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A policy service of the Massachusetts Association of School Committees

masc

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MASC is issuing policy updates as the result of changes in law and the interpretation of law based upon court rulings and administrative oversight opinions (for example, the Attorney General has oversight over the Open Meeting Law).

1. Executive Session

MASC has reviewed recent opinions and cases resolved by the Attorney General after implementation of changes in the Open Meeting Law related to executive session. As a result, you will note changes in the procedure to enter executive session, a reminder of the rights of individuals under reason 1, and changes in the practice of releasing executive session minutes.

The approval of minutes, either open session or executive session, by a School Committee simply results in those minutes becoming the official record of the meeting. The Attorney General has recently opined that a government body should specifically announce that it is releasing executive session minutes when, under the law, the reason for that executive session has passed and the minutes of that session are publicly available.

Amended policy file BEC, which incorporates the above changes, is included in this newsletter.

2. Gender Identity Anti-Discrimination Statute

Chapter 199 of the Acts of 2011, which becomes effective on July 1, 2012, made changes to many of the Massachusetts General Laws relating to discrimination, including a number of education statutes, by prohibiting discrimination on the basis of gender identity. The law defines gender identity as:

"a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose."

As a result MASC has reviewed our sample policies and made changes to the following files:

AC - Nondiscrimination

ACA - Nondiscrimination on the Basis of Sex

GBA – Equal Employment Opportunities

GCF - Professional Staff Hiring

IJ - Instructional Materials

JB - Equal Education Opportunities

JBA - Student to Student Harassment

JFBB - School Choice

Most of the changes add the words "gender identity" to the antidiscrimination language and some also update the legal references.

3. Michael's Law (MGL Chapter 69 Section 8A)

On April 18, 2012 Governor Patrick signed Michael's Law creating Chapter 69 Section 8A of the Massachusetts General Laws. This new statute requires that each school have a written medical emergency response plan and requires that certain elements be included as part of the plan. These plans are to be developed in consultation with the school nurse, school athletic team physicians, coaches, trainers and the local emergency medical services agencies.

Currently, the vast majority of Massachusetts schools already have a plan in place as part of their health partnership with the Department of Public Health and most School Committees have policies EBC and JLC in place requiring plans. MASC has updated policy EBC – Emergency Plans and policy JLC – Student Health Services and Requirements to include the required elements, to align the language with the new statute, and to update legal and cross references. These policies direct administration to ensure that the Medical Emergency Response Plans are developed and in place. The statute requires that each school submit its plan to DESE by September 1, 2012 and every 3 years thereafter. DESE is currently working on a model plan and we will let you know as soon as it is available.

MASC strongly recommends that each School Committee adopt the attached EBC policy and the DESE model plan on an emergency basis in order to submit the plan to DESE in a timely fashion and then review, modify and resubmit later in the year.

School Committees should review and updates their policies in these areas. Attached are the updated MASC Model Policies.

EXECUTIVE SESSIONS

All meetings of the School Committee are open to attendance by the public and media representatives. However, the Committee has the right to convene in a closed executive session when it meets the following procedural conditions imposed by state law:

- 1. The Committee will first convene in an open session for which due notice has been given.
- 2. The Chairperson (or, in his/her absence, the presiding member) will state the purpose for the executive session by stating all subjects that may be revealed without compromising the purpose for which the executive session was called.
- 3. A majority of the members must vote to enter the executive session, with the vote taken by roll call and recorded in the official minutes.
- 4. The Chairperson or presiding member will state before entering the executive session whether the Committee will reconvene in open session after the executive session.

The law puts specific limitations on the purposes for which executive sessions may be convened. The Committee may enter executive sessions only to deliberate:

- 1. The reputation, character, physical condition or mental health, rather than the professional competence, of a single individual, or the discipline or dismissal, including the hearing of charges against, a member of the committee, a school department employee or student, or other individual. The individual has certain rights enumerated in the law including requiring the Committee to hold an open session should the individual so request.
- 2. Strategy with respect to non-union negotiations or to conduct collective bargaining sessions with non-union personnel.
- 3. Strategy with respect to collective bargaining or litigation, if an open meeting might have a detrimental effect. Collective bargaining may also be conducted.
- 4. The deployment of security personnel or devices.
- 5. Allegations of criminal misconduct or to discuss the filing of criminal complaints.
- 6. Transactions of real estate, if an open meeting might be detrimental to the negotiating position of the committee or another party.
- 7. To comply with the provisions of any general or specific law of federal grant-in-aid requirements.
- 8. To consider and interview applicants for employment by a preliminary screening committee (The only position that the school committee would be involved in that might qualify would be for the position of Superintendent.) This exemption only applies if it can be determined that an open meeting will have a detrimental affect in obtaining qualified applicants. This shall not apply to applicants who have passed a prior preliminary screening.

- 9. To meet or confer with a mediator with respect to any litigation or public business.
- 10. To discuss trade secrets or confidential competitively-sensitive or other proprietary information conducted by a governmental body as an energy supplier.

(In the first case, an open meeting will be held if the individual involved so requests.)

Accurate records of the proceedings conducted in executive session will be kept and may remain secret only so long as their publication would defeat the purpose of the session.

The School Committee Chair and the Superintendent will review executive session minutes for possible declassification on, at least, a quarterly basis and, if necessary, will consult with legal counsel. The School Committee Chair will bring minutes recommended for declassification to the School Committee for a vote either as part of a consent agenda or for individual action. In either case, there shall be an announcement of the declassification of minutes.

When a specific set of executive session minutes, not yet declassified, is requested by a member of the public, the School Committee shall render a decision on declassification at its next meeting or within 30 days after the request, whichever occurs first.

All votes taken in executive session will be recorded roll call votes, and will become part of the minutes of executive sessions.

Established by law and Committee policy

SOURCE: MASC

LEGAL REFS.: M.G.L. 30A:21; 30A:22

CROSS REFS.: BDE, Subcommittees of the School Committee

BE, School Committee Meetings

KEB, Public Complaints about School Personnel

NONDISCRIMINATION

Public schools have the responsibility to overcome, insofar as possible, any barriers that prevent children from achieving their potential. The public school system will do its part. This commitment to the community is affirmed by the following statements that the School Committee intends to:

- 1. Promote the rights and responsibilities of all individuals as set forth in the State and Federal Constitutions, pertinent legislation, and applicable judicial interpretations.
- 2. Encourage positive experiences in human values for children, youth and adults, all of whom have differing personal and family characteristics and who come from various socioeconomic, racial and ethnic groups.
- 3. Work toward a more integrated society and to enlist the support of individuals as well as groups and agencies, both private and governmental, in such an effort.
- 4. Use all appropriate communication and action techniques to air and reduce the grievances of individuals and groups.
- 5. Carefully consider, in all the decisions made within the school system, the potential benefits or adverse consequences that those decisions might have on the human relations aspects of all segments of society.
- 6. Initiate a process of reviewing policies and practices of the school system in order to achieve to the greatest extent possible the objectives of this statement.

The Committee's policy of nondiscrimination will extend to students, staff, the general public, and individuals with whom it does business; No person shall be excluded from or discriminated against in admission to a public school of any town or in obtaining the advantages, privileges, and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin, sexual orientation or disability. If someone has a complaint or feels that they have been discriminated against because of their race, color, sex, gender identity, religion, national origin, sexual orientation or disability, their complaint should be registered with the Title IX compliance officer.

SOURCE: MASC

LEGAL REFS.: Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972

Executive Order 11246, as amended by E.O. 11375

Equal Pay Act, as amended by the Education Amendments of 1972

Title IX, Education Amendments of 1972

Rehabilitation Act of 1973

Education for All Handicapped Children Act of 1975

M.G.L. 71B:1 et seq. (Chapter 766 of the Acts of 1972)

M.G.L. 76:5; Amended 2011

M.G.L.76:16 (Chapter 622 of the Acts of 1971)

Best regulations 603CMR 26.00 Amended 2012 Best regulations 603CMR 28.00

CROSS REFS.: ACA- ACE, Subcategories for Nondiscrimination GBA, Equal Employment Opportunity JB, Equal Educational Opportunities

NOTE: This category is for a general policy covering all types of nondiscrimination and relating to students, staff, and others. Federal and state laws apply.

If a policy relates to staff only, to students only, or a particular form of non-discrimination, it is better filed elsewhere. Appropriate codes for such statements are indicated by the cross-references.

Regulations pertaining to all forms of nondiscrimination -- or a procedure all persons can resort to for redress of grievances related to nondiscrimination -- would follow under code AC-R.

Law in most instances requires official School Committee approval of regulations in this area.

NONDISCRIMINATION ON THE BASIS OF SEX

The School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school system does not and will not discriminate on the basis of sex in the educational programs and activities of the public schools. This policy will extend not only to students with regard to educational opportunities, but also to employees with regard to employment opportunities.

The School Committee will continue to ensure fair and equitable educational and employment opportunities, without regard to sex, to all of its students and employees.

The Committee will designate an individual to act as the school system's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.

SOURCE: MASC

LEGAL REFS.: Title IX of the Education Amendments of 1972

45 CFR, Part 86, (Federal Register, 6/4/75)

M.G.L. 76:5; 76:16 (Chapter 622 of the Acts of 1971)

Board of Education Chapter 622 Regulations Pertaining to Access to Equal Educational

Opportunity, adopted 6/24/75, amended 10/24/78

Board of Education BESE 603 CMR 26:00

CROSS REF.: AC, Nondiscrimination

EQUAL EMPLOYMENT OPPORTUNITY

The School Committee subscribes to the fullest extent to the principle of the dignity of all people and of their labors and will take action to ensure that any individual within the District who is responsible for hiring and/or personnel supervision understands that applicants are employed, assigned, and promoted without regard to their race, creed, color, age, sex, gender identity, national origin, disability or sexual orientation. Every available opportunity will be taken in order to assure that each applicant for a position is selected on the basis of qualifications, merit and ability.

SOURCE: MASC

LEGAL REF.: BESE Regulations 603 CMR 26:00

CROSS REF.: AC, Nondiscrimination

PROFESSIONAL STAFF HIRING

Through its employment policies, the District will strive to attract, secure, and hold the highest qualified personnel for all professional positions. The selection process will be based upon awareness to candidates who will devote themselves to the education and welfare of the children attending the schools.

It is the responsibility of the Superintendent, and of persons to whom he or she delegates this responsibility, to determine the personnel needs of the school system and to locate suitable candidates. No position may be created without the approval of the School Committee. The District's goal is to employ and retain personnel who are motivated, will strive always to do their best, and are committed to providing the best educational environment for the children

It will be the duty of the Superintendent to see that persons considered for employment in the schools meet all certification requirements and the requirements of the Committee for the type of position for which the nomination is made.

The following guidelines will be used in the selection of personnel:

- 1. There will be no discrimination in the hiring process due to age, sex, gender identity, creed, race, color, national origin, disability, sexual orientation or place of residence.
- 2. The quality of instruction is enhanced by a staff with a wide variation in background, educational preparation, and previous experience.
- 3. The administrator responsible for the hiring of a staff member (in the case of District-wide positions, for the position of Principals, it is the Superintendent; for building-based personnel, it is the Principal) is directed to establish a representative screening committee. The administrator has the final say in determining who will be hired but it is expected that the screening committee's input will be a factor in the decision. For those positions where the hiring authority rests with the School Committee a representative screening committee may be established by the School Committee or the School Committee may direct the Superintendent to establish a screening committee to assist the Superintendent in making his recommendation to the School Committee.

SOURCE: MASC

LEGAL REFS.: M.G.L. 69:6; 71:38; 71:38G; 71:39; 71:45; 71:55B

Massachusetts Board of Education Requirements for Certification of Teachers, Principals, Supervisors, Directors, Superintendents and Assistant Superintendents in the Public Schools of the Commonwealth of Massachusetts, revised 1994

BESE Regulations 603 CMR 7:00, 26.00, and 44:00

NOTE: School Committees may determine the size and composition of the screening committee.

File: IJ

INSTRUCTIONAL MATERIALS

The School Committee believes that materials appropriate to the needs of the school program must be available to each student and teacher. These will be furnished by the School Committee subject to budgetary constraints.

The task of selecting instructional materials for programs will be delegated to the professional staff of the school system. Because instructional programs and materials are of great importance, only those that meet the following criteria will be approved by the Committee:

- 1. They must present balanced views of international, national, and local issues and problems of the past, present and future.
- 2. They must provide materials that stimulate growth in factual knowledge, literary appreciation, aesthetic and ethical values.
- 3. They must help students develop abilities in critical reading and thinking.
- 4. They must help develop and foster an appreciation of cultural diversity and development in the United States and throughout the world.
- 5. They must provide for all students an effective basic education that does not discriminate on the basis of race, age, color, religion, national origin, sex, gender identity, physical disabilities or sexual preference.
- 6. They must allow sufficient flexibility for meeting the special needs of individual students and groups of students.

SOURCE: MASC

LEGAL REFS.: M.G.L. 71:48; 71:49; 71:50

BESE regulations 603 CMR 26.00

CROSS REF.: KEC, Public Complaints about the Curriculum or Instructional Materials

EQUAL EDUCATIONAL OPPORTUNITIES

In recognition of the diversified characteristics and needs of our students and with the keen desire to be responsive to them, the School Committee will make every effort to protect the dignity of the students as individuals. It also will offer careful consideration and sympathetic understanding of their personal feelings, particularly with reference to their race, color, sex, gender identity, religion, national origin, sexual orientation or physical and intellectual differences.

To accomplish this, the Committee and its staff will make every effort to comply with the letter and the spirit of the Massachusetts equal educational opportunities law (known as Chapter 622 of the Acts of 1971), which prohibits discrimination in public school admissions and programs. The law reads as follows:

No child shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and course of study of such public school on account of race, color, sex, gender identity, religion, national origin or sexual orientation.

This will mean that every student will be given equal opportunity in school admission, admissions to courses, course content, guidance, and extracurricular and athletic activities.

All implementing provisions issued by the Board of Elementary and Secondary Education in compliance with this law will be followed.

SOURCE: MASC

LEGAL REFS.: Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972

Executive Order 11246, as amended by E.O. 11375

Title IX, Education Amendments of 1972

M.G.L. 76:5; 76:16 (Chapter 622 of the Acts of 1971)

Board of Education Chapter 622 Regulations Pertaining to Access to Equal Educational Opportunity, adopted 6/24/75, amended 10/24/78

Board of Education, Chapter 766 Regulations 10/74 - amended through 3/28/78

BESE regulations 603 CMR 26:00 BESE regulations 603 CMR 28.00

CROSS REF.: AC, Nondiscrimination

STUDENT-TO-STUDENT HARASSMENT

Harassment of students by other students will not be tolerated in the (Name of District) Public Schools. 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 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.

Harassment means conduct of a 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;
- Submission to or rejection of such conduct by a student is used as the basis for decisions affecting the student, or;
- 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:

- Verbal, physical or written (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.

The District will promptly and reasonably investigate allegations of harassment. The Principal of each building will be responsible for handling all complaints by students alleging harassment.

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

The Superintendent will develop administrative guidelines and procedures for the implementation of this policy.

SOURCE: MASC

LEGAL REF.: M.G.L. 151B:3A

Title VII, Section 703, Civil Rights Act of 1964 as amended

Board of Education BESE 603 CMR 26:00

REFS.: "Words that Hurt," American School Board Journal, September 1999

National Education Policy Network, NSBA

File: JFBB

SCHOOL CHOICE

It is the policy of this School District to admit non-resident students under the terms and conditions of the Interdistrict School Choice Law (M.G.L. 76:12B) and under the following local conditions:

- 1. That by May 1 of every school year, the administration will determine the number of spaces in each school available to choice students.
- 2. That by June 1 of every school year, if consideration is being given to withdraw from the provisions of the choice law, a public meeting will be held to review this decision.
- 3. That resident students be given priority placement in any classes or programs within the District.
- 4. That the selection of non-resident students for admission be in the form of a random drawing when the number of requests exceeds the number of available spaces. There will be two drawings for this purpose. The first will take place during the last week of the current school year but no later than July 1st. The second will be conducted during the week immediately preceding the opening of the next school year and will be based on the possibility of unexpected additional openings.
- 5. Any student who is accepted for admission under the provisions of this policy is entitled to remain in the District until graduation from high school except if there is a lack of funding of the program.
- 6. The School Committee affirms its position that it shall not discriminate in the admission of any child on the basis of race, color, religion, national origin, sex, gender identity, age, sexual orientation, ancestry, athletic performance, physical handicap, special need, academic performance or proficiency in the English language.

SOURCE: MASC

LEGAL REFS.: M.G.L. 71:6; 71:6A; 76:6; 76:12; 76:12B

BESE Regulations 603 CMR 26.00

SCHOOL CHOICE

It is the policy of this school district **not** to admit non-resident students under the terms and conditions of the Interdistrict School Choice Law (M.G.L. 76:12B.) This decision must be reaffirmed annually prior to June 1st by a vote of the School Committee following a public hearing. In the event the ______ School Committee votes to participate, the following local conditions would apply:

- 1. That by May 1 of every school year, the administration will determine the number of spaces in each school available to choice students.
- 2. That by June 1 of every school year, a public hearing will be held to review participation in the school choice program.
- 3. That resident students be given priority placement in any classes or programs within the district.
- 4. That the selection of non-resident students for admission when the number of requests exceed the number of available spaces be in the form of a random drawing. There will be two drawings for this purpose. The first will take place during the last week of the current school year but no later than July 1st. The second will be conducted during the week immediately preceding the opening of the next school year and will be based on the possibility of unexpected additional openings.
- 5. Any student who is accepted for admission under the provisions of this policy is entitled to remain in the district until graduation from high school except if there is a lack of funding of the program.
- 6. The School Committee affirms its position that it shall not discriminate in the admission of any child on the basis of race, color, religious creed, national origin, sex, gender identity, age, sexual orientation, ancestry, athletic performance, physical handicap, special need, academic performance or proficiency in the English language.

LEGAL REFS.: M.G.L. 71:6; 71:6A; 76:6; 76:12; 76:12B

BESE Regulations 603 CMR 26.00

EMERGENCY PLANS

Advance planning for emergencies and disasters is essential to provide for the safety of students and staff; it also strengthens the morale of all concerned to know that plans exist and that students and staff have been trained in carrying out the plans.

The Superintendent will develop and maintain plans that meet the requirements of state law for preparedness in case of fire, civil emergencies, and natural disasters.

The Superintendent shall develop, in consultation with school nurses, school physicians, athletic coaches, trainers, and local Emergency Medical Services agencies, an Emergency Medical Response Plan for each school in the district. Each Plan shall include:

- 1. A method establishing a rapid communications system linking all parts of the school campus, including outdoor facilities, to local Emergency Medical Services along with protocols to clarify when EMS and other emergency contacts will be called.
- 2. A determination of EMS response times to any location on the campus.
- 3. A list of relevant contacts with telephone numbers and a protocol indicating when each person shall be called, including names of experts to help with post-event support.
- 4. A method to efficiently direct EMS personnel to any location on campus, including the location of available rescue equipment.
- 5. Safety precautions to prevent injuries in classrooms and on the school campus.
- 6. A method of providing access to training in CPR and first aid for teachers, athletic coaches, trainers, and other school staff which may include CPR training for High School students; provided that School Committees may opt out of instruction in CPR pursuant to Section 1 of Chapter 71.
- 7. In the event the school possesses Automated External Defibrillators (AEDs), the location of all available AEDs, whether the location is fixed or portable, and a list of personnel trained in its use.

Plans shall be submitted at least every 3 years by September 1. Plans must be updated in the case of new construction or other physical changes to the school campus.

Building Principals will meet all requirements for conducting fire drills and Emergency Response drills to give students practice in moving with orderly dispatch to designated areas under emergency conditions, and the staff practice in carrying out their assigned responsibilities for building evacuation.

SOURCE: MASC

LEGAL REF: M.G.L. 69:8A Section 363 of Chapter 159 of the Acts of 2000

CROSS REF.: EBCD, Emergency Closings

JL, Student Welfare

JLC, Student Health Services and Requirements

NOTE: MASC **strongly recommends** that each School Committee adopt this policy and the DESE model plan on an emergency basis in order to comply with the initial **September 1, 2012** plan submission requirement and carefully review their policy and plan as the school year progresses.

STUDENT HEALTH SERVICES AND REQUIREMENTS

Activities may include identification of student health needs, health screening tests (including eye and hearing screening tests), communicable disease prevention and control, promotion of the correction of remediable health defects, emergency care of the ill and injured, health counseling, health and safety education, and the maintenance of a healthful school environment.

The District recognizes that parents have the primary responsibility for the health of their students. The school will cooperate with appropriate professional organizations associated with maintaining individual and community health and safety.

The District shall provide the services of a medical consultant who shall render medical and administrative consultative services for personnel responsible for school health and athletics.

Procedures for Emergency at School

School personnel shall give only emergency care to students who become ill or injured on school property, buses, or while under school supervision.

Each year parents shall supply information indicating where the student is to be taken in case of an emergency; the name, address, and phone number of a neighbor to be contacted in case the parent/guardian is not available; and any allergies or diseases the student might have.

The District shall maintain a Medical Emergency Response Plan, as required by law, and an Emergency Procedures Handbook, which shall be utilized by District personnel for handling emergencies. Emergency procedures shall include the following:

Provision for care beyond First Aid, which would enable care by the family or its physician or the Paramedic Assistance Unit of the Fire Department local Emergency Medical Services agencies. In instances when the Paramedic Assistance Unit EMS is required, every effort shall be made to provide the unit with the student's Emergency Card which lists any allergies or diseases the student might have;

Information relative to not permitting the administration of any form of medicine or drugs to students without written approval of parents. Requests made by parents for such administration of medication shall be reviewed and approved by the Principal or designee;

Provisions for reporting all accidents, cases of injury, or illness to the Principal. Provisions shall be made (in all cases of injury or illness involving possible legal or public relations implications) for reporting such to the appropriate executive director of education immediately;

Prompt reporting by teachers to the Principal or designee any accident or serious illness and such reports will be filed with the Business Office.

File: JLC

Student Illness or Injury

In case of illness or injury, the parent or guardian will be contacted and asked to call for the student or provide the transportation.

Transportation of an ill or injured student is not normally to be provided by the school. If the parent cannot provide transportation and the student is ill or injured, an ambulance may be called. Expense incurred as a result of emergency ambulance use will not be borne by the District.

Transportation of a student by school personnel will be done only in an emergency and by the individual so designated by the school administrator.

SOURCE: MASC

LEGAL REF.: M.G.L. 71:53;54;54A;54B;55;55A;55B;56;57;69:8A;

CROSS REF.: EBB, First Aid

EBC, Emergency Plans

JLCD, Administration of Medications to Students