (D) community organizations and groups representing homeless children and youths and their families; and
- (6) provide technical assistance to local educational agencies in coordination with local educational agency liaisons designated under subsection (g)(1)(J)(ii), to ensure that local educational agencies comply with the requirements of section 722(e)(3) and paragraphs (3) through (7) of subsection (g).

(g) STATE PLAN-

- (1) IN GENERAL- Each State shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following:
 - (A) A description of how such children and youths are (or will be) given the opportunity to meet the same challenging State academic achievement standards all students are expected to meet.

(B) A description of the procedures the State educational agency will use to identify such children and youths in the State and to assess their special needs.

(C) A description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths.

(D) A description of programs for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the specific needs of runaway and homeless youths.

(E) A description of procedures that ensure that homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs.

(F) A description of procedures that ensure that--

(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children in the State;

(ii) homeless youths and youths separated from the public schools are identified and accorded equal access to appropriate secondary education and support services; and

(iii) homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs.

(G) Strategies to address problems identified in the report provided to the Secretary under subsection (f)(3).

(H) Strategies to address other problems with respect to the education of homeless children and youths, including problems resulting from enrollment delays that are caused by--

(i) immunization and medical records requirements;

(ii) residency requirements;

(iii) lack of birth certificates, school records, or other documentation;

(iv) guardianship issues; or

(v) uniform or dress code requirements.

(I) A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of homeless children and youths in schools in the State.

(J) Assurances that--

(i) the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated on the basis of their status as homeless;

(ii) local educational agencies will designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youths, to carry out the duties described in paragraph (6)(A); and

(iii) the State and its local educational agencies will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of

origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:

(I) If the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

(II) If the homeless child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

(2) COMPLIANCE-

(A) IN GENERAL- Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

(B) COORDINATION- Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local educational agency liaisons designated under paragraph (1)(J)(ii).

(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS-

(A) IN GENERAL- The local educational agency serving each child or youth to be assisted under this subtitle shall, according to the child's or youth's best interest--

(i) continue the child's or youth's education in the school of origin for the duration of homelessness--

(I) in any case in which a family becomes homeless between academic years or during an academic year; or

(II) for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or

(ii) enroll the child or youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

(B) BEST INTEREST- In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall--

(i) to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian;

(ii) provide a written explanation, including a statement regarding the right to appeal under subparagraph (E), to the homeless child's or youth's parent or guardian, if the local

educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

(iii) in the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J)(ii) assists in placement or enrollment decisions under this subparagraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E).

(C) ENROLLMENT- (i) The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

(ii) The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

(iii) If the child or youth needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall assist in obtaining necessary immunizations, or immunization or medical records, in accordance with subparagraph (D).

(D) RECORDS- Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, regarding each homeless child or youth shall be maintained--

(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and

(ii) in a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

(E) ENROLLMENT DISPUTES- If a dispute arises over school selection or enrollment in a school--

(i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;

(ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

(iii) the child, youth, parent, or guardian shall be referred to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible after receiving notice of the dispute; and

(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

(F) PLACEMENT CHOICE- The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

(G) SCHOOL OF ORIGIN DEFINED- In this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

(H) CONTACT INFORMATION- Nothing in this subtitle shall prohibit a local educational agency from requiring a parent or guardian of a homeless child to submit contact information.

(4) COMPARABLE SERVICES- Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected under paragraph (3), including the following:

(A) Transportation services.

(B) Educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited English proficiency.

(C) Programs in vocational and technical education.

(D) Programs for gifted and talented students.

(E) School nutrition programs.

(5) COORDINATION-

(A) IN GENERAL- Each local educational agency serving homeless children and youths that receives assistance under this subtitle shall coordinate--

(i) the provision of services under this subtitle with local social services agencies and other agencies or programs providing services to homeless children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); and

(ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.

(B) HOUSING ASSISTANCE- If applicable, each State educational agency and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youths who become homeless.

(C) COORDINATION PURPOSE- The coordination required under subparagraphs (A) and (B) shall be designed to--

(i) ensure that homeless children and youths have access and reasonable proximity to available education and related support services; and

(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

(6) LOCAL EDUCATIONAL AGENCY LIAISON-

(A) DUTIES- Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that--

- (i) homeless children and youths are identified by school personnel and through coordination activities with other entities and agencies;
- (ii) homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency;
- (iii) homeless families, children, and youths receive educational services for which such families, children, and youths are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services;
- (iv) the parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;
- (v) public notice of the educational rights of homeless children and youths is disseminated where such children and youths receive services under this Act, such as schools, family shelters, and soup kitchens;
- (vi) enrollment disputes are mediated in accordance with paragraph (3)(E); and
- (vii) the parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, as described in paragraph (1)(J)(iii), and is assisted in accessing transportation to the school that is selected under paragraph (3)(A).

(B) NOTICE- State coordinators established under subsection (d)(3) and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the local educational agency liaisons.

(C) LOCAL AND STATE COORDINATION- Local educational agency liaisons for homeless children and youths shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youths.

(7) REVIEW AND REVISIONS-

(A) IN GENERAL- Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the enrollment of homeless children and youths in schools that are selected under paragraph (3).

(B) CONSIDERATION- In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.

(C) SPECIAL ATTENTION- Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school.

**SEC. 723. LOCAL EDUCATIONAL AGENCY SUBGRANTS
FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTHS**

(a) GENERAL AUTHORITY-

(1) IN GENERAL- The State educational agency shall, in accordance with section 722(e), and from amounts made available to such agency under section 726, make subgrants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youths.

(2) SERVICES-

(A) IN GENERAL- Services under paragraph (1)--

(i) may be provided through programs on school grounds or at other facilities;

(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless children and youths with nonhomeless children and youths; and

(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

(B) SERVICES ON SCHOOL GROUNDS- If services under paragraph

(1) are provided on school grounds, schools--

(i) may use funds under this subtitle to provide the same services to other children and youths who are determined by the local educational agency to be at risk of failing in, or dropping out of, school, subject to the requirements of clause (ii); and

(ii) except as otherwise provided in section 722(e)(3)(B), shall not provide services in settings within a school that segregate homeless children and youths from other children and youths, except as necessary for short periods of time--

(I) for health and safety emergencies; or

(II) to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youths.

(3) REQUIREMENT- Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

(b) APPLICATION- A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require. Such application shall include the following:

(1) An assessment of the educational and related needs of homeless children and youths in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups).

(2) A description of the services and programs for which assistance is sought to address the needs identified in paragraph (1).

(3) An assurance that the local educational agency's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year

preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(4) An assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 722(g).

(5) A description of policies and procedures, consistent with section 722(e)(3), that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youths.

(c) AWARDS-

(1) IN GENERAL- The State educational agency shall, in accordance with the requirements of this subtitle and from amounts made available to it under section 726, make competitive subgrants to local educational agencies that submit applications under subsection (b). Such subgrants shall be awarded on the basis of the need of such agencies for assistance under this subtitle and the quality of the applications submitted.

(2) NEED- In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youths enrolled in preschool, elementary, and secondary schools within the area served by the local educational agency, and shall consider the needs of such children and youths and the ability of the local educational agency to meet such needs. The State educational agency may also consider the following:

(A) The extent to which the proposed use of funds will facilitate the enrollment, retention, and educational success of homeless children and youths.

(B) The extent to which the application--

(i) reflects coordination with other local and State agencies that serve homeless children and youths; and

(ii) describes how the applicant will meet the requirements of section 722(g)(3).

(C) The extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youths.

(D) Such other criteria as the State agency determines appropriate.

(3) QUALITY- In determining the quality of applications under paragraph (1), the State educational agency shall consider the following:

(A) The applicant's needs assessment under subsection (b)(1) and the likelihood that the program presented in the application will meet such needs.

(B) The types, intensity, and coordination of the services to be provided under the program.

(C) The involvement of parents or guardians of homeless children or youths in the education of their children.

(D) The extent to which homeless children and youths will be integrated within the regular education program.

(E) The quality of the applicant's evaluation plan for the program.

(F) The extent to which services provided under this subtitle will be coordinated with other services available to homeless children and youths and their families.

(G) Such other measures as the State educational agency considers indicative of a high-quality program, such as the extent to which the

local educational agency will provide case management or related services to unaccompanied youths.

(4) DURATION OF GRANTS- Grants awarded under this section shall be for terms not to exceed 3 years.

(d) AUTHORIZED ACTIVITIES- A local educational agency may use funds awarded under this section for activities that carry out the purpose of this subtitle, including the following:

(1) The provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic content standards and challenging State student academic achievement standards the State establishes for other children and youths.

(2) The provision of expedited evaluations of the strengths and needs of homeless children and youths, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational and technical education, and school nutrition programs).

(3) Professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youths, the rights of such children and youths under this subtitle, and the specific educational needs of runaway and homeless youths.

(4) The provision of referral services to homeless children and youths for medical, dental, mental, and other health services.

(5) The provision of assistance to defray the excess cost of transportation for students under section 722(g)(4)(A), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3).

(6) The provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged homeless children.

(7) The provision of services and assistance to attract, engage, and retain homeless children and youths, and unaccompanied youths, in public school programs and services provided to nonhomeless children and youths.

(8) The provision for homeless children and youths of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities.

(9) If necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services.

(10) The provision of education and training to the parents of homeless children and youths about the rights of, and resources available to, such children and youths.

(11) The development of coordination between schools and agencies providing services to homeless children and youths, as described in section 722(g)(5).

(12) The provision of pupil services (including violence prevention counseling) and referrals for such services.

- (13) Activities to address the particular needs of homeless children and youths that may arise from domestic violence.
- (14) The adaptation of space and purchase of supplies for any nonschool facilities made available under subsection (a)(2) to provide services under this subsection.
- (15) The provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations.
- (16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school.

SEC. 724. SECRETARIAL RESPONSIBILITIES

- (a) **REVIEW OF STATE PLANS-** In reviewing the State plan submitted by a State educational agency under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plan adequately address the problems of homeless children and youths relating to access to education and placement as described in such plan.
- (b) **TECHNICAL ASSISTANCE-** The Secretary shall provide support and technical assistance to a State educational agency to assist such agency in carrying out its responsibilities under this subtitle, if requested by the State educational agency.
- (c) **NOTICE-** The Secretary shall, before the next school year that begins after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, create and disseminate nationwide a public notice of the educational rights of homeless children and youths and disseminate such notice to other Federal agencies, programs, and grantees, including Head Start grantees, Health Care for the Homeless grantees, Emergency Food and Shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development.
- (d) **EVALUATION AND DISSEMINATION-** The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.
- (e) **SUBMISSION AND DISTRIBUTION-** The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.
- (f) **DETERMINATION BY SECRETARY-** The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (h), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education, as described in section 721(1).
- (g) **GUIDELINES-** The Secretary shall develop, issue, and publish in the Federal Register, not later than 60 days after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, school enrollment guidelines for States with respect to homeless children and youths. The guidelines shall describe--
 - (1) successful ways in which a State may assist local educational agencies to immediately enroll homeless children and youths in school; and
 - (2) how a State can review the State's requirements regarding immunization and medical or school records and make such revisions to the requirements as are appropriate and necessary in order to enroll homeless children and youths in school immediately.

(h) INFORMATION-

(1) IN GENERAL- From funds appropriated under section 726, the Secretary shall, directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding--

- (A) the number and location of homeless children and youths;
- (B) the education and related services such children and youths receive;
- (C) the extent to which the needs of homeless children and youths are being met; and
- (D) such other data and information as the Secretary determines to be necessary and relevant to carry out this subtitle.

(2) COORDINATION- The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this subtitle.

(i) REPORT- Not later than 4 years after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, the Secretary shall prepare and submit to the President and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the status of education of homeless children and youths, which shall include information on--

- (1) the education of homeless children and youths; and
- (2) the actions of the Secretary and the effectiveness of the programs supported under this subtitle.

SEC.725.DEFINITIONS

For purposes of this subtitle:

(1) The terms `enroll' and `enrollment' include attending classes and participating fully in school activities.

(2) The term `homeless children and youths'--

(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and

(B) includes--

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

(3) The terms `local educational agency' and `State educational agency' have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965.

(4) The term `Secretary' means the Secretary of Education.

(5) The term `State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(6) The term `unaccompanied youth' includes a youth not in the physical custody of a parent or guardian.

SEC. 726. AUTHORIZATION OF APPROPRIATIONS

For the purpose of carrying out this subtitle, there are authorized to be appropriated \$70,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2007.'

Education Laws and Regulations
Mandated Reading and Training Document
Confidentiality and Student Records

603 CMR 23.00

As an employee of the Malden Public Schools, you may have access to confidential, protected or privileged information. It is expected that employees will protect others' rights to privacy by not releasing such information to unauthorized individuals.

The Commonwealth of Massachusetts has promulgated regulations to ensure parents' and students' rights of confidentiality, inspection, amendment, and destruction of student records and to assist local school systems in adhering to the law. In accordance with federal and state requirements, the district protects the confidentiality of any personally identifiable information that it collects, uses or maintains. The district maintains and provides access to student records in accordance with federal and state requirements.

Most Recently Amended by the Board of Education: August 15, 2006

23.1 : Application of Rights

603 CMR 23.00 is promulgated to insure parents' and students' rights of confidentiality, inspection, amendment, and destruction of student records and to assist local school systems in adhering to the law. 603 CMR 23.00 should be liberally construed for these purposes.

- (1) These rights shall be the rights of the student upon reaching 14 years of age or upon entering the ninth grade, whichever comes first. If a student is under the age of 14 and has not yet entered the ninth grade, these rights shall belong to the student's parent.
- (2) If a student is from 14 through 17 years of age or has entered the ninth grade, both the student and his/her parent, or either one acting alone, shall exercise these rights.
- (3) If a student is 18 years of age or older, he/she alone shall exercise these rights, subject to the following. The parent may continue to exercise the rights until expressly limited by such student. Such student may limit the rights and provisions of 603 CMR 23.00 which extend to his/her parent, except the right to inspect the student record, by making such request in writing to the school principal or superintendent of schools who shall honor such request and retain a copy of it in the student record. Pursuant to M.G.L. c. 71, section 34E, the parent of a student may inspect the student record regardless of the student's age.

(4) Notwithstanding 603 CMR 23.01(1) and 23.01(2), nothing shall be construed to mean that a school committee cannot extend the provisions of 603 CMR 23.00 to students under the age of 14 or to students who have not yet entered the ninth grade.

23.2 : Definition of Terms

The various terms as used in 603 CMR 23.00 are defined below:

Access shall mean inspection or copying of a student record, in whole or in part.

Authorized school personnel shall consist of three groups:

(a)) School administrators, teachers, counselors and other professionals who are employed by the school committee or who are providing services to the student under an agreement between the school committee and a service provider, and who are working directly with the student in an administrative, teaching counseling, and/or diagnostic capacity. Any such personnel who are not employed directly by the school committee shall have access only to the student record information that is required for them to perform their duties.

(b) Administrative office staff and clerical personnel, including operators of data processing equipment or equipment that produces microfilm/microfiche, who are either employed by the school committee or are employed under a school committee service contract, and whose duties require them to have access to student records for purposes of processing information for the student record. Such personnel shall have access only to the student record information that is required for them to perform their duties.

(c) The Evaluation Team which evaluates a student.

Eligible student shall mean any student who is 14 years of age or older or who has entered 9th grade, unless the school committee acting pursuant to 603 CMR 23.01(4) extends the rights and provisions of 603 CMR 23.00 to students under the age of 14 or to students who have not yet entered 9th grade.

Evaluation Team shall mean the team which evaluates school-age children pursuant to M.G.L. c. 71B (St. 1972, c. 766) and 603 CMR 28.00.

Parent shall mean a student's father or mother, or guardian, or person or agency legally authorized to act on behalf of the student in place of or in conjunction with the father, mother, or guardian. Any parent who by court order does not have physical custody of the student, is considered a non-custodial parent for purposes of M.G.L. c. 71, § 34H and 603 CMR 23.00. This includes parents who by court order do not reside with or supervise the student, even for short periods of time.

Release shall mean the oral or written disclosure, in whole or in part, of information in a student record.

School-age child with special needs shall have the same definition as that given in M.G.L. c. 71B (St. 1972, c. 766) and 603 CMR 28.00.

School committee shall include a school committee, a board of trustees of a charter school, a board of trustees of a vocational-technical school, a board of directors of an educational collaborative and the governing body of an M.G.L. c. 71B (Chapter 766) approved private school.

Student shall mean any person enrolled or formerly enrolled in a public elementary or secondary school or any person age three or older about whom a school committee maintains information. The term as used in 603 CMR 23.00 shall not include a person about whom a school committee maintains information relative only to that person's employment by the school committee.

The student record shall consist of the transcript and the temporary record, including all information recording and computer tapes, microfilm, microfiche, or any other materials regardless of physical form or characteristics concerning a student that is organized on the basis of the student's name or in a way that such student may be individually identified, and that is kept by the public schools of the Commonwealth. The term as used in 603 CMR 23.00 shall mean all such information and materials regardless of where they are located, except for the information and materials specifically exempted by 603 CMR 23.04.

The temporary record shall consist of all the information in the student record which is not contained in the transcript. This information clearly shall be of importance to the educational process. Such information may include standardized test results, class rank (when applicable), extracurricular activities, and evaluations by teachers, counselors, and other school staff.

Third party shall mean any person or private or public agency, authority, or organization other than the eligible student, his/her parent, or authorized school personnel.

The transcript shall contain administrative records that constitute the minimum data necessary to reflect the student's educational progress and to operate the educational system. These data shall be limited to the name, address, and phone number of the student; his/ her birthdate; name, address, and phone number of the parent or guardian; course titles, grades (or the equivalent when grades are not applicable), course credit, grade level completed, and the year completed.

23.3 : Collection of Data: Limitations and Requirements

All information and data contained in or added to the student record shall be limited to information relevant to the educational needs of the student. Information and data added

to the temporary record shall include the name, signature, and position of the person who is the source of the information, and the date of entry into the record. Standardized group test results that are added to the temporary record need only include the name of the test and/or publisher, and date of testing.

23.4 : Personal Files of School Employees

The term student record does not include notes, memory aids and other similar information that is maintained in the personal files of a school employee and is not accessible or revealed to authorized school personnel or any third party. Such information may be shared with the student, parent or a temporary substitute of the maker of the record, but if it is released to authorized school personnel it becomes part of the student record subject to all the provisions of 603 CMR 23.00.

23.5 : Privacy and Security of Student Records

- (1) The school principal or his/her designee shall be responsible for the privacy and security of all student records maintained in the school.
- (2) The superintendent of schools or his/her designee shall be responsible for the privacy and security of all student records that are not under the supervision of a school principal, for example, former students' transcripts stored in the school department's central administrative offices or student records of school-age children with special needs who have not been enrolled in a public school.
- (3) The principal and superintendent of schools shall insure that student records under their supervision are kept physically secure, that authorized school personnel are informed of the provisions of 603 CMR 23.00 and M.G.L. c. 71, § 34H and are educated as to the importance of information privacy and confidentiality; and that any computerized systems employed are electronically secure.

23.6 : Destruction of Student Records

- (1) The student's transcript shall be maintained by the school department and may only be destroyed 60 years following his/her graduation, transfer, or withdrawal from the school system.
- (2) During the time a student is enrolled in a school, the principal or his/her designee shall periodically review and destroy misleading, outdated, or irrelevant information contained in the temporary record provided that the eligible student and his/her parent are notified in writing and are given opportunity to receive the information or a copy of it prior to its destruction. A copy of such notice shall be placed in the temporary record.
- (3) The temporary record of any student enrolled on or after the effective date of 603 CMR 23.00 shall be destroyed no later than seven years after the student transfers, graduates, or withdraws from the school system. Written notice to the eligible student and

his/her parent of the approximate date of destruction of the record and their right to receive the information in whole or in part, shall be made at the time of such transfer, graduation, or withdrawal. Such notice shall be in addition to the routine information letter required by 603 CMR 23.10.

(4) In accordance with M.G.L. c 71, section 87, the score of any group intelligence test administered to a student enrolled in a public school shall be removed from the record of said student at the end of the school year in which such test was so administered.

23.7 Access to Student Records

(1) **Log of Access.** A log shall be kept as part of each student's record. If parts of the student record are separately located, a separate log shall be kept with each part. The log shall indicate all persons who have obtained access to the student record, stating: the name, position and signature of the person releasing the information; the name, position and, if a third party, the affiliation if any, of the person who is to receive the information; the date of access; the parts of the record to which access was obtained; and the purpose of such access. Unless student record information is to be deleted or released, this log requirement shall not apply to:

- (a) Authorized school personnel under 603 CMR 23.02(9)(a) who inspect the student record;
- (b) Administrative office staff and clerical personnel under 603 CMR 23.02(9)(b), who add information to or obtain access to the student record; and
- (c) School nurses who inspect the student health record.

(2) **Access of Eligible Students and Parents.** The eligible student or the parent, subject to the provisions of 603 CMR 23.07 (5), shall have access to the student record. Access shall be provided as soon as practicable and within ten days after the initial request, except in the case of non-custodial parents as provided in 603 CMR 23.07 (5). Upon request for access, the entire student record regardless of the physical location of its parts shall be made available.

- (a) Upon request, copies of any information contained in the student record shall be furnished to the eligible student or the parent. A reasonable fee, not to exceed the cost of reproduction, may be charged. However, a fee may not be charged if to do so would effectively prevent the parents or eligible student from exercising their right, under federal law, to inspect and review the records.
- (b) Any student, regardless of age, shall have the right pursuant to M.G.L. c. 71, section 34A to receive a copy of his/her transcript.

(c) The eligible student or the parent shall have the right upon request to meet with professionally qualified school personnel and to have any of the contents of the student record interpreted.

(d) The eligible student or the parent may have the student record inspected or interpreted by a third party of their choice. Such third party shall present specific written consent of the eligible student or parent, prior to gaining access to the student record.

(3) Access of Authorized School Personnel. Subject to 603 CMR 23.00, authorized school personnel shall have access to the student records of students to whom they are providing services, when such access is required in the performance of their official duties. The consent of the eligible student or parent shall not be necessary.

(4) Access of Third Parties. Except for the provisions of 603 CMR 23.07(4)(a) through 23.07(4)(h), no third party shall have access to information in or from a student record without the specific, informed written consent of the eligible student or the parent. When granting consent, the eligible student or parent shall have the right to designate which parts of the student record shall be released to the third party. A copy of such consent shall be retained by the eligible student or parent and a duplicate placed in the temporary record. Except for information described in 603 CMR 23.07(4)(a), personally identifiable information from a student record shall only be released to a third party on the condition that he/she will not permit any other third party to have access to such information without the written consent of the eligible student or parent.

(a) A school may release the following directory information: a student's name, address, telephone listing, date and place of birth, major field of study, dates of attendance, weight and height of members of athletic teams, class, participation in officially recognized activities and sports, degrees, honors and awards, and post-high school plans without the consent of the eligible student or parent; provided that the school gives public notice of the types of information it may release under 603 CMR 23.07 and allows eligible students and parents a reasonable time after such notice to request that this information not be released without the prior consent of the eligible student or parent. Such notice may be included in the routine information letter required under 603 CMR 23.10.

(b) Upon receipt of a court order or lawfully issued subpoena the school shall comply, provided that the school makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance.

(c) A school may release information regarding a student upon receipt of a request from the Department of Social Services, a probation officer, a justice of any court, or the Department of Youth Services under the provisions of M.G.L. c. 119, sections 51B, 57, 69 and 69A respectively.

(d) Federal, state and local education officials, and their authorized agents shall have access to student records as necessary in connection with the audit, evaluation or enforcement of federal and state education laws, or programs; provided that except when collection of personally identifiable data is specifically authorized by law, any data collected by such officials shall be protected so that parties other than such officials and their authorized agents cannot personally identify such students and their parents; and such personally identifiable data shall be destroyed when no longer needed for the audit, evaluation or enforcement of federal and state education laws.

(e) A school may disclose information regarding a student to appropriate parties in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. This includes, but is not limited to, disclosures to the local police department and the Department of Social Services under the provisions of M.G.L. c. 71, section 37L and M.G.L. c. 119, section 51A.

(f) Upon notification by law enforcement authorities that a student, or former student, has been reported missing, a mark shall be placed in the student record of such student. The school shall report any request concerning the records of the such child to the appropriate law enforcement authority pursuant to the provisions of M.G.L. c. 22A, section 9.

(g) Authorized school personnel of the school to which a student seeks or intends to transfer may have access to such student's record without the consent of the eligible student or parent, provided that the school the student is leaving, or has left, gives notice that it forwards student records to schools in which the student seeks or intends to enroll. Such notice may be included in the routine information letter required under 603 CMR 23.10.

(h) School health personnel and local and state health department personnel shall have access to student health records, including but not limited to immunization records, when such access is required in the performance of official duties, without the consent of the eligible student or parent.

(5) Access Procedures for Non-Custodial Parents. As required by M.G.L. c. 71, § 34H, a non-custodial parent may have access to the student record in accordance with the following provisions.

(a) A non-custodial parent is eligible to obtain access to the student record unless:

1. the parent has been denied legal custody or has been ordered to supervised visitation, based on a threat to the safety of the student and the threat is specifically noted in the order pertaining to custody or supervised visitation, or
2. the parent has been denied visitation, or

3. the parent's access to the student has been restricted by a temporary or permanent protective order, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to the information contained in the student record, or
4. there is an order of a probate and family court judge which prohibits the distribution of student records to the parent.

(b) The school shall place in the student's record documents indicating that a non-custodial parent's access to the student's record is limited or restricted pursuant to 603 CMR 23.07(5)(a).

(c) In order to obtain access, the non-custodial parent must submit a written request for the student record to the school principal.

(d) Upon receipt of the request the school must immediately notify the custodial parent by certified and first class mail, in English and the primary language of the custodial parent, that it will provide the non-custodial parent with access after 21 days, unless the custodial parent provides the principal with documentation that the non-custodial parent is not eligible to obtain access as set forth in 603 CMR 23.07 (5)(a).

(e) The school must delete all electronic and postal address and telephone number information relating to either work or home locations of the custodial parent from student records provided to non-custodial parents. In addition, such records must be marked to indicate that they shall not be used to enroll the student in another school.

(f) Upon receipt of a court order that prohibits the distribution of information pursuant to G.L. c. 71, §34H, the school shall notify the non-custodial parent that it shall cease to provide access to the student record to the non-custodial parent.

23.8 : Amending the Student Record

(1) The eligible student or the parent shall have the right to add information, comments, data, or any other relevant written material to the student record.

(2) The eligible student or the parent shall have the right to request in writing deletion or amendment of any information contained in the student record, except for information which was inserted into that record by an Evaluation Team. Such information inserted by an Evaluation Team shall not be subject to such a request until after the acceptance of the Evaluation Team Educational Plan, or, if the Evaluation Team Educational Plan is rejected, after the completion of the special education appeal process. Any deletion or amendment shall be made in accordance with the procedure described below:

(a) If such student or parent is of the opinion that adding information is not sufficient to explain, clarify or correct objectionable material in the student

record, either student or parent shall present the objection in writing and/or have the right to have a conference with the principal or his/her designee to make the objections known.

(b) The principal or his/her designee shall within one week after the conference or receipt of the objection, if no conference was requested, render to such student or parent a decision in writing, stating the reason or reasons for the decision. If the decision is in favor of the student or parent, the principal or his/her designee shall promptly take such steps as may be necessary to put the decision into effect.

23.9 : Appeals

(1) In the event that any decision of a principal or his/her designee regarding any of the provisions contained in 603 CMR 23.00 is not satisfactory in whole or in part to the eligible student or parent, they shall have the right of appeal to the superintendent of schools. Request for such appeal shall be in writing to the superintendent of schools.

(2) The superintendent of schools or his/her designee shall within two weeks after being notified of such appeal (longer should the appellant request a delay) review the issues presented and render a written decision to the appellant, stating the reason or reasons for the decision. If the decision is in favor of the appellant, the superintendent of schools or his/her designee shall promptly take such steps as may be necessary to put the decision into effect.

(3) In the event that the decision of the superintendent of schools or his/her designee is not satisfactory to the appellant in whole or in part, the appellant shall have the right of appeal to the school committee. Request for such appeal shall be in writing to the chairperson of the school committee.

(4) The school committee shall within four weeks after being notified of such appeal (longer should the appellant request a delay) conduct a fair hearing to decide the issues presented by the appellant.

(a) School officials shall have the burden of proof on issues presented by the appellant.

(b) The appellant shall have the right to be represented by an advocate of his/her choosing, to cross-examine witnesses, to present evidence, to make a tape or other recording of the proceedings, and to receive a written decision within two weeks after the hearing.

(c) If the appeal concerns statements by an employee of the school committee, such person(s) shall have the right to be present and to have an advocate of his/her own choosing.

(5) Nothing in 603 CMR 23.00 shall abridge or limit any right of an eligible student or parent to seek enforcement of 603 CMR 23.00 or the statutes regarding student records, in any court or administrative agency of competent jurisdiction.

23.10: Notification

(1) At least once during every school year, the school shall publish and distribute to students and their parents in their primary language a routine information letter informing them of the following:

(a) The standardized testing programs and research studies to be conducted during the year and other routine information to be collected or solicited from the student during the year.

(b) The general provisions of 603 CMR 23.00 regarding parent and student rights, and that copies of 603 CMR 23.00 are available to them from the school.

(2) In those school systems required under M.G.L. c. 71A to conduct a bilingual program, all forms, regulations, or other documents regarding 603 CMR 23.00 that a parent receives or is required to receive shall be in the language spoken in the home of the student, provided that it is a language for which the school system is required to provide a bilingual program.

23.11: Monitoring

The Department of Elementary and Secondary Education may, pursuant to a request by an eligible student or parent or on its own initiative, conduct reviews to insure compliance with 603 CMR 23.00. The school committee and the specific school(s) involved shall cooperate to the fullest extent with such review.

23.12: Severance Clause

The provisions of 603 CMR 23.00 are severable and should any section be found upon judicial review to exceed the authority of the State Board of Education, the remaining sections shall not be affected.

Regulatory Authority:

603 CMR 23.00: M.G.L. c. 71, 34D, 34E.

Education Laws and Regulations

Mandated Reading and Training Document

Physical Restraint

603 CMR 46.00:

Section:

- [46.01:](#) Authority, Scope, Purpose and Construction
- [46.02:](#) Definitions
- [46.03:](#) Procedures and Training
- [46.04:](#) Determining When Physical Restraint May Be Used
- [46.05:](#) Proper Administration of Physical Restraint
- [46.06:](#) Reporting Requirements
- [46.07:](#) Special Circumstances

46.01: Authority, Scope, Purpose and Construction

(1) Authority. 603 CMR 46.00 is promulgated by the Board of Education pursuant to M.G.L. c. 69, § 1B, and c. 71, § 37G.

(2) Scope. 603 CMR 46.00 governs the use of physical restraint on students in publicly funded elementary and secondary education programs, including all Massachusetts public school districts, charter schools, collaborative education programs and special education schools approved under 603 CMR 28.09, except as provided in 603 CMR 18.05(5)(h). Educational programs in facilities operated by the Department of Youth Services shall comply with the restraint requirements of 102 CMR 3.00.

(3) Purpose. The purpose of 603 CMR 46.00 is to ensure that every student participating in a Massachusetts public education program is free from the unreasonable use of physical restraint. Physical restraint shall be used only in emergency situations, after other less intrusive alternatives have failed or been deemed inappropriate, and with extreme caution. School personnel shall use physical restraint with two goals in mind:

(a) To administer a physical restraint only when needed to protect a student and/or a member of the school community from imminent, serious, physical harm; and

(b) To prevent or minimize any harm to the student as a result of the use of physical restraint.

(4) Construction. Nothing in 603 CMR 46.00 shall be construed to limit the protection afforded publicly funded students under other state or federal laws, including those laws that provide for the rights of students who have been found eligible to receive special education services. Nothing in 603 CMR 46.00 precludes any teacher, employee or agent of a public education program from

using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

46.2 : Definitions

As used in 603 CMR 46.00, the following terms shall have the following meanings:

- (1) Extended restraint: A physical restraint the duration of which is more than twenty (20) minutes. Extended restraints increase the risk of injury and, therefore, require additional written documentation as described in 603 CMR 46.06.
- (2) Physical escort: Touching or holding a student without the use of force for the purpose of directing the student.
- (3) Physical restraint: The use of bodily force to limit a student's freedom of movement.
- (4) Public education programs: Public schools, including charter schools, collaborative education programs, special education schools approved under 603 CMR 28.09, except as provided in 603 CMR 18.05(5)(h), and school events and activities sponsored by such programs.
- (5) Restraint - Other: Limiting the physical freedom of an individual student by mechanical means or seclusion in a limited space or location, or temporarily controlling the behavior of a student by chemical means. The use of chemical or mechanical restraint is prohibited unless explicitly authorized by a physician and approved in writing by the parent or guardian. The use of seclusion restraint is prohibited in public education programs.
 - (a) Mechanical Restraint: The use of a physical device to restrict the movement of a student or the movement or normal function of a portion of his or her body. A protective or stabilizing device ordered by a physician shall not be considered mechanical restraint.
 - (b) Seclusion Restraint: Physically confining a student alone in a room or limited space without access to school staff. The use of "time out" procedures during which a staff member remains accessible to the student shall not be considered "seclusion restraint."
 - (c) Chemical restraint: The administration of medication for the purpose of restraint.
- (6) School Working Day: Any day or partial day that students are in attendance at the public education program for instructional purposes.

46.3 : Procedures and Training

- (1) Procedures. Public education programs shall develop written procedures regarding appropriate responses to student behavior that may require immediate intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:
 - (a) Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;

(b) A school policy regarding restraint that provides a description and explanation of the school's or program's method of physical restraint, a description of the school's or program's training requirements, reporting requirements and follow-up procedures, and a procedure for receiving and investigating complaints regarding restraint practices.

(2) Required training for all staff. Each principal or director shall determine a time and method to provide all program staff with training regarding the school's restraint policy. Such training shall occur within the first month of each school year and, for employees hired after the school year begins, within a month of their employment. Training shall include information on the following:

(a) The program's restraint policy;

(b) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;

(c) Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;

(d) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and

(e) Identification of program staff who have received in-depth training pursuant to 603 CMR 46.03(3) in the use of physical restraint.

(3) In-depth staff training in the use of physical restraint. At the beginning of each school year, the principal or director of each public education program or his or her designee shall identify program staff that are authorized to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in-depth training in the use of physical restraint. The Department of Elementary and Secondary Education recommends that such training be at least sixteen (16) hours in length.

(4) Content of in-depth training. In-depth training in the proper administration of physical restraint shall include, but not be limited to:

(a) Appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship building and the use of alternatives to restraint;

(b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;

(c) The simulated experience of administering and receiving physical restraint, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and

(e) Demonstration by participants of proficiency in administering physical restraint.

46.4 : Determining When Physical Restraint May Be Used

(1) Use of restraint. Physical restraint may be used only in the following circumstances:

(a) Non-physical interventions would not be effective; and

(b) The student's behavior poses a threat of imminent, serious, physical harm to self and/or others.

(2) Limitations on use of restraint. Physical restraint in a public education program shall be limited to the use of such reasonable force as is necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

(3) Prohibitions. Physical restraint is prohibited in the following circumstances:

(a) As a means of punishment; or

(b) As a response to property destruction, disruption of school order, a student's refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious, physical harm.

(4) Referral to law enforcement or other state agencies. Nothing in these regulations prohibits:

(a) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;

(b) Law enforcement, judicial authorities or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk; or

(c) The exercise of an individual's responsibilities as a mandated reporter pursuant to MGL c. 119, § 51A. These regulations shall not be used to deter any individual from reporting neglect or abuse to the appropriate state agency.

46.5 : Proper Administration of Physical Restraint

(1) Trained personnel. Only school personnel who have received training pursuant to 603 CMR 46.03(2) or 603 CMR 46.03(3) shall administer physical restraint on students. Whenever possible, the administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint. The training requirements contained in 603 CMR 46.00 shall not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

(2) Use of force. A person administering a physical restraint shall use only the amount of force necessary to protect the student or others from physical injury or harm.

(3) Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor or prone restraints shall be prohibited unless the staff member administering the restraint has received in-depth training according to the requirements of 603 CMR 46.03(3) and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present.

(4) Duration of restraint. A person administering physical restraint shall discontinue such restraint as soon as possible. If, due to unusual circumstances, a restraint continues for more than twenty (20) minutes, it shall be considered an "extended restraint" for purposes of the reporting requirements in 603 CMR 46.06.

(5) Safety requirements. Additional requirements for the use of physical restraint:

(a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others.

(b) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.

(c) Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint on an individual student.

(d) Following the release of a student from a restraint, the program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

46.6 : Reporting Requirements

(1) Circumstances under which a physical restraint must be reported. Program staff shall report the use of physical restraint as specified in 603 CMR 46.06(2) after administration of a physical restraint that results in any injury to a student or staff member, or any physical restraint of a duration longer than five minutes

(2) Informing school administration. The program staff member who administered the restraint shall verbally inform the program administration of the restraint as soon as possible, and by written report no later than the next school working day. The written report shall be provided to the principal or director of the program or his/her designee, except that the principal or director shall prepare the report if the principal or director has administered the restraint. The principal or director or his/her designee shall maintain an on-going record of all reported instances of physical

restraint, which shall be made available for review by the Department of Elementary and Secondary Education, upon request.

(3) Informing parents. The principal or director of the program or his/her designee shall verbally inform the student's parents or guardians of the restraint as soon as possible, and by written report postmarked no later than three school working days following the use of restraint. If the school or program customarily provides a parent or guardian of a student with report cards and other necessary school-related information in a language other than English, the written restraint report shall be provided to the parent or guardian in that language.

(4) Contents of report. The written report required by 603 CMR 46.06(2) and (3) shall include:

(a) The names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; and the name of the administrator who was verbally informed following the restraint.

(b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to de-escalate the situation; alternatives to restraint that were attempted; and the justification for initiating physical restraint.

(c) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.

(d) For extended restraints, the written report shall describe the alternatives to extended restraint that were attempted, the outcome of those efforts and the justification for administering the extended restraint.

(e) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student.

(f) Information regarding opportunities for the student's parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

(5) Report to the Department of Elementary and Secondary Education. When a restraint has resulted in a serious injury to a student or program staff member or when an extended restraint has been administered, the program shall provide a copy of the written report required by 603 CMR 46.06(4) to the Department of Elementary and Secondary Education within five school working days of the administration of the restraint. The program shall also provide the Department with a copy of the record of physical restraints maintained by the program administrator pursuant to 603 CMR 46.06(2) for the thirty day period prior to the date of the reported restraint. The Department shall determine if additional action on the part of the public education program is warranted and, if so, shall notify the public education program of any required actions within thirty calendar days of receipt of the required written report(s).

46.7 : Special Circumstances

(1) Special Circumstances - Students with Disabilities. Restraint administered to a student with a disability pursuant to an Individualized Education Plan ("IEP") or other written plan developed in accordance with state and federal law to which the public education program and the student's parent or guardian have agreed shall be deemed to meet the requirements of 603 CMR 46.00, except that the limitations on chemical, mechanical, and seclusion restraint set forth in 603 CMR 46.02(5), the training requirements set forth in 603 CMR 46.03, and the reporting requirements set forth in 603 CMR 46.06 shall apply.

(2) Special Circumstances - Individual Waiver of Reporting Requirements. Public education programs may seek a parent's or guardian's consent to waive the reporting requirements of 603 CMR 46.06 for restraints administered to an individual student that do not result in serious injury to the student or a program staff member and do not constitute extended restraint. Extended restraints and restraints that result in serious injury to a student or program staff member must be reported in accordance with the requirements of 603 CMR 46.06, regardless of any individual waiver to which the parent or guardian may have consented. Individual waivers should be sought only for students who present a high risk of frequent, dangerous behavior that may require the frequent use of restraint.

(3) Limitations on individual waivers.

(a) A public education program may not require a parent's consent to such a waiver as a condition of admission or provision of services.

(b) A parent may withdraw consent to such waiver at any time without penalty.

(4) Individual Waiver - documentation required. The program shall maintain the following documentation on site in the student's file and shall make such documentation available for inspection by the Department of Elementary and Secondary Education at its request at any time:

(a) The informed written consent of the parent or guardian to the waiver, which shall specify those reporting requirements(s) in 603 CMR 46.06(1)-(4) that the parent or guardian agrees to waive; and

(b) Specific information regarding when and how the parent or guardian will be informed regarding the administration of all restraints to the individual student.

(5) Prohibition on Program or Classroom Waivers: Nothing herein shall be construed to allow a program or classroom to receive an exemption or waiver from any of the requirements of 603 CMR 46.00 on behalf of all of the students enrolled in a particular program or classroom.

Education Laws and Regulations

Mandated Reporting

M.G.L Chapter 119, Section 51A

Massachusetts law requires many professionals who work with children to notify DCF if they suspect that any child has been, or is at risk of being, abused or neglected. Massachusetts law defines the following professionals as mandated reporters:

- Physicians, medical interns, hospital personnel engaged in the examination, care or treatment of persons, medical examiners;
- Psychologists, emergency medical technicians, dentists, nurses, chiropractors, podiatrists, optometrists, osteopaths;
- Public or private schoolteachers, educational administrators, guidance or family counselors;
- Office of Child Care Services licensors;
- Day care and child care workers, including any person paid to care for, or work with, a child in any public or private facility, or home or program funded or licensed by the Commonwealth, which provides day care or residential services. This includes child care resource and referral agencies, as well as voucher management agencies, family day care and child care food programs;
- Social workers, foster parents, probation officers, clerks magistrate of the district courts, and parole officers;
- Firefighters or police officers;
- School attendance officers, allied mental health and licensed human services professionals;
- Psychiatrists, and clinical social workers, drug and alcoholism counselors; and
- Priests, rabbis, clergy members, ordained or licensed ministers, leaders of any church or religious body, accredited Christian Science practitioners, or a person employed by a church or religious body to supervise, educate, teach, train or counsel a child on a regular basis.

Mandated reporters who are staff members of medical or other public or private institutions, schools or facilities, must either notify the Department directly or notify the person in charge of the institution, school or facility, or his/her designee, who then becomes responsible for filing the report. Should the designee/person in charge advise against filing, the staff member retains the right to contact DCF directly.

Chapter 119: Section 51A. Reporting of suspected abuse or neglect; mandated reporters; collection of physical evidence; penalties; content of reports; liability; privileged communication

Section 51A. (a) A mandated reporter who, in his professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i)

abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; or (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the department orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect.

If a mandated reporter is a member of the staff of a medical or other public or private institution, school or facility, the mandated reporter may instead notify the person or designated agent in charge of such institution, school or facility who shall become responsible for notifying the department in the manner required by this section.

A mandated reporter may, in addition to filing a report under this section, contact local law enforcement authorities or the child advocate about the suspected abuse or neglect.

(b) For the purpose of reporting under this section, hospital personnel may have photographs taken of the areas of trauma visible on the child without the consent of the child's parents or guardians. These photographs or copies thereof shall be sent to the department with the report.

If hospital personnel collect physical evidence of abuse or neglect of the child, the local district attorney, local law enforcement authorities, and the department shall be immediately notified. The physical evidence shall be processed immediately so that the department may make an informed determination within the time limits in section 51B. If there is a delay in processing, the department shall seek a waiver under subsection (d) of section 51B.

(c) Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of abuse or neglect under this section shall be punished by a fine of not more than \$1000.

(d) Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of child abuse or neglect under this section shall be punished by: (i) a fine of not more than \$2,000 for the first offense; (ii) imprisonment in a house of correction for not more than 6 months and a fine of not more than \$2,000 for the second offense; and (iii) imprisonment in a house of correction for not more than 2 1/2 years and a fine of not more than \$2,000 for the third and subsequent offenses.

Any mandated reporter who has knowledge of child abuse or neglect that resulted in serious bodily injury to or death of a child and willfully fails to report such abuse or neglect shall be punished by a fine of up to \$5,000 or imprisonment in the house of correction for not more than 2 1/2 years or by both such fine and imprisonment; and, upon a guilty finding or a continuance without a finding, the court shall notify any appropriate professional licensing authority of the mandated reporter's violation of this paragraph.

(e) A report filed under this section shall contain: (i) the names and addresses of the child and the child's parents or other person responsible for the child's care, if known; (ii) the child's age; (iii) the child's sex; (iv) the nature and extent of the child's injuries, abuse, maltreatment or neglect, including any evidence of prior injuries, abuse, maltreatment or neglect; (v) the circumstances under which the person required to report first became aware of the child's injuries, abuse, maltreatment or neglect; (vi) whatever action, if any, was taken to treat, shelter or otherwise assist the child; (vii) the name of the person or persons making the report; (viii) any other information that the person reporting believes might be helpful in establishing the cause of the injuries; (ix) the identity of the person or persons responsible for the neglect or injuries; and (x) other information required by the department.

(f) A mandated reporter who has reasonable cause to believe that a child has died as a result of any of the conditions listed in subsection (a) shall report the death to the district attorney for the county in which the death occurred and the office of the chief medical examiner as required by clause (16) of section 3 of chapter 38. Any person who fails to file a report under this subsection shall be punished by a fine of not more than \$1,000.

(g) Any person may file a report under this section if that person has reasonable cause to believe that a child is suffering from or has died as a result of abuse or neglect.

(h) No mandated reporter shall be liable in any civil or criminal action for filing a report under this section or for contacting local law enforcement authorities or the child advocate, if the report or contact was made in good faith, was not frivolous, and the reporter did not cause the abuse or neglect. No other person filing a report under this section shall be liable in any civil or criminal action by reason of the report if it was made in good faith and if that person did not perpetrate or inflict the reported abuse or cause the reported neglect. Any person filing a report under this section may be liable in a civil or criminal action if the department or a district attorney determines that the person filing the report may have perpetrated or inflicted the abuse or caused the neglect.

(i) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, files a report under this section, testifies or is about to testify in any proceeding involving child abuse or neglect. Any employer who discharges, discriminates or retaliates against that mandated reporter shall be liable to the mandated reporter for treble damages, costs and attorney's fees.

(j) Within 30 days of receiving a report from a mandated reporter, the department shall notify the mandated reporter, in writing, of its determination of the nature, extent and cause or causes of the injuries to the child and the services that the department intends to provide to the child or the child's family.

(k) Any privilege relating to confidential communications, established by sections 135 to 135B, inclusive, of chapter 112 or by sections 20A and 20B of chapter 233, shall not prohibit the filing of a report under this section or a care and protection petition under section 24, except that a priest, rabbi, clergy member, ordained or licensed minister,

leader of a church or religious body or accredited Christian Science practitioner need not report information solely gained in a confession or similarly confidential communication in other religious faiths. Nothing in the general laws shall modify or limit the duty of a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner to report suspected child abuse or neglect under this section when the priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner is acting in some other capacity that would otherwise make him a mandated reporter.

(l) A mandated reporter who is professionally licensed by the commonwealth shall complete training to recognize and report suspected child abuse or neglect.

APPENDICES TO POLICY

Responsibilities of School Personnel and Students in Relation to Witnessed or Reported Bias Incidents

1) All Personnel and Students

- i)** Report bias incidents and civil rights violations to school civil rights administrators
- ii)** Be familiar with basic facts about hate and hate crimes, so as to be able to identify bias incidents and have an understanding of the dynamics
- iii)** Challenge biased attitudes and behavior whenever encountered in school and outside
- iv)** Report hate crimes to police, and summon help in an emergency
- v)** Uphold school civil rights and safety policies and remain vigilant and alert for violations
- vi)** Take responsibility so as to make a difference in stopping hate, finding and creating individual and group opportunities for action and involvement

2) Teachers Only

- i)** Set guidelines for classroom behavior to avoid hurt feelings and promote respect
- ii)** Respond to and challenge insensitive behaviors like name calling and exclusion of children who are different
- iii)** Instruct against hate and prejudice, where this message is apropos to classroom subjects and lessons
- iv)** Look for and help implement proactive programs and strategies to promote tolerance and stop hate conduct

3) School Staff Specifically

- i)** Challenge and try to stop bias incidents when witnessed or encountered in progress, if a safe opportunity is presented

4) Civil Rights Designees Specifically

- i)** Be available to receive reports of civil rights violations from students, faculty, and other administrators
- ii)** Respond promptly to a report of a civil rights violation by intervening if possible, ensuring that students are safe and free from harassment, and by starting an investigation and quickly ascertaining the facts
- iii)** Put a stop to ongoing harassment immediately and effectively, and refer victims to support services and resources available in the area
- iv)** Take remedial, corrective, and disciplinary action as the circumstances established by the investigation, school policies, and the Code of Conduct, warrant
- v)** Take steps to avert retaliation against students who report civil rights violations, and act immediately to ensure student safety and freedom from harassment
- vi)** Communicate and coordinate efforts with police on a regular, ongoing basis, and develop a working partnership with police officers assigned to schools and civil rights issues

- vii) Undergo specialized training to maintain knowledge of hate crimes and civil rights issues as they affect schools
- viii) Coordinate school prevention programming and activities, drawing on available resources and tools

Federal and Massachusetts Laws Bearing On Harassment and Bias Crimes in School Settings

- (a) **Title VI, 42 U.S.C. Sec. 2000 et seq.** (prohibition of discrimination based on race, color, or national origin)
- (b) **Title IX, 20 U.S.C. Sec. 168 et seq.** (prohibition of discrimination based on sex or gender)
- (c) **Title II of the Americans with Disabilities Act, 42 U.S.C. Sec. 12134 (prohibition of discrimination based on disability)**
- (d) **G.L. c. 71, Sec. 37H** (student handbooks required to state disciplinary measures applicable to “violations of other students’ civil rights”)
- (e) **G.L. c. 76, Sec. 5** (prohibition of discrimination “on account of race, color, sex, religion, national origin or sexual orientation”, in access to “advantages, privileges and courses of study of [local] public school”.)
- (f) **G.L. c. 151C** (Fair Education Practices Act, includes prohibition of sexual harassment)
- (g) **G.L. c. 214, Sec. 1** (right of privacy)
- (h) **G.L. c. 214, Sec. 1C** (right of freedom from sexual harassment)
- (i) **G.L. c. 12, Sec. 11H and 11I** (prohibition of threats, intimidation, or coercion interfering with someone’s legal rights)
- (j) **G.L. c. 265, Sec. 37** (criminal penalties for the use of force or threats to interfere with someone’s legal rights)
- (k) **G.L. c. 265, Sec. 39** (increasing penalties for assaults, batteries, and property damage motivated by bias on grounds of race, religion, ethnicity, disability, and sexual orientation)
- (l) **G.L. c. 266, Sec. 127A** (criminal penalties for vandalism of a school)