

**MEMORANDUM**

To: Lenox School Committee Chair, Robert Vaughan

From: Mariem Marquetti, Esq.  
Nan O'Neill, Esq.

Date: September 7, 2022

Re: Summary of Review of Lenox Memorial Middle and High School Administration  
Response to Bullying Complaints

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**I. SCOPE OF INVESTIGATION**

I was retained by the Lenox School Committee to investigate how the Lenox Memorial Middle and High School (“LMMHS”) administration responded to complaints of bullying during the 2021-2022 school year. Specifically, I investigated how administration responded to formal student-to-student bullying reports and informal student-to-student bullying reports, complaints and concerns during the 2021-2022 school year.

During the course of the investigation, the scope was extended to include investigations into how LMMHS administration responded to staff-to-student bullying complaints. Accordingly, this investigation also addresses how staff bullying complaints were handled by LMMHS administration during the 2021-2022 school year.<sup>1</sup>

**II. INVESTIGATIVE STEPS**

Over the course of seven days, I met with 36 individuals, including current and former students, parents, staff, and administrators.

I also reviewed the following applicable Lenox Public Schools District policies and forms:

- Lenox Memorial Middle and High School Student Code of Conduct and Handbook, Section VI: Lenox Bullying Prevention Plan, located at pp. 57-64.
- Lenox Bullying Prevention & Intervention Incident Reporting Form A
- Lenox Bullying Prevention & Intervention Incident Reporting Form B
- Lenox Bullying Prevention & Intervention Incident Reporting Form C

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<sup>1</sup> This investigation is limited to addressing how LMMHS administration responded to bullying reports, complaints and concerns, and does not purport to make any finding or conclusion as to whether bullying actually occurred in each instance discussed.

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With respect to records, I reviewed pertinent email communications, formal bullying reports, handwritten notes, a safety plan that resulted from a bullying report, and student discipline referrals.

### **III. CONCLUSIONS**

The relevant portions of the LMMHS Bullying Prevention Plan policy (“Bullying Prevention Plan” or “Anti-Bullying Policy”) are included below in subsection (A) for reference. Following subsection (A) are the specific conclusions for each section of the report.

#### **A. LMMHS Anti-Bullying Policy Obligations**

##### **Duty to Investigate**

According to the LMMHS Bullying Prevention Plan policy, reports of bullying must be taken seriously and handled in a prompt and appropriate manner. Specifically, the policy states in relevant part:

“Any employee or student who believes that they have been subjected to bullying has the right to file a complaint and to receive prompt and appropriate handling of the complaint.”

LMMHS 2021-2022 Student Handbook, at p. 58.

Although not specified in the Anti-Bullying policy, to conduct an appropriate investigation, the Building Principal or designee should meet with the target, aggressor, and any witnesses identified, to ensure proper gathering of the relevant facts.

##### **Duty to Promptly Investigate**

According to the LMMHS Bullying Prevention Plan policy, the Building Principal or designee is required to *promptly* investigate any formal report of bullying. Specifically, the Bullying Prevention Plan states in relevant part:

“Once a report of bullying or retaliation has been made, including reports of mental, sexual, emotional, or physical harassment as well as threats to a person’s safety, property, or position in the school or work environment, the following course of action shall be taken:

The Building Principal /Designee shall promptly investigate the report through

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discussions with the individual(s) involved. The outcome shall be documented in the Investigator's Report Form...In situations involving allegations by one student against another student, the Principal/Designee should engage the appropriate classroom or special subject area teachers. Parent/guardians of both sides of this report will be informed of the situation and will be invited to participate in resolution discussions. It is important that the situation be resolved as confidentially and as quickly as the circumstances permit. The Investigator's Report Form shall specify the outcome."

LMMHS 2021-2022 Student Handbook, at p. 61.

#### Duty to Notify Parents of Target and Aggressor of Results of Investigation

According to the LMMHS Bullying Prevention Plan policy, the Principal or designee must promptly notify the parents/guardians of the target and aggressor with respect to the results of the investigation. Specifically, the policy states in relevant part:

"The Principal or designee will promptly notify the parents/guardians of the target and 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 parent/guardians 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/guardian about the disciplinary action taken unless it involves a "stay away" order or other directive that the target must be aware of in order to report violations."

LMMHS 2021-2022 Student Handbook, at p. 62.

#### Duty to Inform Aggressor of Accusations

According to the LMMHS Bullying Prevention Plan policy guidelines, the alleged aggressor must be informed of the behavior alleged. Specifically, as the policy states in relevant part:

"By law, bullying is defined by the target's perception in combination with objective standards or expectation. What one person may consider acceptable behavior may be viewed as bullying by another person. Therefore, in order to protect the rights of both parties, it is important that the target or a Principal or designee to whom a complaint was made or reported make it clear to the aggressor that the behavior is objectionable."

LMMHS 2021-2022 Student Handbook, at p. 59.

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#### Duty to Investigate Reports of Bullying on Social Media

According to the LMMHS Bullying Prevention Plan policy, the Building Principal or designee is required to *promptly* investigate any reports of **cyber bullying**. The Bullying Prevention Plan states in relevant part:

“Reports of cyber-bullying by electronic or other means, occurring in or out of school, will be reviewed and, when a nexus to work or school exists, will result in discipline. Parents of students alleged to have engaged in cyber-bullying will be invited to attend a meeting at which the activity, words or images subject to the complaint will be reviewed. A student disciplined for cyber-bullying will not be re-admitted to the regular school program until his or her parent(s) attend such meeting.”

LMMHS 2021-2022 Student Handbook, at p. 58-59.

#### Duty to Investigate Anonymous Complaints

According to the LMMHS Bullying Prevention Plan, LMMHS administration must investigate anonymous complaints of bullying. Specifically:

“Anonymous complaints of bullying or retaliation will be reviewed but are inherently difficult to investigate and may not be procedurally fair; as a result no disciplinary action shall be taken on anonymous complaints unless verified by clear and convincing evidence. All other complaints will be reviewed based on a preponderance of evidence standard. The Bullying Reporting Form (Appendix A) shall be completed.”

LMMHS 2021-2022 Student Handbook, at p. 59-60.

#### Duty to Investigate Staff Conduct Suspected of Bullying

According to the LMMHS Bullying Prevention Plan, suspected staff bullying should be brought to the attention of any staff member, and the staff member shall notify the Principal. Specifically, the policy states in relevant part:

“In a situation involving a report of staff member to student bullying, it should be brought to the attention of any staff member, and that staff member shall notify the Building Principal immediately. The Bullying Reporting Form must be completed.”

LMMHS 2021-2022 Student Handbook, at p. 60.

#### Duty to Report Staff Bullying Investigation Findings to the Superintendent

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According to the LMMHS Bullying Prevention Plan, investigations into suspected staff bullying allegations must result in an outcome and findings must be reported to the Superintendent. Specifically, the policy states in relevant part:

“If after a resolution meeting with the involved parties, the Building Principal/Designee determines that further, more formal investigation or additional disciplinary action must be taken, the following could occur:...

b. In instances involving a staff member to student and staff member to staff member bullying, findings will be referred to the Superintendent of Schools for further action. Personnel action may also be initiated at this point, up to and including discharge consistent with the applicable law and collective bargaining agreement.”

LMMHS 2021-2022 Student Handbook, at p. 61.

Reports of staff bullying should be handled in the same manner as reports of student-to-student bullying, which involves a thorough investigation in a prompt and appropriate manner.

#### Duty to Investigate Administrator Conduct Suspected of Bullying

Pursuant to the LMMHS Bullying Prevention Plan, for bullying allegations against administrators, the Superintendent or the School Committee will designate an alternative bullying investigator. Specifically, the policy states in relevant part:

“If the alleged aggressor is the person responsible for conducting an investigation, the Superintendent or School Committee shall designate an alternative bullying investigator.”

LMMHS 2021-2022 Student Handbook, at p. 60.

#### Duty to Inform of Safety Plan

When bullying reports or concerns are raised with administration, the development and implementation of a Safety Plan should be considered to protect reporters, the target, and/or witnesses. As the policy states in relevant part:

“In an effort to provide the target, or other involved individuals such as reporters, witnesses or others, with a learning and working atmosphere where the target feels safe, and to prevent the re-occurrence of bullying, a target’s Safety Plan Form will be developed to ensure these basic rights can be achieved. This Safety Plan will provide clear procedures for restoring a sense of safety for a target and assessing that target’s

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need for protection. The Safety Plan can include change of schedule, locker, lunch period, counseling, teacher notification, and a daily check in person. The Building Principal/Designee shall complete the Safety Plan Form and share it with the target, his/her parent(s) and appropriate school personnel in an efficient period.”

LMMHS 2021-2022 Student Handbook, at p. 62.

#### Notification to Parents of Prevention Strategies

The LMMHS Bullying Prevention Plan provides that the District will inform parents/guardians of bullying curricula used in the schools. Such notice shall be available to parents/guardians in hard copy and electronically. Specifically, the policy states in relevant part:

“Each year the Lenox Public Schools will inform parents and guardians of the anti-bullying curricula that will be used in each of our schools. This notice will include information about the dynamics of bullying, including cyber bullying and online safety. The Lenox Public Schools will send parents a written notice each year about the student-related sections of the Plan and the Lenox Public Schools’ Internet Safety Policy. All notices and information will be made available to parents in hard copy and electronically on the Lenox Public Schools’ website.”

LMMHS 2021-2022 Student Handbook, at p. 63.

#### Duty to Gather and Report Bullying Data

LMMHS and the District as a whole are responsible for recording and keeping data, monitoring the prevalence of bullying issues which would assist in the biennial review of the Bullying Prevention Plan. See LMMHS 2021-2022 Student Handbook, at p. 57.

#### Duty to Train Students and Staff

According to the LMMHS Bullying Prevention Plan, “all staff and students will receive annual trainings on this policy,” and “newly hired staff shall be trained promptly on this policy and its procedures and will receive professional development as needed.” See LMMHS 2021-2022 Student Handbook, at p. 63.

For **staff training** and professional development in particular:

“The content of professional development for this policy shall include, but not be limited to, (i) developmentally appropriate strategies to prevent bullying incidents; (ii) developmentally appropriate strategies for immediate, effective interventions to stop

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bullying incidents; (iii) information regarding the complex interaction and power differential that can take place between and among an aggressor, target and witnesses to the bullying; (iv) research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying in the school environment; (v) information on the incidence and nature of cyber-bullying; and (vi) internet safety issues as they relate to cyber-bullying.”

LMMHS 2021-2022 Student Handbook, at p. 63.

For **student training** in particular:

“Each school shall provide age-appropriate instruction at each grade level for all students on bullying prevention annually.”

LMMHS 2021-2022 Student Handbook, at p. 63.

In the sections below (B) through (D), I make specific conclusions for each specific instance of bullying reported or raised with LMMHS administration, and identify which portions of the policy were violated.

## **B. Student-to-Student Bullying: Formal Reports**

There were five (5) formal bullying complaints that were filed in the 2021-2022 school year that were reviewed as part of this investigation. In each case, I found areas where LMMHS administration failed to follow the Anti-Bullying policy with regard to investigation, documentation, or process. LMMHS administration in some instances failed to investigate formal bullying reports. In one instance, LMMHS administration only met with the alleged aggressor and did not continue investigating the matter. In another instance, LMMHS administration did not address an anonymous complaint submitted through school’s website. The parent who submitted the anonymous complaint never received confirmation that the anonymous complaint was received by LMMHS administration nor addressed.

LMMHS administration also handled certain bullying investigations improperly. For instance, in response to a bullying report, LMMHS administration inappropriately questioned the target on matters not relevant to the bullying investigation and which made the target uncomfortable. In response to another bullying report, LMMHS administration delayed starting the investigation by more than two weeks and therefore failed to *promptly* investigate. For some bullying reports, LMMHS administration did not properly inform the aggressor of the accusations made against them.

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Furthermore, LMMHS administration in most instances failed to document the findings of the bullying reports and reach an outcome on whether bullying occurred or not. Nor did LMMHS administration report the outcome to the parents of the target and aggressor.

For these reasons, I found that LMMHS administration did not follow the protocol outlined in the Anti-Bullying policy with respect to investigation, documentation and process in response to formal bullying reports.

#### **C. Student-to-Student Bullying: Informal Complaints or Concerns**

There were four (4) instances of informal complaints that were investigated. In most cases, I found that LMMHS administration failed to properly investigate these complaints or concerns. In some cases, there were findings relating to failures to notify involved parties. LMMHS administration also failed to investigate cyberbullying complaints brought to its attention despite being provided evidence of inappropriate comments being directed to a student on a social media platform.

#### **D. Staff-to-Student Bullying**

There were seven (7) instances of staff-to-student bullying complaints or concerns that were investigated. In some cases, LMMHS administration promptly investigated allegations raised by the parent of concerning staff conduct by discussing said allegations with the parent and promptly discussing those concerns with the staff member promptly thereafter. In other cases, however, there were findings related to failures to investigate where LMMHS administration did not address the concerns raised either with the parent or staff member, or both.

Some allegations were brought against certain staff members that were not within the scope of this investigation.

LMMHS administration did not investigate all allegations where it was unclear whether the behavior alleged constituted bullying. While not a technical violation of the Anti-Bullying Policy, the best course of action for LMMHS administration was to conduct an investigation into the allegations raised to ensure there was no such impropriety, including bullying.

In addition, I found that there is no clear formal mechanism to report staff-to-student bullying concerns, and both students and parents are unclear on how to report such behaviors.