

Hull Public Schools

**Annual Mandated Civil Rights Training
August 29, 2011**

**Judith Kuehn
Director of Student Services**

Agenda

- Key Civil Rights Laws
- 504 Accommodation Plans
- Behavior Restraint Procedures
- Mc-Kinney Vento Act "Homeless"
- Confidentiality
- Bullying

Civil Rights

- Federal Laws Require
 - Full Compliance and Accountability
 - District-Wide Coordinators
 - Grievance Procedures
 - Oversight by Office of Civil Rights

Key Civil Rights Laws

- Title VI: Title VI Civil Rights Act of 1964
 - Prohibits discrimination, exclusion from participation and denial of benefits based on race, color or national origin in programs or activities receiving federal financial assistance.
 - Ms. Laura Miceli

Key Civil Rights Laws

- Title IX: Title IX of the Education Amendments of 1972 regarding Sexual Harassment
 - Prohibits discrimination, exclusion from participation, and denial of benefits based on sex in educational programs and activities receiving federal financial assistance.
 - Ms. Rebecca MacDonald
 - Ms. Laura Miceli

Sexual Harassment Title IX

- Sexual harassment of students is unwelcome conduct of sexual nature by school employees, other students or third parties.
- Sexual harassment of a student can deny or limit participation in school programs therefore, a form of sex discrimination under Title IX.

Key Civil Rights Laws

Title I of the Americans Disabilities Act of 1990

- Prohibits discrimination, exclusion from participation, and denial of benefits on the basis of disability in the areas of employment.
- Mr. Daniel McGonagle

Key Civil Rights Laws

- 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 and activities.
- Ms. Judith Kuehn

Section 504 of the Rehabilitation Act of 1973

“No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program or activity receiving federal financial assistance.”

Section 504

Prohibits discrimination, exclusion from participation and denial of benefits based on disability in programs or activities receiving federal financial assistance.

- Ms. Judith Kuehn
- Ms. Andrea Centerrino
- Ms. Rebecca MacDonald
- Ms. Maureen Rosenplanter

What Constitutes a 504 Evaluation?

- 504 Team: Individuals Knowledgeable about:
 - The Student
 - Meaning of Evaluation Data
 - Potential Accommodations Options
- Sample Evaluation Information
 - Record Review; Student Observations
 - Informational Inventories; Formal Assessments
 - Teacher Reports; Student Work Samples
 - Medical/Health Data/Diagnosis

General Education Vs. 504

- General Education: 1st Consideration
Can student's needs be met through General Education accommodations?
- 504 Plan: Does student's disability substantially impact 1 or more of life's major activities and require accommodations?
(Federal Eligibility Criteria)

Key 504 Compliance: Staff Responsibilities

- Make Programs and Activities Accessible within Least Restrictive Environment
- Provide Reasonable Accommodations
- Comply with Accommodations in Student's 504 Plans



Major Difference: 504 vs. Special Education Eligibility

Requirements	504 Eligibility	Special Education Eligibility
Student has a disability	Including but not limited to: ADD, Emotional, Blindness, Visual Impairment, Hearing Impairment, Cerebral Palsy, Diabetes, Epilepsy, specific learning disability, etc. ✓	Including: Autism, Developmental Delay and Intellectual, Sensory, Neurological, Emotional, Communication, Physical, Health, Specific Impairments, Multiple Disabilities, specific learning disability, ADD ✓
Student's Disability impacts 1 or more of life's major activities and requires <u>Accommodation Plan</u>	✓	
Student's Disability falls within Federal definition, impacts student's ability to make effective progress in general curriculum and requires <u>specialized instruction</u> and/or related services		✓

Who Isn't Eligible for a 504 Plan?

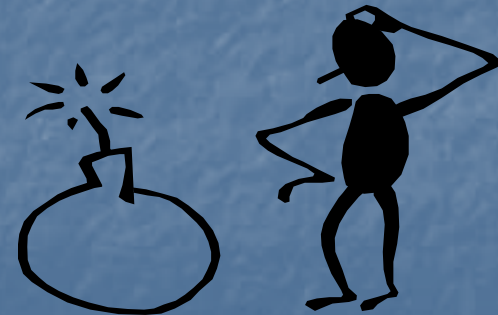
- A 504 Plan is not a Consolation Prize

A student is not automatically eligible for a 504 Plan just because he/she doesn't qualify for an IEP

- A student that has a disability or medical diagnosis that does not substantially impact his/her ability to learn

What are Key 504 Liability Issues for Staff?

- Failure by individual to make reasonable accommodations as required by Law
- Risk for district and personal liability for damages, Attorney's Fees and compensatory services



Discrimination/Harassment Connection

- Harassment could deny a student the right to an education free of discrimination and could threaten a student's physical or emotional well-being, influence how well a student does in school and make it difficult for a student to achieve his or her career goals. Also, the courts have made it clear that, where harassment is so severe, pervasive, and objectively offensive that it interferes with benefits protected by law, it creates an illegal 'hostile environment.'

Harassment based on protected classes

Be aware of harassment based on other protected classes

- Aside from sexual harassment common to see harassment based on:

Race

National origin

Disability

Religion

Sexual orientation

Color

Age

Bullying generally refers to conduct that:

- Adversely affects a student's ability to participate in or benefit from the school's educational programs or activities
- Results from repeated negative actions by one or more students over time
- Occurs in a relationship where there is an imbalance of power
 - Some bullying incidents can be Harassment (capital "H") and unlawful based on anti-discrimination laws

An Act Relative to Bullying in Schools

- Chapter 92 Acts of 2010
- This new law requires school districts to develop and adopt bullying prevention and intervention plans
- Hull Public Schools intervention plan available on website

Bullying is defined as the **repeated** use of a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, by one or more students directed at another student that has the effect of: causing physical or emotional harm to the other student or damage to his or her property;

- placing the other student in reasonable fear of harm to him or herself or of damage to his or her property;
- creating a hostile environment at school for the bullied student;
- infringing on the rights of the other student at school;
- Or materially and substantially disrupting the education process or the orderly operation of a school.

This bill prohibits bullying:

- At school and at all school facilities;
- At school-sponsored or school-related functions, whether on or off school grounds;
- On school buses and school bus stops; through the use of technology or an electronic device owned, licensed or used by a school; and
- At non-school-related locations and through non-school technology or electronic devices, if the bullying affects the school environment.

District Bullying Intervention Plan Contains:

- Procedures for responding to and investigating reports of bullying
- Strategies for protecting those who report bullying
- Notice to the parents or guardians of students involved in bullying, including perpetrators and victims
- Appropriate services for students who have been bullied or who are bullies
- Annual staff training & professional development
- Age appropriate instruction on bullying prevention in each grade

Forms of Bullying

- Physical
- Verbal
- Emotional or social
- Cyber

Who, When and Where

- Involves males more than females
- Begins in elementary grades
- Takes place in & around school
- Often witnessed by peers

Students Who Bully May:

- Control others
- Lack empathy
- View violence in a positive way
- Associate with like children
- Be easily frustrated
- May be popular and respected, and have good self-esteem

Is That Kid Being Bullied?

- Child most likely won't tell
- Child feels ashamed
- Look for behavioral signs
- Trust your instincts

Targets

- Reluctance to go to school
- Ripped or missing belongings
- Decreased success in class
- Unexplained bruises or injuries
- Lowered self-esteem
- Complaints about feeling sick before school
- Being withdrawn, depressed

Bullies

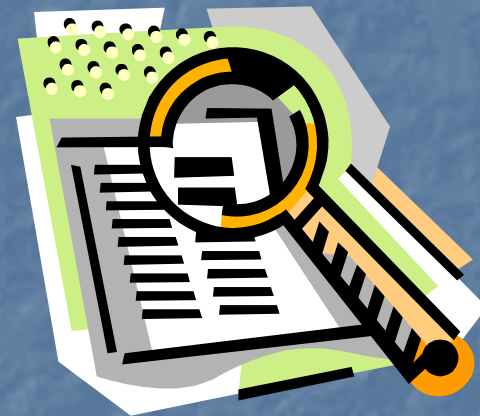
- Control others
- Lack empathy
- May be popular
- Associate with like children

Mandated Reporting & Responding

- A staff member will report immediately to the principal or designee when he/she witnesses or becomes aware of conduct that may be bullying or retaliation. The requirement to report to the principal or designee does not limit the authority of the staff member to respond to behavioral or disciplinary incidents consistent with school or district policies and procedures for behavior management and discipline.
- District incident reporting form

INVESTIGATION

The principal or designee will investigate promptly all reports of bullying or retaliation and, in doing so, will consider all available information known, including the nature of the allegation(s) and the ages of the students involved.



Responses to Bullying

- The principal or designee will notify parents of the target and the aggressor about the results of the investigation and, if bullying or retaliation is found, what action is being taken to prevent further acts of bullying or retaliation.
- All notice to parents must comply with applicable state and federal privacy laws and regulations. Because of the legal requirements regarding the confidentiality of student records, the principal or designee cannot report specific information to the target's parent or guardian about the disciplinary action.

Notice to Law Enforcement

- At any point after receiving a report of bullying or retaliation, including after an investigation, if the principal or designee has a reasonable basis to believe that criminal charges may be pursued against the aggressor, the principal will notify the local law enforcement agency.

Bullying & Special Education

When the IEP Team determines the student has a disability that affects social skills development or the student may participate in or is **vulnerable to bullying, harassment, or teasing** because of his/her disability, the Team will consider what should be included in the IEP to develop the student's skills and proficiencies to avoid and respond to bullying, harassment, or teasing.

M.G.L. c. 71B, § 3, as amended by Chapter 92 of the Acts of 2010

Complaint Procedures

- Issues of bullying, discrimination and harassment are particularly **sensitive** for adults and students
- If a teacher or student receives a report of harassment and discrimination, such reports should be taken **seriously**
- **Always** report information to the proper school authority

Safety

- Regardless of what type of harassment occurs, a school must take immediate and appropriate steps to stop or prevent it from happening again. The judgment and common sense of teachers and administrators are important elements of any response.

Remember

- Bullying is a learned behavior
- Developed over a long period of time
- Takes time to fix
- Bullying is the responsibility of the bully

Civic Responsibility of All Stakeholders

Physical Restraint Requirements

- Annual Review Requirement, for ALL staff
- School Restraint Policy and Procedures
 - Alternative Strategies to Restraint
 - Required Staff Training
 - Trained Teams as Resources
 - Types of Restraint and Related Safety Issues
 - Required Reporting & Documentation

Administrative Procedures

Physical Restraint

- Use reasonable force as necessary to protect a student or other persons from assault, or imminent physical harm
- Only trained persons to administer restraint
- Staff submits written report by the next day
- Principal/Designee to inform parents
- Principal submits complaints about restraint procedures to Director of Student Services

When may Physical Restraint be Necessary?

- When other, non-physical, interventions have been tried and failed or are judged to be inadequate to the circumstances

AND

a student's behavior poses a threat of **IMMINENT, SERIOUS, PHYSICAL HARM** to self and/or others

Proper Administration of Physical Restraint

- Have an adult witness if possible
- Use only the amount of force necessary to protect the student or others
- Use the safest method. Do not use floor or prone restraints unless you have received in-depth training
- Discontinue restraint ASAP

Do Not Use Physical Restraint



Regulation 46.04(3)

- When non-physical interventions could be used
- As a means of punishment
- As a response to property destruction, school disruption, refusal to comply, or verbal threats

Key Reporting Requirements

- When to Report: Report all restraints to Principal
- Log required for restraints over 5 minutes or in any case of an injury (to student or staff).
- Notify School Administration: Notify school administration as soon as possible, & provide written report by the next school working day.
- Notify Parents: The principal or director of the program notifies the parent, verbally as soon as possible, and by written report

Content of Written Report

- Who participated in the restraint? Observers?
Who was informed and when?
- When did the restraint occur? (Date/Time)
- What was happening before, during, and after the restraint? Describe alternative efforts attempted and the outcomes of those efforts.? Describe the restraint.
- Documentation of any injury to students or staff.
- Has the school taken, or will it take, any further actions, including disciplinary consequences?

Special Circumstances

For students with disabilities (w/IEP's or 504 plans), physical restraint can be used for different reasons (other than danger) of reasons are detailed and part of the IEP or 504. Certain limits and requirements will still apply.

Parents may agree to a waiver of reporting requirements in individual circumstances. However, the school cannot require parental consent to a waiver.

Mc-Kinney Vento Act Students in Transition

- Eligibility
 - Student has lost permanent residence
 - Student has temporary residence (home/shelter)
- Homeless Students can:
 - Attend school in Hull
 - Attend school in new community
 - Receive free transportation to school
 - Receive free lunch

Who is Homeless?

- This includes students living in:
 - Shelters
 - Campgrounds, parks, cars, public buildings
 - Doubled up with friends or relatives
 - Abandoned in a hospital
 - Unaccompanied youth
 - Awaiting foster care

McKinney Vento Act Staff Responsibilities

- Notify Principal if you become aware of a student living in temporary residence
- Principal will follow-up to verify eligibility for services and to verify residency status

Student Records & Confidentiality

- Authorized School Personnel
 - School administrators, teachers, counselors and other professional working directly with a students in an administrative, teaching, counseling or diagnostic capacity
 - Administrative Office Staff and Clerical Personnel
 - Evaluation Teams

Student Record

- Temporary Record – Kept 7 Years After Graduation
 - Information in the records not contained in the transcript
 - e.g., Standardized Test Scores, Extra-Curricular Activities, Special education Records, Evaluations by Teachers, Counselors, Other Staff
- Transcript – Begins at H.S. – Kept 60 Years
 - Minimum data necessary to reflect student's educational progress

Access Log

- Used to track access to the student's record
- Authorized school personnel are not required to log their access

Student/Parent Access

- Parents (or students 14 or older) have access to complete student records
- Parents/students may also have school records inspected by a third party
- A third party must have written consent

Additional Third Party Access

- Court Order/Lawfully Issued Subpoena
 - School shall attempt to notify parent in advance of compliance, Court Justice
 - First Responders in Emergency Situations
 - Any school to which a student plans to transfer
- Special Circumstances
- Federal, State/Local Officials
 - Department of Children & Families (DCF) (51A)

Non-Custodial Parents

- Access Allowed UNLESS
 - Parent has been denied legal custody or visitation rights
 - Supervised visitation has been ordered based on a threat to student's safety
 - Access to student restricted by temporary or permanent restraining order
 - A Judge's order prohibits distribution
- Documents in student records will indicate limited or restricted access

"Sole Possession" Records

- Records kept "in sole possession of the maker" are not considered part of educational records
- Once these records are shared with others (via email, for example,) they are considered educational records

Staff Reminders

- Be sure to keep confidential information in a secure location
- Do not discuss confidential information in a public space (hallway, cafeteria, faculty room)
- Do not use email to communicate confidential information

An aerial photograph of a coastal town, likely Hull, Massachusetts, showing a long, narrow peninsula with a dense residential area and a beach. The sky is blue with scattered white clouds. Overlaid on the image are three lines of yellow text with black outlines.

GREAT TOWN

HULL PRIDE

GREAT SCHOOLS