

CAMBRIDGE PUBLIC SCHOOLS

20-227



121

135 Berkshire Street, Cambridge, Massachusetts 02141

September 15, 2020

TO THE HONORABLE MEMBERS OF THE SCHOOL COMMITTEE:

Approval of Title IX/Sexual Misconduct Policy

Recommendation: That the School Committee approve the Title IX/Sexual Misconduct Policy as detailed in the attached document.

This is a second reading of this policy.

Description: This policy is being brought forward to align to recently issued federal regulations regarding the procedures for conducting investigations and responding to complaints of violations of Title IX/Sexual Misconduct.

Supporting Data: Title IX/Sexual Misconduct Policy

Respectfully submitted,

A handwritten signature in black ink, appearing to be "KS", written over a faint circular stamp.

Kenneth N. Salim, Ed.D.
Superintendent of Schools

CAMBRIDGE SCHOOL DEPARTMENT’S TITLE IX/SEXUAL MISCONDUCT POLICY

I. Introduction

The City of Cambridge School Department, otherwise known as the Cambridge Public Schools (the “School Department” or “CPS”) has a commitment to fostering and maintaining an educational environment and workplace that is free from all forms of sexual misconduct, including sexual assault and sexual harassment.

The CPS strictly enforces a prohibition against sexual misconduct of any of its employees, students, students’ parents/guardians/caregivers or members of the public by anyone, including any fellow student, teacher, supervisor, co-worker, vendor, or other third party, as such conduct is contrary to the mission of the CPS and its commitment to equal opportunity in education and employment.

The CPS will not tolerate sexual conduct that affects employment or educational conditions, that interferes unreasonably with an individual’s school or work performance, or that creates an intimidating, hostile, or offensive work or school environment. Sexual misconduct of employees, students, students’ parents/guardians/caregivers or members of the public occurring in the schools or workplace is prohibited by law and will not be tolerated by the CPS. For purposes of this policy, “workplace” or “school” includes school-sponsored social events, trips, sports events, work-related travel or similar events connected with school or employment, including without limitation, extracurricular and athletic activities and programs, traveling to and from school or on a school-sponsored field trip. Further, any retaliation against an individual who has complained about sexual misconduct or retaliation; or any retaliation against any individual who has cooperated with an investigation of a sexual misconduct or retaliation complaint is similarly unlawful and will not be tolerated.

The CPS takes allegations of sexual misconduct seriously and will respond promptly to complaints. Where it is determined that inappropriate conduct has occurred, the CPS will act promptly to eliminate the conduct and will impose corrective action as necessary, including disciplinary action where appropriate, which may include termination of employment or school-related discipline.

II. Coordination with the CPS’ Non-Discrimination Policy and Prohibition Against Sexual Harassment

Many forms of harassment and discrimination have been recognized as violations of the civil rights laws (including Section 504 of the Rehabilitation Act of 1973, Title VI and Title IX) by federal courts, state courts, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education, Office for Civil Rights and the Massachusetts Commission Against Discrimination. The CPS recognizes that discrimination and harassment related to a person’s sex can occur in connection with misconduct related to a person’s sexual orientation, gender identity, or gender expression, race, color, ethnicity, national origin, religion, age, disability, or other protected category. Targeting a person on the basis of these characteristics is also a violation of state and federal law and CPS policy. Under these circumstances, the CPS will endeavor to coordinate the investigation and resolution efforts of sexual misconduct complaints with the investigation and resolution of complaints of discrimination or harassment based on other protected classes.

III. Definitions of Sexual Misconduct and Related Terms

1. Sexual Misconduct. Sexual misconduct is a broad, non-legal term that encompasses a wide range of behaviors, including but not limited to, sexual harassment, sex/gender discrimination, sexual assault, rape, acquaintance rape, stalking, and relationship violence (including dating and

domestic violence). It is a violation of the CPS policy as well as applicable law to commit or to attempt to commit these acts.

Sexual misconduct can occur between strangers or acquaintances, or people who know each other well, including between people who are or have been involved in an intimate or sexual relationship. It can be committed by anyone, regardless of gender or gender identity, and can occur between people of the same or different sex or gender. This policy prohibits all forms of sexual misconduct.

- 2. Sexual Assault. Sexual assault is actual or attempted sexual contact with another person without that person’s consent. Sexual assault includes, but is not limited to:

Intentional touching of another person’s intimate parts without that person’s consent; or

Other intentional sexual contact with another person without that person’s consent; or

Coercing, forcing, or attempting to coerce or force a person to touch another person’s intimate parts without that person’s consent; or

Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s consent.

- 3. Sexual Harassment.

- i. Definition of Sexual Harassment. Sexual Harassment is unwelcome conduct of a sexual nature that has the effect of creating a hostile or stressful learning or working environment, or whenever toleration of such conduct or rejection of it is the basis for an academic or employment decision affecting an individual. Conduct is considered “unwelcome” if the person did not request or invite it and considered the conduct to be undesirable or offensive.

Sexual harassment includes any conduct or incident that is sufficiently serious that it is likely to limit or deny a student’s ability to participate in or benefit from the CPS’ educational programs or an employee’s ability to work, which may include a single incident of sexual assault or other serious sexual misconduct.

- ii. Forms of Prohibited Sexual Harassment. “Sexual harassment” is defined as unwelcome conduct of a sexual nature. It includes sexual advances, requests for sexual favors, and verbal, non-verbal or physical conduct of a sexual nature when:

Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly as a term or condition of employment, academic standing, school-related opportunities or as a basis for employment decisions.

Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual’s academic or work performance by creating an intimidating, hostile, humiliating, or sexually offensive work or educational environment.

Sexual harassment includes acts of sexual violence, including without limitation, physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol, or is unable to give consent due to age, an intellectual impairment or other disability. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.

Under the definition stated above, direct or implied requests by a teacher, supervisor or any individual in a position of work or school authority for sexual favors in exchange for actual or promised job or school benefits such as favorable reviews, salary increases, promotions, increased benefits, continued employment, better grades, recommendations or other advantages constitutes sexual harassment. Employees of the CPS are expressly prohibited from engaging in any sexual relationship with a student. Such conduct is not allowed under any circumstances regardless of the student's age as such relationships are considered sexual violence whether the adult's behavior is unwanted or not.

The definitions of sexual harassment are broad. In addition to the above examples, other unwelcome conduct, whether intended or not, that has the effect of creating a school or work environment that is hostile, offensive, intimidating, or humiliating to either male, female or non-binary students or employees also may constitute discrimination, harassment and/or sexual harassment.

Sexual harassment can take many forms, and can:

Occur between equals, such as student to student, employee to employee, or visitor/contracted employee to staff.

Occur between persons of unequal power status, such as supervisor to subordinate and employee to student. Although sexual harassment often occurs in the context of an exploitation of power by the person with the greater power, a person who appears to have less power in a relationship can also commit sexual harassment (such as a student harassing an employee).

Be committed by an acquaintance, a stranger, or someone with whom the complainant has or had a personal, intimate, or sexual relationship.

Occur by or against a person of any sex, gender identity or expression, or sexual orientation.

While it is not possible to list all circumstances that may be considered sexual harassment, the following are examples of conduct that are inappropriate and that, if unwelcome, may constitute sexual harassment. In each case, such a determination will depend upon the totality of the circumstances, including the severity of the conduct and its pervasiveness. Sexual harassment includes, but is not limited to:

Unwelcome sexual advances, whether they involve physical touching or not.

Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments, sexual innuendo, propositions, sexual attention, or suggestive comments and gestures.

Sexual epithets or slurs, jokes and humor about sex or gender specific traits, written or verbal references to sexual conduct, comments or derogatory language about or directed at an individual's body, sexuality or gender, comments about an individual's sexual activity, deficiencies, or prowess.

Discussions of one's own sexual activities or inquiries into others' sexual experiences.

Displaying sexually suggestive objects, pictures, cartoons.

Unwelcome physical contact of a sexual nature, such as touching, hugging, kissing, patting, or pinching, that is uninvited and unwanted or unwelcome by the other person.

Insults and threats based on sex or gender; and other oral, written, or electronic communications of a sexual nature that a person communicates are unwelcome.

Written graffiti or the display or distribution of sexually explicit drawings, pictures, or written materials; sexually charged name-calling; sexual rumors or ratings of sexual activity/performance; the circulation, display, or creation of e-mails or websites of a sexual nature.¹

Non-academic display or circulation of written materials or pictures degrading to a person(s) or gender group.

Unwelcome attention, such as repeated inappropriate flirting, inappropriate or repetitive compliments about clothing or physical attributes, staring, or making sexually oriented gestures.

Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex, gender identity or expression, or sexual orientation.

Use of a position of power or authority to: (i) threaten or punish, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment; or (ii) promise rewards in return for sexual favors.

Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping.

4. Sexual Exploitation

Sexual exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent.

¹ For more information, on misconduct using the CPS' computing facilities, please see the Acceptable Use Policy.

Examples of behavior that could rise to the level of sexual exploitation include:

Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;

Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure;

Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire; and

Prostituting another person.

5. Stalking

Stalking is a course of conduct involving more than one instance of inappropriate and unwanted attention, harassment, threatening or intimidating physical or verbal contact, or any other course of conduct directed at a person that could be reasonably regarded as likely to alarm or place that person in fear of harm or injury, including physical, emotional, or psychological harm. This includes the use of technology to pursue, harass, threaten, intimidate, or otherwise make unwelcome contact with another person. Stalking may involve people who are known to one another or have an intimate or sexual relationship, or may involve people not known to one another. Stalking is prohibited by Massachusetts law. Stalking can also constitute a violation of this policy when the conduct involves a CPS student or employee and is gender-based.

6. Dating and Domestic Violence

Dating and Domestic Violence, which is also referred to as relationship violence, is abuse, violence, or intentionally controlling behavior between partners or former partners involving one or more of the following elements: (i) battering that causes bodily injury; (ii) purposely or knowingly causing reasonable apprehension of bodily injury; (iii) emotional abuse creating apprehension of bodily injury or property damage; (iv) repeated telephonic, electronic, or other forms of communication — anonymously or directly — made with the intent to intimidate, terrify, harass, or threaten. Dating and domestic violence can occur in all type of relationships (e.g., heterosexual, same sex, or any other type of relationship). Dating and domestic violence may constitute a violation of this policy when it involves a CPS student, employee, and the conduct is gender-based.

7. Consent.

Consent is defined as clear, active agreement and permission to engage in any form of verbal or nonverbal sexual communication or activity. The initiator of the sexual contact is responsible for obtaining consent before engaging in sexual contact of any kind, including talking, texting, posting, or touching.

Consent can be withdrawn at any point. Consent must be voluntary, and may not be valid if a person is subjected to any emotional, physical, reputational, or financial pressure, threat, intimidation, or coercion. Consent to engage in one sexual activity, or past agreement to engage in a particular sexual activity, cannot be presumed as consent to engage in a different sexual activity or to engage again in the same activity. Consent cannot be validly given by anyone who is under the influence of alcohol or drugs.

8. Retaliation. Retaliation is an adverse action or attempt to seek retribution against the complainant, or any person or group of persons involved in the investigation and/or resolution of a sexual misconduct complaint. Retaliation can be committed by any person or group of persons, not just a respondent. Retaliation may include continued abuse or violence, other forms of harassment, and slander and libel.

It is a violation of Massachusetts and federal law and a violation of this policy to retaliate against a person for filing a complaint of sexual misconduct or for cooperating in a sexual misconduct investigation, proceeding or hearing, or refusing to participate in an investigation, proceeding or hearing. Any person who retaliates against a person who has reported sexual misconduct, filed a sexual misconduct complaint, or participated in a sexual misconduct investigation is subject to disciplinary action up to and including expulsion or termination by the CPS.

IV. Reporting Complaints of Sexual Misconduct

If any CPS student, the student's parent/guardian/caregiver, or other third party or an employee (hereinafter "Complainant") believes that they or a CPS student has been subjected to any form of sexual misconduct, the individual may report the incident to any school employee. School employees are mandatory reporters of possible sexual misconduct towards students. Employees who observe incidents of sexual misconduct involving students or receive reports of sexual misconduct involving students shall report such incidents immediately to the student's Principal, Head of Upper School, Assistant Principal, Dean or CPS' Title IX Coordinator. Administrators aware of allegations of sexual misconduct involving any employee shall report such incidents to the CPS' Title IX Coordinator.

Employees and students and/or their parents/guardians/caregivers are strongly encouraged to direct the complaint no later than twenty (20) calendar days after the alleged sexual misconduct occurred in order for an expeditious investigation to be conducted, unless extenuating circumstances exist. The employee or student and/or their parents/guardians/caregivers shall fill out a Discriminatory Practice Review Form that will state the name of the individual and the location of the school/department where the alleged sexual misconduct occurred, the basis for the complaint and the corrective action the employee or student is seeking.

A school or district administrator will promptly investigate allegations of sexual misconduct, even when the incident is also being investigated by law enforcement. The CPS' obligation is to determine if there has been a violation of an internal policy, including the student code of conduct. Interim measures to ensure the safety of the student(s) and/or staff involved will be taken. If the investigation results in a finding of a policy violation, the CPS will take steps to end the misconduct, prevent any further misconduct, remedy its effects and take disciplinary action as appropriate under the circumstances.

V. Informal Voluntary Resolution of Concerns

Before initiating the formal procedure, the student or employee may, if possible, resolve any complaint regarding alleged sexual misconduct on an informal voluntary basis. Informal voluntary resolution may include conflict mediation or a restorative conference. However, informal voluntary resolution may only be used: prior to a decision being issued; when the principal, head of upper school, or Title IX Coordinator determines this is a suitable option for resolving the complaint, and both the Complainant and Respondent agree to use the process; and when the complaint does not involve sexual assault, as defined above in this policy, when the complaint does not involve sexual harassment of a student by an employee, or when the complaint is also the subject of a criminal investigation or criminal complaint.

Students and/or their parents/guardians/caregivers can raise the issue to their teacher, principal, head of upper school, dean, Title IX Coordinator, Assistant Superintendent for Elementary Education or Assistant Superintendent for Secondary Education.

Employees can raise the issue to either their supervisor, or to the Title IX Coordinator or Chief Talent Officer. The offices for the Chief Talent Officer and the Title IX Coordinator are both located at 135 Berkshire Street, Cambridge, Massachusetts. The telephone number of the Title IX Coordinator is 617-349-6456, and the telephone number of the Office of Human Resources is 617-349-6438.

The appropriate School Department administrator or school administrators shall attempt, within their authority, to work to resolve the complaint fairly and expeditiously within fifteen (15) working days of receiving the complaint.

Either the Complainant or Respondent may choose to end the informal voluntary resolution process at any time and commence or resume the formal complaint resolution process. As the outcome of an informal voluntary resolution process is mutually developed and agreed upon by the parties, an appeal of the process and its result is not permitted. If the parties are unable to agree on an informal voluntary resolution, the matter will be referred by the principal, head of upper school or Title IX Coordinator for investigation.

VI. Complaint Investigation

Throughout this process, both the Complainant and Respondent (the individual alleged to have engaged in sexual misconduct) have the following rights:

To be treated with respect, dignity, and sensitivity.

To receive appropriate support from the CPS.

Privacy to the extent possible, consistent with applicable law and the CPS policy.

Information about the CPS' Sexual Misconduct/Title IX Policy.

The presence of an advisor throughout the process.

To participate or to decline to participate in the investigation or complaint resolution process. However, a decision not to participate in the process either in whole or in part will not prevent the CPS from proceeding with the information available.

A prompt, fair and thorough investigation of the allegations.

Adequate time to review documents in a location designated by CPS following the investigation.

To appeal the decision made or any sanctions imposed to the Superintendent of Schools or designee.

To challenge any Title IX Coordinator, investigator or decision-maker for a possible conflict of interest.

To refrain from making self-incriminating statements.

Notification, in writing, of the case resolution, including the outcome of any appeals, and the final determination.

For the Complainant, to report the incident to law enforcement at any time.

The CPS will disclose information about its investigation and resolution of sexual misconduct complaints only to those who need to know the information in order to carry out their duties and responsibilities. It will inform all individuals participating in an investigation, proceeding, or hearing that they are expected to maintain the privacy of the process. This does not prohibit either a Complainant or Respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or other resources.

When the CPS receives a complaint of sexual misconduct, the principal, head of upper school assistant principal or dean or a Title IX Coordinator will review the allegations and determine the necessity and scope of any interim supportive measures to prevent further acts of harassment, misconduct, or retaliation and to provide a safe educational and work environment. Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school building or school facility escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the school buildings or school facilities, and other similar measures.

The CPS will maintain as confidential any accommodations or protective measures provided to the Complainant to the extent that maintaining such confidentiality would not impair the ability of the CPS to provide the accommodations or protective measures. An individual's failure to comply with restrictions imposed by interim measures is a violation of the CPS policy and a basis for disciplinary action, up to and including termination or expulsion.

CPS will undertake an investigation into the allegations of sexual misconduct in a fair, thorough and expeditious manner by an investigator (including principal, head of upper school assistant principal or dean, Chief Talent Officer, Assistant Superintendent for Elementary Education or Assistant Superintendent of Secondary Education) specifically trained in conducting sexual misconduct investigations, determinations and appeals. Upon receipt of a formal complaint of sexual misconduct,

written notice will be sent to both the Complainant and the Respondent in advance of any interviews of the allegations in the complaint, investigation process, including any information resolution process, the right to have an advisor of their choice, the prohibition against knowingly making false statements or knowingly submitting false evidence, a statement that the respondent is presumed not responsible during the investigation and that if the investigation uncovers additional allegations regarding either the Complainant or Respondent not covered in the initial notice sent and a determination is made to investigate, notice of those allegations will be sent in the same manner as the initial notice of the allegations.

If the complaint involves conduct that occurred off school grounds, outside of a school's education program or activity, the CPS will, as part of its investigation, consider the effects of the off school grounds conduct when evaluating whether there is a hostile environment on school grounds. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. If the individual filing the complaint of sexual misconduct is under the age of eighteen (18), the school will notify the parents/guardians/caregivers of the student before beginning the investigation. The investigation may include one or more interviews with the person filing the complaint and also may include interviews with witnesses or other individuals who the CPS believes would be useful to the investigation. The CPS also will interview the Respondent; the person alleged to have committed the sexual misconduct. The investigation will include the gathering of physical, documentary, or other relevant and available evidence, including law enforcement reports. As part of the investigation, the CPS will provide an opportunity for all parties to present written statements, identify witnesses, and submit other evidence. The investigator will conduct an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness and questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege, will not be required, allowed, relied upon, or otherwise used.

Strict timelines cannot be set for conducting the investigation because each set of circumstances is different. For example, sometimes the employees or students that are involved in the complaint are not immediately available. The designated CPS investigator; however, will make sure that the complaint is handled as quickly as is feasible and will strive to complete the investigation within forty-five (45) working days. When more than forty-five (45) working days is required for the investigation, the designated CPS investigator shall inform both the Complainant and Respondent, in writing, that the investigation is still on-going. Good cause for extending the timelines may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

In resolving complaints pursuant to this policy, CPS will use a "preponderance of the evidence," standard, which is whether the evidence gathered and information provided during the investigation supports a finding that it is more likely than not that the Respondent violated this policy.

At the conclusion of the investigation, the investigator will prepare a report (the "Investigative Report") summarizing and analyzing the relevant facts determined through the investigation, with reference to any supporting documentation or statements. Before the Investigative Report is finalized, the Complainant and Respondent and any advisor that they may have, will be given the opportunity for review a copy of the Investigative Report for review and written response. A Complainant or Respondent must submit any comments to the Investigator within ten (10) calendar days after the Investigative Report was provided. Following the receipt of any comments submitted, or after the ten (10) day comment period has lapsed

without comment, the Investigator will address any identified factual inaccuracies or misunderstandings, as appropriate. The final Investigative Report will provide a summary of the investigator’s impressions, including context for the evidence and a recommendation, but will not make a final determination as to whether a violation of the policy has occurred, reserving that decision and any imposition of discipline in accordance with the appropriate procedures for the imposition of students or staff, as applicable, to the designated CPS decision-maker in connection with this investigation (principal, head of upper school, Assistant Superintendent of Elementary Education, Assistant Superintendent for Secondary Education or Deputy Superintendent). In accordance with the requirements of federal Title IX regulations, the decision-maker cannot be the same person as the Title IX Coordinator or the investigator and shall be who have been trained in conducting sexual misconduct investigations, determinations and appeals. The parties will be provided with a copy of the final Investigative Report simultaneously.

Prior to the CPS decision-maker reaching a determination regarding responsibility, and in lieu of a hearing, the decision-maker must afford both the Complainant and Respondent the opportunity to submit written, relevant questions that a party wants asked of a party or witness, provide each party with the answers and allow for additional limited follow-up questions from each party. The CPS decision-maker will strive to reach a determination of responsibility within thirty (30) working days. When more than thirty (30) working days is required for reaching the determination, in writing, that additional time is needed prior to issuance of the written determination.

The CPS decision-maker must issue a written determination regarding responsibility including identification of the allegations, description of the procedural steps taken from complaint through determination, finding of facts and rationale supporting the determination with respect to each allegation, conclusion, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the Complainant and permissible bases for parties to appeal. The parties will be provided with a copy of this written determination simultaneously. If the CPS decision-maker makes the determination that sexual misconduct has occurred, the matter will be referred to the Superintendent of Schools or designee for appropriate action, including but not limited to supportive measures and up to and including termination for employees or expulsion for students.

Please note that while these procedures relate to the CPS’ policy of promoting a workplace and educational setting free from sexual misconduct, as detailed further in this policy, these procedures are not designed nor intended to limit the CPS’ authority to discipline or take remedial action for workplace and educational conduct which the CPS deems unacceptable.

Both the Complainant and the Respondent have the right to file a written appeal of the CPS decision-maker’s determination to the Superintendent or designee on the basis of (i) procedural irregularity that affected the outcome; (ii) new evidence that was not reasonably available at the time the determination as to the complaint was made, or (iii) the Title IX Coordinator, investigator or decision-maker having a conflict of interest or bias against complainants or respondents generally or the individual specifically that affected the matter. Other bases for appeal may also be offered as long as those bases apply equally to both parties. The written appeal shall state the basis for the appeal, including a brief statement of the facts and specific request for relief. Upon receipt of an appeal written notice will be provided to the other party, and notice of receipt of the written appeal shall be given to the party that filed the written appeal. Appeal procedures will be implemented equally for all parties.

The CPS decision-maker on the appeal shall not be the same person as the CPS decision-maker that reached the determination regarding responsibility or dismissal, the investigator or the Title IX

Coordinator and shall be trained in how to conduct sexual misconduct investigations, determinations and appeals. The appeal process shall include, at a minimum, reviewing any prior informal and/or formal investigation that has been conducted by the CPS with respect to the matter, and providing both parties with a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome of the appeal within ten (10) days of the issuance of the notice of the appeal. Additionally, CPS decision-maker on appeal will strive to complete the appeal within twenty (20) working days. When more than twenty (20) working days is required, the CPS decision-maker on appeal shall inform the parties that additional time is needed for the appeal process. The CPS decision-maker on appeal will simultaneously notify, in writing, the parties of the result on the appeal and the rationale for the decision.

If no satisfactory resolution has been reached, the student and/or their parents/guardians/caregivers or employee has the right to take the complaint to an appropriate state or federal agency. Moreover, it should be noted that using the CPS's complaint process does not prohibit you from filing a complaint with these agencies. For students, complaints may be taken to the Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 Phone: 617-289-0111; Fax: 617-2889-0150; TDD: 1-800-877-8339; Email: OCR.Boston@ed.gov; the Program Quality Assurance Services, Massachusetts Department of Elementary and Secondary Education, 75 Pleasant Street, Malden, MA 02148-4906; Phone: 781-338-3700; Fax: 781-338-3710; TTY: N.E.T. Relay: 1-800-439-2370; Email: compliance@mass.edu; at the Massachusetts Commission Against Discrimination (MCAD) at the addresses listed below; or other appropriate state or federal agency. For employees or applicants for employment, complaints may be taken to the Massachusetts Commission Against Discrimination, One Ashburton Place, Boston, Massachusetts 02108; Phone: 617-994-6000; TTY: 617-994-6196; Fax: 617-994-6024; Email: assistanttochairman@state.ma.us or other MCAD offices listed below; U.S. Equal Employment Opportunity Commission, John F. Kennedy Federal Building, 475 Government Center, Boston, Massachusetts 02203; Phone: 1-800-669-6820; TTY: 1-800-669-6820; fax: 617-565-3196; ASL Video: 844-234-5122; or other appropriate state or federal agency.

VII. Disciplinary Action

If it is determined that inappropriate conduct has been committed by a CPS employee or student, the CPS will take action that is appropriate under the circumstances, including without limitation supportive measures and/or disciplinary action up to and including termination or expulsion.

VIII. State and Federal Remedies

In addition to the above, employees who believe they have been subjected to sexual misconduct, may file a formal complaint with the respective state agency and/or the United States Equal Employment Opportunity Commission (EEOC). Using the CPS's complaint process does not prohibit you from filing a complaint with these agencies. Each agency has a specific time period for filing a claim. The United States Equal Employment Opportunity Commission (EEOC) allows at least 180 days (may be longer in some circumstances) to file a complaint, and the Massachusetts Commission Against Discrimination (MCAD) allows at least 300 days to file a complaint.

1. The United States Equal Employment Opportunity Commission (EEOC)

JFK Federal Building 475 Government Center 131 M Street, N.E. Fourth Floor, Suite 4NW02F Boston, MA 02203 Washington, DC 20507 Phone: 617-565-3200 Phone: 1-800-669-4000 TTY: 617-565-3204 TTY: 202-663-4494 Fax: 617-565-3196 Fax: 202-419-0734 ASL Video: 844-234-5122 ASL Video: 844-234-5122

2. Massachusetts Commission Against Discrimination (MCAD)

Boston Office: Springfield Office: One Ashburton Place 436 Dwight Street Suite 601 Suite 220 Boston, MA 02108 Springfield, MA 01103 Phone: 617-994-6000 Phone: 413-739-2145 TTY: 617-994-6196 Fax: 412-784-1056 Email: assistanttochairman@state.ma.us Email: assistanttochairman@state.ma.us

Worcester Office: New Bedford Office: 484 Main Street 800 Purchase Street Room 320 Room 501 Worcester, MA 01608 New Bedford, MA 02740 Phone: 508-453-9630 Phone: 508-990-2390 Fax: 508-755-3861 Fax: 508-990-4260 Email: assistanttochairman@state.ma.us Email: assistanttochairman@state.ma.us

3. Students may also file complaints with the Massachusetts Commission Against Discrimination (MCAD) at the addresses listed above, the Program Quality Assurance Services, Massachusetts Department of Elementary and Secondary Education at the address listed above and with the United States Department of Education, Office for Civil Rights at the address listed above.

4. In some cases, the conduct complained of may constitute sexual misconduct under Title IX and criminal activity. If you believe that the conduct also constitutes a crime you have a right to file a criminal complaint at any time, including during or after the School Department’s investigation into your complaint.

CROSS REFS.: ACAB Non-Discrimination Policy and Prohibition Against Sexual Harassment
ACA Nondiscrimination On The Basis Of Sex
JICFB-E-1 Cambridge Public Schools Policy Against Teen Dating Violence

Adopted: