

603 CMR: DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

603 CMR 5.00: DISPUTE RESOLUTION UNDER PARENTAL NOTIFICATION LAW

Section

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5.01: Authority, Scope and Purpose

(1) The Board of Education promulgates 603 CMR 5.00 pursuant to its authority under M.G.L. c. 69, § 1B and M.G.L. c. 71, § 32A.

(2) 603 CMR 5.00 governs the resolution of disputes arising under M.G.L. c. 71, § 32A concerning notice, access to instructional materials, and student exemptions with respect to curriculum that primarily involves human sexual education or human sexuality issues, as defined in 603 CMR 5.02.

(3) 603 CMR 5.00 is intended to encourage local resolution of disputes arising under M.G.L. c. 71, § 32A, and to provide for resolution by the Department of Education only when those disputes cannot be resolved by the parties at the local school or school district level.

5.02: Definitions

Commissioner, the Commissioner of Education, appointed in accordance with M.G.L. c. 15, § 1F.

Curriculum that primarily involves human sexual education or human sexuality issues, courses (typically, sex education or discrete units of a health education or biology course), school assemblies or other instructional activities and programs for which the instruction and materials focus principally on human sexual education, the biological processes of human reproduction and sexual development, or human sexuality issues.

Parent, the parent or guardian of a student enrolled in a Massachusetts public school.

School committee, the governing body of one or more public elementary or secondary schools, including the board of trustees of a charter school or of a public vocational school.

5.03: Local Process for Dispute Resolution

(1) A parent who is dissatisfied with an action or decision of the school principal under M.G.L. c. 71, § 32A may submit a written request to the superintendent of schools for review of the issue. Except in extenuating circumstances, the parent shall submit the request within 30 days of the action or decision of the principal.

(2) The superintendent or designee shall review the issue and provide the parent with a timely written decision within 15 days of the request, unless extenuating circumstances require a delay.

(3) A parent who is dissatisfied with an action or decision of the superintendent under M.G.L. c. 71, § 32A may submit a written request to the school committee for review of the issue.

(4) The school committee shall review the issue and provide the parent with a timely written

decision within 30 days of the request, unless extenuating circumstances require a delay.

(5) The decision of the school committee on any issue arising under M.G.L. c. 71, § 32A shall be considered the final local decision on the matter.

5.04: Department of Education Process for Dispute Resolution

(1) A parent who is dissatisfied with the final local decision on an issue arising under M.G.L. c. 71, § 32A may submit a written request for review to the Commissioner, within 15 days of the date of the final local decision. The written request shall specify the basis on which the parent alleges the school or school district has not met the requirements of M.G.L. c. 71, § 32A and shall include a copy of the final local decision and any other relevant correspondence. The parent shall send a copy of the written request to the superintendent of schools or, in the case of a charter school, to the charter school leader.

(2) Based on his review of the material submitted by the parent, the Commissioner shall determine the process to be followed in resolving the dispute under M.G.L. c. 71, § 32A and shall notify the parties within ten days of receipt of the request. The Commissioner may propose alternative dispute resolution, including mediation, and may appoint a fact-finder or seek the assistance of experts as he deems appropriate to assist in informal resolution of the matter.

(3) If the matter is not otherwise resolved, the Commissioner shall designate a hearing officer who will conduct an adjudicatory hearing in accordance with 801 CMR 1.00, the *Standard Adjudicatory Rules of Practice and Procedure*.

(4) The Commissioner or his designee shall issue a written decision to the parties within 30 days of the conclusion of his review of the matter, unless extenuating circumstances require a delay. The decision of the Commissioner or his designee shall be the final agency decision.

REGULATORY AUTHORITY

603 CMR 5.00: M.G.L. c. 69, § 1B; c. 71, § 32A.