

Civil Rights Grievance Procedure

Civil Rights Procedures¹

The Advanced Math and Science Academy Charter School is committed to maintaining school environments free of discrimination, harassment or retaliation based on race, color, religion, national origin, sex, sexual orientation, gender identity, age or disability.

Harassment, discrimination, and retaliation in any form or for any reason is prohibited. This includes harassment or discrimination by administrators, personnel, students, vendors and other individuals in school or at school related events. Retaliation against any individual who has brought harassment or discrimination to the attention of school officials or who has cooperated in an investigation of a complaint under this procedure is unlawful and will not be tolerated by the Advanced Math and Science Academy Charter School.

Persons who engage in harassment, discrimination or retaliation may be subject to disciplinary action, including, but not limited to reprimand, suspension, termination/expulsion or other sanctions as determined by the school administration, subject to applicable procedural requirements.

Non-Applicability of This Procedure to Title IX Sexual Harassment Allegations

The *Civil Rights Grievance Procedure* shall not apply to reports of alleged sexual harassment as defined under Title IX of the Education Amendment of 1972 and its implementing regulations (“Title IX”) effective August of 2020.

Allegations of conduct that could, if proven, meet the definition of sexual harassment under Title IX shall be addressed through the School’s *Title IX Sexual Harassment Grievance Procedures*. Similarly, allegations of conduct that meet the definition of sexual harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the *Title IX Sexual Harassment Grievance Procedures* which can be found at <http://www.amsacs.org/civilrights> .

Allegations of conduct that do not meet the definition of sexual harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the *Civil Rights Grievance Procedure*.

Definitions

For the purposes of this procedure:

- A. “Discrimination” means discrimination or harassment on the basis of race, age, color,

¹ For Title IX Sexual Harassment, please use the *Title IX Sexual Harassment Grievance Procedures* available at: <http://www.amsacs.org/civilrights>

national origin, sex, sexual orientation, gender identity, disability or religion by which an individual is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity of the school.

- B. “Harassment” means unwelcome conduct on the basis of race, age, color, national origin, disability, or religion that is sufficiently severe, persistent or pervasive to create or contribute to a hostile environment for the individual at school. Harassment may include insults, name-calling, off color jokes, threats, comments, innuendoes, notes, display of pictures or symbols, gestures or other conduct which rises to the level of a hostile environment. A hostile environment is one which unreasonably interfered with an individual’s participation in, denied the individual the benefits of, or otherwise subjected the individual to discrimination under any program or activity of the School.

a. Non-Title IX Sexual Harassment

M.G.L. c. 151B, § 1 - the term “sexual harassment” is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

M.G.L. c. 151C, § 1 - the term “sexual harassment” is defined as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.

Title VII of the Civil Rights Act of 1964 - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the

purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile environment on the basis of sex is created when the conduct is sufficiently severe or pervasive to alter the conditions of employment.

When determining whether an environment is hostile, the School shall consider the context, nature, frequency, and location of the incidents as well as the credibility of witnesses and the identity, number and relationships of the persons involved. The School must consider whether the alleged harassment was sufficient to have created such an environment for a reasonable person of the same age, sex, race, color, national origin, disability status, and experience as the Complainant, and under similar circumstances. Conduct does not constitute harassment where the incident occurs off-campus at a non-school sponsored activity and does not create a hostile environment at school for the Complainant.

- C. Retaliation: retaliatory acts against any individual who exercises his or her rights under the civil rights statutes covered by this procedure or the sexual harassment procedure are considered to be discrimination and are unlawful. Individuals are prohibited from coercing, intimidating, threatening, or interfering with an individual because the individual exercised any right granted or protected under this procedure and/or the Title IX Sexual Harassment Grievance Procedures.
- D. Complainant: An individual who is alleged to be the victim of conduct that could constitute discrimination, harassment, or retaliation under this procedure. Parents and/or legal guardians of a Complainant are not considered a Complainant but may file informal reports or formal complaints on behalf of a minor child and act on behalf of the minor child in any civil rights matter.
- E. Party or Parties: The Complainant and/or Respondent.
- F. Principal: The Principal or Principal's designee.
- G. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute discrimination, harassment, or retaliation under this procedure.

How to make a complaint

Any individual who believes that he/she has been discriminated or retaliated against or harassed should report their concern promptly to the Principal or Civil Rights Coordinator. Students may also report incidents of harassing conduct to a teacher, administrator, or guidance counselor. Any complaint received by school personnel shall be promptly reported to the Principal or Civil

Rights Coordinator. Individuals who are unsure whether discrimination, harassment, or retaliation has occurred are encouraged to discuss the situation with the Principal or Civil Rights Coordinator. There may be instances where another third-party, who has not experienced but is aware of the occurrence of prohibited conduct, may bring a complaint under this procedure. In such circumstances, that person is referred to as the “reporter.”

If the complaint involves an accusation against the Principal or Civil Rights Coordinator, the individual may report the incident to the Executive Director. If the complaint involves an accusation against the Executive Director or a member of the School’s Board of Trustees, the complaint will be investigated by an individual or individuals who are not subject to the supervision of those employees. If the complaint involves an accusation against the Executive Director or a member of the Board of Trustees, the matter will be reported to the Principal or Civil Rights Coordinator, who will then identify the appropriate individual to investigate the allegations. In cases arising under this paragraph, references to “Principal” or “Civil Rights Coordinator” in this procedure shall mean the relevant individual(s) investigating the complaint in a manner consistent with this paragraph.

- A. Any School employee who observes or receives a report of discrimination, harassment or retaliation shall promptly notify the Principal or Civil Rights Coordinator, identified below. Any School employee who observes discrimination, harassment or retaliation against a student should also intervene to stop the conduct. Upon receipt of a complaint or informal report of discrimination, harassment or retaliation, the Principal shall promptly inform the Civil Rights Coordinator of the informal report or complaint.
- B. Informal Reports: Individuals may wish to file a formal complaint of discrimination, harassment or retaliation, or to report informally (i.e., without initiating a formal complaint). Such informal reports may be made to the Principal or Civil Rights Coordinator. The Principal or Civil Rights Coordinator shall inform anyone making an informal report that he or she may initiate a formal complaint at any time, regardless of what steps are being or have been taken in response to an informal report.
- C. Anonymous Reports: Complainants and reporters should be aware that although the School will often be able to maintain confidentiality of reporting persons, the School may sometimes be required to take actions to protect the safety of the school community that may result in the identity of the reporting person being disclosed (to the police, for example). When reporters or Complainants seek to remain anonymous or have their identities kept confidential, the Principal or Civil Rights Coordinator will inform them that honoring such a request may limit the ability of the School to respond fully to any reported event, including limitations on the ability to take disciplinary action against a Respondent.

- D. Informal Process: If the Principal or Civil Rights Coordinator concludes that it is possible to resolve a matter, whether after formal complaint or an informal report, in a prompt and equitable manner through an informal process involving, and with the consent of, the Complainant and Respondent, the School may seek to do so. The informal process is voluntary, and the Complainant and/or Respondent may terminate or decline any informal process at any time, without penalty. If the informal process is not completed within 30 calendar days, the investigation will resume, unless the parties agree to extend the timeframe to complete the informal process. The parties will be notified of the results of the informal process.
- E. Formal Process: A formal complaint shall state (if known to the reporter or Complainant) the name(s) of the persons involved and witnesses to the conduct, describe the conduct, and identify, to the extent possible, the dates and locations of the conduct. The complaint shall be signed and dated by the reporter and/or Complainant. The Civil Rights Coordinator or Principal may memorialize any oral complaint for a Complainant and/or reporter who is unable to provide a written complaint. Complaints will be investigated promptly and equitably by the Civil Rights Coordinator, Principal, or their designee. A complaint against an individual who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Investigations may be initiated whenever warranted, in the absence of a formal complaint, or after a formal complaint has been withdrawn.
- F. Initial Assessments: The Civil Rights Coordinator or Principal will complete an initial assessment following receipt of a complaint, including identifying and initiating any interim measures that are deemed appropriate. See Section G. Based on that assessment, the Civil Rights Coordinator or Principal may: (a) if the conduct, even if substantiated, would not constitute harassment, discrimination or retaliation, dismiss the complaint or refer it to the appropriate personnel if the matter is within the scope of another procedure; (b) if the Civil Rights Coordinator or Principal concludes that it is possible to resolve the complaint in a prompt and equitable manner through an informal process involving and with the consent of both parties, the Civil Rights Coordinator or Principal may seek to do so in accordance with Section D, above; or (d) if the alleged conduct, if substantiated, would constitute discrimination, harassment or retaliation, the Civil Rights Coordinator or Principal will initiate an investigation.
- G. Interim Measures: The Civil Rights Coordinator or Principal will provide prompt and reasonable interim measures during the pendency of the formal or informal resolution process, if appropriate, to support and protect the safety of the parties, the educational

environment, and the School and/or school community; to deter retaliation; and to preserve the integrity of the resolution process. Any interim measures will be monitored to ensure they are effective based on the evolving needs of the parties. Violations of the restrictions imposed by interim measures could be considered a violation of school rules and may be considered in determining whether discrimination, harassment or retaliation has occurred.

H. Timeframes: The investigator will seek to complete any investigation within twenty (20) school days after receipt of a complaint and provide written notice of the outcome of the investigation to the parties, including, if appropriate, a description of the remedies taken, within twenty-five (25) school days. The investigator may impose reasonable timeframes on all parties to facilitate the timely completion of the investigation. The investigator may extend the investigation period beyond the time period identified due to extenuating circumstances, including but not limited to availability and cooperation of witnesses, complexity of the investigation, and the involvement of law enforcement and other outside agency investigations. If a formal complaint or informal report of discrimination, harassment or retaliation is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the investigator will make reasonable efforts to complete the investigation, understanding the above timelines are tolled during the summer vacation period. If the investigator extends the investigation, he or she will notify the Complainant and Respondent of the extension. A report to law enforcement will not automatically delay an investigation; however, a request from law enforcement to delay the investigation may require a temporary suspension of an investigation, and the investigator will resume its investigation upon being advised that law enforcement's evidence gathering is completed.

I. During the formal resolution procedure:

1. The Complainant shall be provided with an opportunity to be heard and have the opportunity to identify witnesses and other relevant evidence to the investigator.
2. The Respondent will be provided with an opportunity to be heard as part of the investigation including the opportunity to provide relevant information and identify witnesses for the investigator's consideration.
3. The privacy rights of the parties shall be maintained in accordance with applicable state and federal laws.
4. The investigator will keep a written record of the investigation process.

5. Nothing in this Procedure will preclude the investigator, in his or her discretion, from completing the investigation sooner than the time period described above.
- J. Standard of Proof: The investigation shall made factual findings based on a preponderance of the evidence standard.
- K. If the investigator determines that discrimination, harassment or retaliation has occurred, the School shall take steps to eliminate the discriminatory, harassing, or retaliatory environment, which shall include but not be limited to:
 1. Identifying what steps are necessary to prevent recurrence of any discriminatory behavior, including but not limited to harassment or retaliation, and to correct its discriminatory effects if appropriate; and
 2. Informing the Complainant and Respondent of the results of the investigation (in accordance with applicable state and federal privacy laws) in accordance with the above timelines.

The school administration may also refer the offender for disciplinary procedures to be conducted in accordance with federal and state law. Nothing in the Procedure shall be interpreted as limiting or prohibiting the School's ability to take appropriate disciplinary action against the offender in accordance with the applicable code(s) of conduct or employment contracts or policies, where appropriate, prior to completion of the investigation, in accordance with the due process rights of employees and students, as applicable.

- L. Identification of Civil Rights Coordinator² for complaints of discrimination, harassment, and retaliation under this procedure is:

Anthony Montesion
Dean of Students
201 Forest St.
Marlborough, MA 01752
amontesion@amsacs.org
(508)597-2400

- M. Employment Agency Information: federal employment discrimination enforcement agencies is as follows: 1) Federal - United States Equal Employment Opportunity Commission (EEOC); John F. Kennedy Federal Building; 15 New Sudbury Street, Room 475; Boston, MA 02203-0506; 1-800-669-4000; EEOC Boston Area Office Website: <https://www.eeoc.gov/field-office/boston/location>; 2) State: Massachusetts Commission Against Discrimination (MCAD); Boston Headquarters; One Ashburton Place; Sixth

² The 504 Coordinator has designated to the Civil Rights Coordinator the responsibility for responding to reports of disability-based discrimination.

Floor, Room 601; Boston, MA 02108; (617)-994-6000; MCAD Website
<https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>.

Legal Ref: Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; the Age Act; M.G.L. c. 151B and c. 151C; M.G.L. c. 76, § 5; SC Policy JICFB, Bullying Prevention; SC Policy AC, Nondiscrimination.