

CAMBRIDGE PUBLIC SCHOOLS

24-164



135 BERKSHIRE STREET, CAMBRIDGE, MASSACHUSETTS 02141

August 6, 2024

TO THE HONORABLE MEMBERS OF THE SCHOOL COMMITTEE:

Approval of Revisions to Cambridge School Department's Non-Discrimination Policy

Recommendation: That the School Committee approve the revisions to Cambridge School Department's Non-Discrimination Policy detailed in the attached document.

These policy revisions are being presented for its first reading.

Description: This document contains revisions to the Non-Discrimination Policy in order to bring it into alignment with the proposed revisions to the uniform grievance procedures.

Supporting Data: Cambridge School Department's Non-Discrimination Policy.

Respectfully submitted,

David Murphy
Interim Superintendent of Schools

ACAB - CAMBRIDGE SCHOOL DEPARTMENT'S NON-DISCRIMINATION 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 maintaining an educational environment and workplace where bigotry and intolerance, including discrimination are not tolerated. Discrimination and harassment consists of harmful unwelcome conduct that is based on a characteristic protected by law, such as race¹, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, **sex stereotypes**, **sex characteristics**, gender, gender identity, gender expression, sexual orientation, pregnancy, or pregnancy-related condition. The CPS strictly enforces a prohibition against discrimination of any of its employees, students, students' parents/guardians/caregivers or visitors 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 discrimination 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. Any retaliation against an individual who has complained about discrimination or any retaliation against any individual who has cooperated with an investigation of a discrimination complaint will not be tolerated.

The CPS takes allegations of discrimination seriously and will respond promptly to complaints. Where it is determined that discrimination 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. Definitions

"Complainant" is defined as the individual who has filed a complaint of discrimination within the CPS.

"Discrimination" is defined as harmful conduct that is based on race, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, gender expression, sexual orientation, pregnancy, or pregnancy-related condition. Discrimination includes, but is not limited to:

- Display or circulation of written materials or pictures that are degrading to a person or group described above.
- Verbal abuse or insults about, directed at, or made in the presence of an individual or group described above.
- Any action or speech that contributes to, promotes or results in a hostile or discriminatory environment to an individual or group described above.

¹ Race includes traits historically associated with race, including, but not limited to, hair texture, hair type, hair length and protective hairstyles.

- Any action or speech that is sufficiently severe, pervasive or persistent that it either (i) interferes with or limits the ability of an individual or group (as described above) to participate in or benefit from employment or a program or activity of the CPS; or (ii) creates an intimidating, threatening or abusive educational or working environment.

Many forms of 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 above definition of discrimination is broad. In addition to the above examples, other conduct, whether intended or not, that has the effect of creating a school or work environment that is hostile, offensive, intimidating, or humiliating will be considered discrimination.

"Investigator" is defined as the CPS Director of Diversity Development or the Chief Talent Officer of the CPS Office of Human Resources.

"Resolution" is defined as the result of a discrimination complaint investigation established by this policy.

"School" is defined as CPS-supported on-line and/or digital platforms, CPS school-sponsored social events, trips, sports events, work-related travel or similar events connected with the CPS school or employment, including without limitation, extracurricular and athletic activities and programs, traveling to and from the CPS school or on a CPS school-sponsored field trip.

"Witness" is defined as the individual or office that receives a complaint of discrimination within CPS.

III. Reporting Complaints of Discrimination and Harassment

If any CPS student or employee believes, in good faith, that they have been subjected to any form of harassment or discrimination, the individual has a right to file a complaint and seek resolution. If any CPS student or employee wishes to file a complaint and seek resolution, they may do so by contacting their immediate supervisor, the Chief Talent Officer or the Director of Diversity Development-in the case of employees; and their teacher, Principal, Assistant Principal, Dean, Assistant Superintendent for Elementary Education or Assistant Superintendent for Secondary Education- in the case of students. This may be done verbally or in writing.

Teachers or other staff members who observe incidents of discrimination involving students shall report such incidents immediately to the student's Principal, ~~Head of Upper School~~, Assistant Principal or Dean. Administrators aware of harassment involving any employee shall report such incidents to the Director of Diversity Development or the Chief Talent Officer.

No reprisals or retaliation shall be invoked against any CPS employee or student for processing, in good faith, a complaint, or for participating in any way in these complaint procedures. No reprisals or retaliation shall be invoked against any employee or any student who, in good faith, has testified, assisted, or participated in any manner in any investigation, proceeding, or hearing of a complaint or for otherwise participating in any way in the complaint procedures established by this policy.

IV. Complaint Investigation

When the CPS receives a complaint of discrimination, it will investigate the allegation in a fair and expeditious manner **in accordance with the procedues set forth in the CPS' Civil Rights Grievance Procedures**. If the complaint involves conduct that occurred off school **grounds**, as school is defined in Section II, the CPS will, as part of its investigation, consider the effects of the off school conduct when evaluating whether there is a hostile environment in school. 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 discrimination 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 an interview 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 person alleged to have committed the discrimination. Whenever possible, interviews should be scheduled during a time that does not conflict with regularly scheduled work and/or school programs. When the CPS has concluded its investigation, the CPS will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of the investigation.

The investigation procedures are designed to promote the sensitive handling of employee and student issues, the thorough investigation of complaints, to facilitate a prompt and expeditious internal review, and to reach a fair and equitable resolution of complaints alleging discrimination as defined in Section II. A CPS employee or student may select any of the routes identified above in Section III or identified below in this Section IV to file a complaint of discrimination. CPS employees and students may seek advice from appropriate individuals within their school or administrative office or from the CPS Director of Diversity Development or the Office of Human Resources without being required to file a complaint.

How to make a complaint

Any student or employee who believes that they have been discriminated against or harassed should report their concern promptly to the Principal or Civil Rights Coordinator. Students may also report incidents of harassing conduct to a teacher, administrator, or guidance counselor. Any complaint received by a school personnel shall be promptly reported to the Principal or Civil Rights Coordinator. A complaint will not be dismissed because it was reported to the incorrect school personnel.

Students or employees who are unsure whether discrimination, harassment, or retaliation has occurred are encouraged to discuss the situation with the Principal. There may be instances where another third-party, who has not experienced but is aware of the occurrence of prohibited conduct, may bring a complaint under these procedures. In such circumstances, that person is referred to as the "reporter."

A. Any District employee who observes or receives a report of discrimination, harassment or retaliation shall promptly notify the Principal or Civil Rights Coordinator, identified below. Any District employee who observes discrimination, harassment or retaliation against a student should intervene to stop the conduct and report it to Principal. Upon receipt of a report of discrimination, harassment or retaliation, the Principal shall promptly inform the relevant Civil Rights Coordinator of the report, and the District will

respond in a manner consistent with this Procedure. If the report involves an accusation against the Principal or Civil Rights Coordinator, the employee shall report the incident to the Superintendent or designee.

B. Informal Reports: Individuals may wish to file a formal complaint of discrimination, harassment or retaliation, or to report informally (i.e., without initiating a formal complaint). Such informal reports may be made to the Principal or Civil Rights Coordinator. The District shall inform anyone making an informal report that they may initiate a formal complaint at any time, regardless of what steps are being or have been taken in response to an informal report.

C. Anonymous Reports: Complainants and reporters should be aware that although the District will often be able to maintain confidentiality of reporting persons, the District may sometimes be required to take actions to protect the safety of the school community that may result in the identity of the reporting person being disclosed (to the police, for example). When reporters or Complainants seek to remain anonymous or have their identities kept confidential, they will be informed that honoring such a request may limit the ability of the District to respond fully to any reported event, including limitations on the ability to take disciplinary action against a Respondent.

D. Informal Process: If the District concludes that it is possible to resolve a matter, whether after formal complaint or an informal report, in a prompt, fair and adequate manner through an informal process involving, and with the consent of, the Complainant and Respondent, the District may seek to do so. The informal process is voluntary, and the Complainant and/or Respondent may terminate or decline any informal process at any time, without penalty.

E. Formal Process: A formal complaint shall state (if known to the reporter or Complainant) the name(s) of the persons involved and witnesses to the conduct, describe the conduct, and identify, to the extent possible, the dates and locations of the conduct. The complaint shall be signed and dated by the reporter and/or Complainant. Complaints will be investigated promptly and equitably by the Civil Rights Coordinator or Principal or designee. Investigations may be initiated whenever warranted, in the absence of a formal complaint, or after a formal complaint has been withdrawn.

F. Initial Assessments: The Civil Rights Coordinator or Principal will make an initial assessment following a complaint. Based on that assessment, the Civil Rights Coordinator or Principal may:

- (a) if the conduct, even if substantiated, would not constitute harassment, discrimination or retaliation, dismiss the complaint;
- (b) if the alleged conduct (or complaint) could not, even if true, constitute discrimination, harassment or retaliation, but is within the scope of another procedure, the Civil Rights Coordinator shall refer the matter to the appropriate personnel;
- (c) if the Civil Rights Coordinator or Principal concludes that it is possible to resolve the complaint in a prompt, fair and adequate manner through an informal

process involving and with the consent of both parties, the Civil Rights Coordinator or Principal may seek to do so in accordance with Section D, above; or

(d) if the alleged conduct, if substantiated, would constitute discrimination, harassment or retaliation, the Civil Rights Coordinator or Principal or designee will initiate an investigation. The Civil Rights Coordinator or Principal may also identify and initiate any interim measures. *See* Section G.

G. Interim Measures: The District will provide prompt and reasonable interim measures during the pendency of the investigation, if appropriate, to support and protect the safety of the parties, the educational environment, and the District and/or school community; to deter retaliation; and to preserve the integrity of the investigation and resolution process. Any interim measures will be monitored to ensure they are effective based on the evolving needs of the parties. Violations of the restrictions imposed by interim measures could be considered a violation of school rules and may be considered in determining whether discrimination, harassment or retaliation has occurred.

H. Timeframes: The District will seek to complete any investigation within twenty (20) school days after receipt of a complaint and provide the written notice of the outcome of the investigation within twenty-five (25) school days. The investigator may impose reasonable timeframes on all parties to facilitate the timely completion of the investigation. The investigator may extend the investigation period beyond the time period identified due to extenuating circumstances, including but not limited to availability and cooperation of witnesses, complexity of the investigation, school vacation periods, and the involvement of law enforcement and other outside agency investigations. If a complaint or report of discrimination, harassment or retaliation is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the above-referenced timeframe, but may extend the investigation period to account for the availability of witnesses during the summer vacation period. If the investigator extends the investigation, he or she will notify the Complainant and Respondent of the extension. A report to the law enforcement will not automatically delay an investigation; however, a request from law enforcement to delay the investigation may require a temporary suspension of an investigation, and the District will promptly resume its investigation upon being advised that law enforcement's evidence gathering is completed. Any interim measures provided to the parties may continue during the period of postponement. *See* Section G.

I. Under the formal resolution procedure, the complaint will be investigated by the Principal, Civil Rights Coordinator or other individual designated by the Principal or Civil Rights Coordinator who has responsibility for seeking and gathering evidence relative to the investigation. A formal complaint against an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. During the formal resolution procedure:

1. The Complainant shall be provided with an opportunity to be heard and have the opportunity to identify witnesses and other relevant evidence to the investigator.
2. The Respondent will be provided with an opportunity to be heard as part of the investigation including the opportunity to provide relevant information and identify witnesses for the investigator's consideration.
3. The privacy rights of the parties shall be maintained in accordance with applicable state and federal laws.
4. The investigator will keep a written record of the investigation process.
5. The investigation will be completed within twenty (20) school days of the date of receipt of the complaint.
6. The notification of the outcome of the investigation, including, if appropriate, a description of the remedies taken, will be provided to the parties within twenty-five (25) school days of the receipt of the complaint, unless extended for good cause.
7. Nothing in this Procedure will preclude the investigator, in their discretion, from completing the investigation sooner than the time period described above.

J. Standard of Proof: The investigation shall made factual findings based on a preponderance of the evidence standard.

K. If the investigator determines that discrimination, harassment or retaliation has occurred, the District shall take steps to eliminate the discriminatory or harassing environment, which shall include but not be limited to:

1. Identifying what steps are necessary to prevent recurrence of any discriminatory behavior, including but not limited to harassment or retaliation, and to correct its discriminatory effects if appropriate; and
2. Informing the Complainant and Respondent or, in the case of minor children, the parties' parent(s)/guardian(s)/caregiver(s) of the results of the investigation (in accordance with applicable state and federal privacy laws) in accordance with the above timelines. The notification will include the notice of the opportunity for appeal; however, failure to provide notice of appeal shall not constitute a violation of this policy. The school district administration may also refer the offender for disciplinary procedures to be conducted in accordance with federal and state law.

Nothing in the Civil Rights Grievance Procedure shall be interpreted as limiting or prohibiting the District's ability to take appropriate disciplinary action against the offender in accordance with the applicable code(s) of conduct or employment contracts or policies, where appropriate, prior to completion of the investigation, in accordance with the due process rights of employees and students, as applicable. If it is determined that discriminatory conduct has been committed by a CPS employee or student, the CPS shall take action that is appropriate under the circumstances. Such action shall include, but not

be limited to, counseling, restorative practices, or termination of employment-in the case of employees-or expulsion-in the case of students. While these measures relate to ~~the heretofore established~~ CPS' policy of promoting a workplace and educational setting free from discrimination, 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.

Additionally, the Cambridge Public Schools has a conflict mediation program which individuals may access for the resolution for matters or conflicts during or outside of the resolution processes detailed above.

When informing the parties' parent(s)/legal guardian(s) about the results of the investigation, the school district may consider appropriate notification processes when special circumstances may apply (e.g., disclosure of sexual orientation or gender identity/expression).

L. Appeal: If the Complainant or the Respondent is dissatisfied with the results of the investigation, an appeal may be made to the Superintendent or designee within seven (7) calendar days after receiving notice of the outcome of the investigation, except for circumstances in which the Respondent is subject to long-term suspension as a result of a finding of discrimination, harassment or retaliation. In such an instance, the appeal rights of the Respondent will be provided in a manner consistent with the disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, 37H, 37H ½ or 37H ¾). Appeals must be made in writing (email is sufficient) to the Superintendent, Cambridge Public Schools, 135 Berkshire Street, Cambridge, Massachusetts 02141. The Superintendent of Schools will notify, in writing, both the complainant and the individual against whom the complaint was filed of the outcome of the investigation. The Superintendent will decide the appeal within thirty (30) calendar days of the date of receipt of the written appeal.

~~Complaint Investigation Procedure~~

~~The complainant shall file a written complaint that will state the name of the individual and the location of the school/department where the alleged discriminatory practice occurred, the basis for the complaint, and the corrective action the employee or student is seeking.~~

~~After filing the written complaint, the witness shall promptly give written notification to the appropriate school and/or department identified in the complaint. The investigator will conduct the necessary investigation promptly after receiving the complaint. In the course of their investigation, the investigator shall contact those individuals that have been referred to as having pertinent information related to the complaint. This process shall include, at a minimum, contacting the complainant, the complainant's parent/guardian/caregiver if the complainant is under the age of 18, and the person against whom the complaint was filed, and/or the principal/head of upper school or appropriate authority involved. If further documentation is needed, the investigator shall present to the appropriate authorities, written requests for additional information pertaining to the complaint. 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 investigator, however, will make sure that the complaint is handled as quickly as is feasible and~~

~~will strive to complete the investigation within thirty (30) working days. When more than thirty (30) working days is required for the investigation, the investigator shall inform the complainant, in writing, that the investigation is still on-going and shall confirm receipt of notice of said extension.¶¶~~

~~After completing the investigation of the complaint, the investigator may request a meeting with the person against whom the complaint was filed and/or the principal/head of upper school or appropriate authority involved to discuss the investigation's findings. The purpose of said meeting shall be to give the person against whom the complaint was filed and/or the principal/head of upper school, supervisor or appropriate authority involved, an opportunity to respond to the findings, and to seek to resolve the complaint. When feasible and appropriate, the investigator will make every attempt to resolve the issue within the time parameters of this initial meeting; however, more than one meeting may be necessary. The investigator will strive to reach a determination of responsibility within thirty (30) working days. When more than thirty (30) working days is required to reach a determination, the investigator shall inform the complainant and the individual against whom the complaint was filed and/or the principal/head of upper school or appropriate authority involved, in writing, that additional time is needed for the determination process. The investigator shall confirm receipt of notice of said extension.¶¶~~

~~If the investigator finds that there is reasonable cause, based upon a preponderance of the evidence (i.e., more likely than not), for believing that a discriminatory practice has occurred, the investigator will refer the matter to the Chief Talent Officer or Director of Diversity Development CPS if not the acting investigator or to the City of Cambridge Superintendent of Schools (the "Superintendent") for appropriate action, up to and including termination for employees or expulsion for students. The investigator will notify, in writing, both the complainant and the individual against whom the complaint was filed of the outcome of the investigation.¶¶~~

~~If it is determined that discriminatory conduct has been committed by a CPS employee or student, the CPS shall take action that is appropriate under the circumstances as defined in Section V.¶¶~~

~~Section V. Disciplinary Measures¶¶~~

~~If it is determined that discriminatory conduct has been committed by a CPS employee or student, the CPS shall take action that is appropriate under the circumstances. Such action shall include, but not be limited to, counseling, restorative practices, or termination of employment in the case of employees or expulsion in the case of students. While these measures relate to the heretofore established CPS policy of promoting a workplace and educational setting free from discrimination, 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.¶¶~~

~~Section VI. CPS Conflict Resolution Measures¶¶~~

~~Additionally, the Cambridge Public Schools has a conflict mediation program which individuals may access for the resolution for matters or conflicts during or outside of the resolution processes detailed above.¶¶~~

~~Section VII. Resolution Appeal¶¶~~

~~If the complainant has entered into a complaint process and is not satisfied with the resolution, they may appeal the resolution for the Superintendent's review. The appeal submitted to the Superintendent shall state the grievance, including the specifics relating to the discriminatory or practice that has occurred and shall include a brief statement of the facts and specific request for relief. The Superintendent will conduct the necessary investigation promptly after receiving the complaint. This process shall include, at a minimum, contacting the complainant, the complainant's parent/guardian/caregiver if the complainant is under the age of 18, and the person against whom the complaint was filed and/or the principal/head of upper school or appropriate authority involved and reviewing any prior investigation that has been conducted by the school district with respect to the matter.¶¶~~

~~The Superintendent will strive to complete the resolution of the appeal within ten (10) working days. When more than ten (10) working days is required for the investigation and resolution process, the Superintendent shall inform the employee or student who filed the complaint and the individual against whom the complaint was filed and/or the principal/head of upper school or appropriate authority involved that additional time is needed for the resolution process. The Superintendent shall confirm receipt of notice of said extension.¶¶~~

~~If the Superintendent finds that there is reasonable cause, based upon a preponderance of the evidence (i.e., more likely than not), for believing that a discriminatory practice has occurred, the Superintendent will take appropriate action, up to and including termination for CPS employees or expulsion for CPS students. The Superintendent will notify, in writing, both the complainant and the individual against whom the complaint was filed of the outcome of the investigation.¶¶~~

~~Section VIII. State or Federal Remedies~~

Using the CPS's discrimination complaint process, as established by this policy, does not prohibit a complainant from filing a complaint with the relevant agencies described below.

For CPS 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: 617.289.0150; TTY: 1.800.877.8339
Email: OCR.Boston@ed.gov;

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;
Email: compliance@doe.mass.edu;

Massachusetts Commission Against Discrimination (MCAD) at the addresses listed below; or other appropriate state or federal agency.

For CPS employees or applicants for employment, complaints may be taken to the:
Massachusetts Commission Against Discrimination (MCAD)

1 Ashburton Place, Suite 601
Boston, Massachusetts 02108
Phone: 617.994.6000
Email: MCAD@mass.gov; or at any other MCAD office listed as follows:

Boston Headquarters
1 Ashburton Place, Suite 601
Boston, MA 02108
Phone: 617.994.6000

Worcester Office
484 Main Street, Room 320
Worcester, MA 01608
Phone: 508.453.9630.

Springfield Office
436 Dwight Street, Room 220
Springfield, MA 01103
Phone: 413.739.2145

or other appropriate state or federal agency, including the following:

U.S. Equal Employment Opportunity Commission JFK Federal Building
15 New Sudbury Street, Room 475

Boston, MA 02203-0506
Phone: 1.800.669.4000, TTY: 1.800.669.6820, ASL Video Phone: 844.234.5122, Fax:
617.565.3196

Section ~~VIX~~. Sexual/Gender-Based Discrimination Procedures

All complaints of sex/gender-based discrimination, sex/gender-based harassment, sexual harassment, and/or sexual misconduct will be processed in accordance with the procedures set forth in the Cambridge School Department's Title IX/Sexual Misconduct Policy **with respect to allegations that occurred prior to August 1, 2024 and for allegations that occur on or after August 1, 2024 such complaints will be processed in accordance with the Cambridge School Department's Non-Discrimination on the Basis of Sex/Title IX Policy.**

CROSS REFS.: [ACA](#) & [ACE](#) Non-Discrimination subcategories

[AC-R](#) Civil Rights ~~Uniform~~ Grievance Procedures

ACABA-1 Sexual Misconduct/Title IX Policy

ACABA-2 Non-Discrimination on the Basis of Sex/Title IX Policy

Adopted: ~~August 9, 2022~~