

Lowell Middlesex Academy Charter School

Civil Rights and Non-Discrimination Notice Handbook

Dear Staff, Parents, and Students:

As an educational institution, Lowell Middlesex Academy Charter School is committed to creating and maintaining a school that prevents discrimination of all types at the same time as it ensures the health and safety of all who work and learn here.

To this end, it is important to build an increasing awareness and understanding in all of us of those civil rights granted to us by law, such as those summarized 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 Disabilities 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 Education Amendments of 1972: Prohibits discrimination, exclusion from participation, and denial of benefits in educational programs on the basis of sex.
- Title VI of the Civil Rights Act of 1964: Prohibits discrimination, exclusion from participation, and denial of benefits based on race, color, 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, Chapter 76, Section 5: Prohibits discrimination in all public schools on the basis of race, color, sex, national origin, religion, and sexual orientation.

Please take time to review this material in depth.

Sincerely,

Margaret A. McDevitt, Ed.D.
Executive Director
Lowell Middlesex Academy Charter School

Lowell Middlesex Academy Charter School

NON-DISCRIMINATION NOTICE and CIVIL RIGHTS AND SAFETY INFORMATION for School Personnel, Parents, and Students

1) Statement

It is the role of the Lowell Middlesex Academy Charter School to provide a safe and secure learning environment for all its students 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 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, 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 in violation.

2) Commitment to Prevention

Lowell Middlesex Academy Charter School 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 all students 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 Administrator

The executive director of Lowell Middlesex Academy Charter School will respond to matters of civil rights that arise in the school setting. The executive director shall be available to receive reports and complaints of civil rights violations from students, faculty, or staff. S/he will receive specialized civil rights training and take responsibility for upholding school civil rights and safety policies. S/he will also serve as a liaison with law enforcement agencies, and make 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 by 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 or others 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.

- a. *BIAS-RELATED HARASSMENT* will present bias indicators, most commonly epithets: name-calling derogatory to a particular racial, religious, or sexual orientation group;
 - b. *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 a student 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 Information

This information applies 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 should immediately begin an investigation. In an emergency, 911 must be called.
- b) A student 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 a 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 a student or school employee 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 information 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) Commitment to Non-Retaliation

To secure the unimpeded reporting of bias activity called for in this information, Lowell Middlesex Academy Charter School 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.

9) 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.

10) 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.

11) Dissemination of Information and Training

a) This information shall be conspicuously posted throughout each school building in areas accessible to pupils and staff members.

b) The School will provide instruction in the provisions of this information to teachers, other employees, and students.

c) This information shall be reviewed at least annually for compliance with state and federal law.

12) Additional Information: 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 Lowell Middlesex Academy Charter School 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.

Lowell Middlesex Academy Charter School 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 the parent or guardian disagrees with the determination made by the professional staff of the school district, s/he has the right to a hearing with an impartial officer.

The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This Act gives the parents or guardian the right to: (1) inspect and review his/her child's educational records; (2) make copies of these records; (3) receive a list of the individuals having access to those records; (4) ask for an explanation of any item in the records; (5) ask for an amendment to any report on the grounds it is inaccurate, misleading, or violates the child's rights; and (6) request a hearing on the issue if the school refuses to make the amendment.

Questions should be directed to the designated Section 504 Coordinator via the Superintendent's office.

13) Additional Information: NOTICE OF NON- DISCRIMINATION

Lowell Middlesex Academy Charter School is committed to compliance with the Americans with Disabilities Act (ADA). The School intends 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 Lowell Middlesex Academy Charter School to discriminate on the basis of disability against a qualified individual with a disability in regard to:

- (a) recruitment, advertising, job application, and employment procedures;
- (b) hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- (c) rates of pay or any other form of compensation and changes in compensation;
- (d) job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- (e) leaves of absence, sick leave, or any other leave;
- (f) fringe benefits available by virtue of employment, whether or not administered by the covered entity;
- (g) selection and financial support for training including apprenticeships, professional meetings, conferences, and other related activities and selection for leaves of absence to pursue training;

- (h) activities sponsored by a covered entity including social and recreational programs; and
- (i) any other term, condition, or privilege of employment.

Lowell Middlesex Academy Charter School will not isolate individuals with disabilities, discriminate on the basis of disabilities through contracts, avoid using qualification standards, criteria, methods of administration, or tests that discriminate against individuals with disabilities, or avoid 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. Lowell Middlesex Academy Charter School 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.

Lowell Middlesex Academy Charter School is committed to meeting the intent and spirit of ADA. All employees are urged to help meet this goal. If anyone believes that Lowell Middlesex Academy Charter School has discriminated against him/ her or someone else on the basis of disability, or if anyone has questions or concerns about the school's responsibilities in this regard, please contact the Section 504/ADA Coordinator.

APPENDICES TO POLICY

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

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.

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.

School Staff Specifically

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

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. 15 IC (Fair Education Practices Act, includes prohibition of sexual harassment)

(g) G.L. c. 214, Sec. I B (right of privacy)

(h) G.L. c. 214, Sec. IC (right of freedom from sexual harassment)

(i) G.L. c. 12, Sec. I I H and I I I (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 'school)

Outside Resources

Massachusetts Commission Against Discrimination (MCAD)
1 Ashburton Place
Boston, MA 02108
(617) 727-3990

Equal Employment Opportunity Commission (EEOC)
1 Congress Street, Floor 10
Boston, MA 02114
(617) 565-3200

Federal Office for Civil Rights
McCormack Post Office and Court House
Post Office Square
Boston, MA 02109

Lowell Middlesex Academy Charter School Title VI, Title IX, and Section 504 Coordinators:

Executive Director
Lowell Middlesex Academy Charter School
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Middlesex Academy Charter School

Lowell Middlesex Academy Charter School is committed to ensuring that all of its programs and facilities are accessible to all members of the public. We do not discriminate on the basis of age, color, disability, national origin, race, religion, sex, sexual orientation, or gender identity.

33 Kearney Square, Lowell, Massachusetts 01852

Phone # 978 656-3165