

CITY OF HOLYOKE  
SCHOOL COMMITTEE

**SCHOOL COMMITTEE AGENDA**

**DATE:** MONDAY, August 17, 2020

**TIME:** 6:00 PM

**LOCATION:** Virtual Meeting Via Zoom

*\*On March 12, 2020, Governor Baker issued an Executive Order modifying certain requirements of the Open Meeting Law, to enable public bodies to carry out their responsibilities while adhering to public health recommendations regarding social distancing.*

*The Executive Order relieves public bodies from the requirement in the Open Meeting Law that meetings be conducted in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body through adequate, alternative means. "Adequate, alternative means" may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body in real time.*

*In addition, all members of a public body may participate in a meeting remotely; the Open Meeting Law's requirement that a quorum of the body and the chair be physically present at the meeting location is suspended.*

1. **CALL TO ORDER ~ ROLL CALL ~ PLEDGE OF ALLEGIANCE**

- a. *Pursuant to M.G.L. c. 30A, s. 20, I am hereby informing all attendees that a video and audio recording is being made of the meeting and the meeting is being live-streamed and run live on the City's community TV channel.*

2. **STUDENT SHOWCASE - TRANSITIONS PROGRAM**

3. **PUBLIC COMMENT**

Members of the public wishing to submit public comment can email [lizlafond@hps.holyoke.ma.us](mailto:lizlafond@hps.holyoke.ma.us) no later than 3:00 p.m. Monday, August 17, 2020. Comments will either be displayed or read during the meeting.

4. **COMMUNICATIONS & REPORTS**

- a. **Update on School Year 2020-2021**  
b. **Update on School Reopening Team - Devin Sheehan**  
c. **Superintendent/Receiver Communication**

7. **NEW BUSINESS**

- a. **Nominations for President-elect of Mass Association of School Committees**  
b. **Policy Draft - EBCFA Face Coverings**
  - To be posted on School Committee page on HPS Website for public comment.

8. **ONGOING BUSINESS**
  - a. **Policy Draft - ACAB Harassment**

9. **ANNOUNCEMENTS**

The listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

\*The Holyoke Public Schools makes available a public discussion period for persons in the audience to address the Committee on specific agenda items. In order to hear as many speakers as possible, the Committee asks individuals to continue their remarks to two (2) minutes. Any person wishing to submit longer testimony should give copies to the Committee Secretary before the meeting so that it may be distributed to Committee members. The speaker can then summarize this testimony at the meeting within the two (2) minute time period. Persons wishing to speak should register with the Committee Secretary immediately before the meeting begins. Individuals who request specific items to be included on the Committee's agenda should mail a written request fifteen (15) days in advance of a Committee meeting date to Liz Lafond, in care of the Receiver's Office, 57 Suffolk Street, Holyoke, MA 01040.

## FACE COVERINGS

The Holyoke District is committed to providing a safe environment as schools reopen during the COVID-19 pandemic. According to public health experts, one of the best ways to stop the spread of coronavirus and to keep members of our school community safe is the use of face masks or face coverings. Therefore, in accordance with guidance from the Center for Disease Control (CDC), the Department of Elementary and Secondary Education (DESE) and the Massachusetts Department of Public Health (DPH), the following requirements are in place until further notice.

A face covering that covers the nose and mouth must be worn by all individuals in school buildings, on school grounds and on school transportation, even when social distancing is observed. Exempted from this policy are students in Grade 1 and below.

Individuals may be excused from the requirement for the following list of reasons, per CDC guidance:

The individual:

- has trouble breathing;
- is unconscious;
- is incapacitated;
- cannot remove the mask or face covering without assistance.

In addition, masks or face coverings will not be required for anyone who has a medical, behavioral or other challenge making it unsafe to wear a face mask or face covering. A written note from a physician is required for a requested exemption. Parents may not excuse their child from the face mask requirement by signing a waiver.

Additionally, face masks or face coverings will not be required when appropriate social distancing is enforced:

- during mask breaks;
- while eating or drinking;
- during physical education classes;
- while outside.

Exceptions to this policy under certain circumstances, such as for students with medical, behavioral or other challenges who are unable to wear masks, must be approved by the building principal in consultation with the school nurse or local Board of Health. Face shields or physical barriers may provide an alternative in some instances.

A student's mask or face covering is to be provided by the student's family. Staff members are responsible for providing their own face coverings. However, the district will supply disposable face covering for individuals who arrive at a building, or board school transportation, without one.

If students are in violation of this policy, the building principal will consult with the parent/guardians to determine whether an exception is appropriate, or the student may be removed from the school building for in-person learning until such time as they can comply with the requirement or the requirement is lifted.

Violations of this policy by staff will be handled in the same manner as other violations of School Committee policy.

Visitors in violation of this policy will be denied entry to the school/district facility.

This policy will remain in place until rescinded by the School Committee.

LEGAL REF.: Commonwealth of Massachusetts, COVID-19 Order No. 31 -  
<https://www.mass.gov/doc/may-1-2020-masks-and-face-coverings/download>

REFS.: Center for Disease Control and Prevention – Considerations for Wearing Masks -  
<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>  
Massachusetts Department of Elementary and Secondary Education – Reopening Guidelines - <http://www.doe.mass.edu/covid19/>  
Commonwealth of Massachusetts – Mask Up MA! –  
<https://www.mass.gov/news/mask-up-ma>

SOURCE: MASC – August 2020

## HARASSMENT

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

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

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

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

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

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

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

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

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

The District will promptly and reasonably investigate allegations of harassment through designation of Title IX Coordinator or building based employees, who may include principals or their designees. The

superintendent will recommend, in consultation with the principals, opportunities to the designated recipients for appropriate training.

**Sexual harassment** is unwelcome conduct of a sexual nature. The definition includes unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity, it also includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment includes conduct by an employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct, often called quid pro quo harassment and, sexual assault as the Federal Clery Act defines that crime. Sexual violence is a form of sexual harassment. Sexual violence, as the Office of Civil Rights (OCR) uses the term, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion. Massachusetts General Laws Ch. 119, Section 51 A, requires that public schools report cases of suspected child abuse, immediately orally and file a report within 48 hours detailing the suspected abuse to the Department of Children and Families. For the category of sexual violence, in addition to Section 51A referrals these offences and any other serious matters shall be referred to local law enforcement. Schools must treat seriously all reports of sexual harassment that meet the definition of sexual harassment and the conditions of actual notice and jurisdiction as noted above. Holding a school liable under Title IX can occur only when the school knows of sexual harassment allegations and responds in a way that is deliberately indifferent (clearly unreasonable in light of known circumstance).

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

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

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

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

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

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

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

### **NOTICE OF SEXUAL HARASSMENT**

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

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

### **DUE PROCESS PROTECTIONS**

Due process protections include the following:

- 1) A presumption of innocence throughout the grievance process, with the burden of proof on the school;
- 2) A prohibition of the single investigator model, instead requiring a decision-maker separate from the Title IX Coordinator or investigator;
- 3) The clear and convincing evidence or preponderance of the evidence, subject to limitations;
- 4) The opportunity to test the credibility of parties and witnesses through cross examination, subject to "rape shield" protections;
- 5) Written notice of allegations and an equal opportunity to review the evidence;
- 6) Title IX Coordinators, investigators, and decision-makers must be free from bias or conflict of interest;
- 7) Equal opportunity for parties to appeal, where schools offer appeals;
- 8) Upon filing a formal complaint the school must give written notice to the parties containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation. For K-12 schools a hearing is optional but the parties must be allowed to submit written questions to challenge each other's credibility before the decision-maker makes a determination. After the investigation, a written determination must be sent to both parties

explaining each allegation, whether the respondent is responsible or not responsible, including the facts and evidence on which the conclusion was based by applying either the preponderance of the evidence or the clear and convincing standard; however, a school can use the lower preponderance standards only if it uses that standard for conduct code violations that do not involve sexual harassment but carry the same maximum disciplinary sanction. As long as the process is voluntary for all parties, after being fully informed and written consent is provided by both parties, a school may facilitate informal resolution of a sexual complaint.

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

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

### **RECORD KEEPING REQUIREMENTS**

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

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

#### Title IX Coordinator

Staff: Beth Gage, Chief of Human Resources - 413 534-2000 extension 1500

Students: Sandra Donah, Director of Pupil Services - 413 534-2000 extension 1200

#### Schools:

Holyoke High School North Campus - Lori McKenna, Associate Principal - 413 534-2020

Holyoke High School Dean Campus - Alan Gates, Associate Principal - 413 534-2071

Donahue School - Marc Swygert, Principal - 413 534-2069

Kelly School - Luis Soria, Principal - 413 534-2078

Lawrence School - Catherine Hourihan, Principal - 413 534-2075

McMahon School - Rebecca Thompson, Principal - 413 534-2062

Metcalf School - Amy Burke, Principal - 413 534-2104

Morgan School - Stephen Moguel, Principal - 413 534-2083

Peck School - Sarita Graveline, Principal - 413 534-2040

STEM Academy - Sal Canata, Principal - 413 535-0345  
 Sullivan School - Sacha Garcia-Maillous, Principal - 413 534-2060  
 Veritas Prep Holyoke - Rue Ratray, Principal - 413 535-0181

Holyoke Transitions Academy - Kelsey Pool, Transition Specialist - 413 512-5361 extension 1801  
 Middle School Pathways Program - Jeffrey Peterson, Director  
 Opportunity Academy - Michael Buhl, Executive Director - 413 552-2990

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

The Complainant may also file a complaint with:

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

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

**Note: A summary of the attached Policy, as adopted, must be sent to parents/guardians, students, employees, unions, and prospective employees of the school district including Title IX Coordinator(s), investigator(s) and the decision-maker. The above referenced employees must attend training sessions on the implementation of the Policy.**

SOURCE: MASC July 2020