



January 21, 2025

TO THE HONORABLE MEMBERS OF THE SCHOOL COMMITTEE:

Approval of Revisions to Sexual Misconduct/Title IX Policy

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

These policy revisions are being presented for its first reading.

Description: This document contains revisions to the School Committee's Sexual Misconduct/Title IX policy that is based on the federal Title IX regulations that were promulgated in 2020. These changes are being made as a result of January 9, 2025 decision issued by the United States Court of Appeals for the Sixth Circuit in the case of *Tennessee v. Cardona*, which vacated the federal Title IX regulations that went into effect on August 1, 2024. As a result, the school department will operate under the attached policy and the Non-Discrimination on the Basis of Sex – Title IX Policy that was based on the federal Title IX regulations that went into effect on August 1, 2024 will no longer be utilized for Title IX complaints related to incidents that occurred on or after August 1, 2024.

Supporting Data: Sexual Misconduct – Title IX Policy

Respectfully submitted,


David Murphy
Interim 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 that is free from all forms of sex/gender-based discrimination, sex/gender-based harassment, gender identity/gender expression discrimination, gender identity/gender expression harassment, including sexual assault and/or retaliation in any of its programs or activities (hereinafter for purposes of this policy collectively referred to as "Sexual Misconduct"). The CPS does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates as required by Title IX.

The CPS strictly enforces a prohibition against Sexual Misconduct of its students or employees by anyone, including any student, teacher, employee, vendor, or other third party, as such conduct is contrary to the mission of the CPS and its commitment to equal opportunity in education. No individual must endure Sexual Misconduct as a condition of their education, employment or participation in any academic/educational program or activity, including without limitation, in any extracurricular activity, athletic program, CPS-supported on- line and/or digital platforms or any other program or activity of the CPS.

The CPS will not tolerate Sexual Misconduct that affects educational conditions, that interferes unreasonably with an individual's school or work performance, or that creates an intimidating, hostile, or offensive school environment. Sexual Misconduct towards students, employees or others by employees, students, students' parents/guardians/caregivers or members of the public occurring in the schools is prohibited by law and will not be tolerated by the CPS. This policy may also apply to conduct that occurs outside of school and to online conduct when such conduct causes a substantial disruption to the CPS learning environment or otherwise affects a substantial interest of the CPS. Regardless of where the conduct occurred, the CPS will address all allegations to determine whether the conduct occurred in the context of an educational program or activity, including without limitation, any extracurricular activity, athletic program, CPS-supported on-line and/or digital platforms or any other program or activity of the CPS, and whether the conduct has continuing effects within the CPS.

A substantial CPS interest includes any of the following:

- (1) Any action that constitutes a criminal offense as defined by the law. This includes, but is not limited to, single or repeat violations of any local, state or federal law; or
- (2) Any situation in which it appears that an individual covered by this policy may present a danger or threat to the health or safety to themselves or others; or
- (3) Any situation that significantly interferes with the rights, property or achievements of self or others or significantly breaches the peace or causes social disorder; or
- (4) Any situation that is detrimental to the educational interests of the CPS.

Further, any retaliation against an individual who has complained about Sexual Misconduct or any retaliation against any individual who has cooperated with an investigation of Sexual Misconduct 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, up to and including termination of employment or school-related discipline.

The CPS Title IX Coordinator, Deputy Title IX Coordinators, Executive Director of Human Resources, Superintendent, ~~Chief Academic Officer~~Executive Director of Academics, Assistant Superintendent for Elementary Education, Assistant Superintendent of Secondary Education, Assistant Superintendent for Student Services and all the CPS principals, assistant principals and deans and any other CPS staff as designated by the Superintendent shall be trained in how to conduct sexual misconduct investigations, determinations and appeals as are detailed below in this policy. The CPS also requires that any Title IX Coordinator, Deputy Title IX Coordinator, Facilitators, Investigators and Decisionmakers not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent and have been trained consistent with the Title IX regulations.

III. Definitions

1. Protected Categories: An individual's actual or perceived sexual orientation, gender or sex (includes gender identity, gender expression, pregnancy, childbirth, breastfeeding and pregnancy related medical conditions), gender identity, gender expression, race, color, ethnicity, national origin, religion, age, disability, immigration status, marital status, genetic information, military status, political belief or affiliation or other protected category, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, or any other basis protected by federal, state or local law, ordinance or regulation.
2. Discrimination: Treating an individual less favorably because of their actual or perceived membership in one or more protected categories.
3. Harassment: Unwelcome verbal, nonverbal, visual or physical conduct that is based on an individual's actual or perceived membership in one or more of the protected categories that is persistent, pervasive or severe and objectively offensive and unreasonably interferes with, limits or denies an individual's educational or employment access, benefits or opportunities. Unwelcome conduct may include, but is not limited to bullying, intimidation, offensive jokes, slurs, epithets or name calling, assaults or threats, touching, ridicule or mockery, insults or put-downs, offensive objects or pictures, messages sent via email, text, posting or social media, sexual advances, requests for sexual favors, conduct of a sexual nature or any other sex-based conduct.
4. Sexual Harassment:
 - i. Definition of Sexual Harassment. Sexual harassment for the purposes of Title IX and as defined in 34 CFR Part 106, includes certain types of unwelcome sexual conduct, sexual assault, dating violence, domestic violence, and stalking. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
 1. A CPS employee conditioning the provision of aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
 - a. Commonly referred to as "quid pro quo" sexual harassment, meaning that a school employee offers something to an individual in exchange for sexual conduct.

2. Any unwelcome conduct, determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity;
3. Sexual assault as defined by the Clery Act, 20 USC 1092(f)(6)(A)(v), and "dating violence" "domestic violence" and "stalking" as defined by the Violence Against Women Act, 34 U.S.C. 12291 (a)(8), (10) & (30).
 - a. Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - i. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - ii. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - iii. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - iv. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent (16).
 - b. Dating Violence: For purposes of this policy, dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim (student). The existence of such a relationship is determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Issues and concerns related to Dating Violence, including situations in which both parties are not students, may also be addressed in accordance with the Cambridge Public Schools Policy Against Teen Dating Violence and the Cambridge Public Schools Domestic Violence and Teen Dating Violence Administrative Guidelines.
 - c. Domestic Violence: For purposes of this policy, felony or misdemeanor crimes of violence (including threats or attempts) committed by a current or former spouse of the victim (student), by a person with whom the victim (student), shares a child in common, by a person who is cohabitating with or has cohabitated with the victim (student) as a spouse, by a person similarly situated to a spouse of the victim (student), under the domestic or family violence laws of the jurisdiction receiving

grant monies, or by any other person against an adult or youth victim/survivor (student), who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies. It should be understood that domestic violence/dating violence applies to any pattern of coercive behavior that is used by one person to gain power and control over a current or former intimate partner or dating partner. This pattern of behavior may include physical or sexual violence, emotional and psychological intimidation, threats, verbal abuse, stalking, isolation, and economic control.

Issues and concerns related to Domestic Violence, including situations in which parties are not students, may also be addressed in accordance with the Cambridge Public Schools Policy Against Domestic Violence, Domestic Violence Leave Policy and the Cambridge Public Schools Domestic Violence and Teen Dating Violence Administrative Guidelines.

- d. **Stalking:** A course of conduct directed at a specific person (student) that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

It involves 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 also prohibited by Massachusetts General Law, chapter 265, section 43.

ii. Forms and examples of Prohibited Sexual Harassment. As detailed above, sexual harassment includes, but is not limited to, sexual advances, requests for sexual favors, and verbal, non-verbal or physical conduct of a sexual nature when:

- Submission to or rejection of advances, requests, or conduct that is made either explicitly or implicitly as a term or condition of academics, education, extracurricular or athletic activities, academic standing, or other school-related opportunities.
- Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual's academic, educational, extracurricular or athletic activity performance by creating an intimidating, hostile, humiliating, or sexually offensive academics, educational, extracurricular or athletic activity environment.
- Under the definition stated above, direct or implied requests by a teacher, CPS employee or any individual in a position of school authority for sexual favors in exchange for actual or promised school benefits such as 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 employee's behavior is unwanted or not.

In addition to the above examples, other unwelcome sexual conduct, that has the effect of creating a school or environment that is hostile, or offensive also may constitute sexual harassment.

Sexual harassment can take many forms, and can:

- Occur between equals, such as student to student, employee to student, or visitor to student.
- Occur between persons of unequal power status, such 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
- Be committed by an acquaintance or by 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. 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 emails or websites of a sexual nature.¹
 - Non-academic display or circulation of written materials or pictures degrading to a person(s).
 - 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 responsibilities based on actual or perceived sex, gender, gender identity, 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.
 - 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.
 - Viewing another person's sexual activity, intimate body parts, or nakedness without that person's consent.
5. 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 is not valid if a person is subjected to any pressure, including but not limited to, emotional, physical, reputational, or financial, threats, 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. A person is incapable of giving consent if they are under the influence of drugs or alcohol. A person also can be unable to give consent due to their age, an intellectual impairment or other disability.

6. Retaliation: Retaliation is any attempt to seek retribution or take an adverse action against the Complainant, or any person or group of persons involved in the investigation and/or

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

resolution, whether formal or informal, of a complaint of Sexual Misconduct. Retaliation can be committed by any person or group of persons, not just a Respondent. Retaliation can include continued forms of harassment or discrimination, actions to deter participation in the protected action, discipline or denial of access to a service or benefit and/or 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 or for cooperating in an investigation, proceeding or hearing, or for refusing to participate in an investigation, proceeding or hearing. Any person who engages in retaliation is subject to disciplinary action up to and including expulsion or termination by the CPS.

For purposes of this policy and pursuant to the provisions of Title IX, intimidation, threats, coercion or discrimination, including charges against an individual for violations of the CPS' policies or codes of conduct that do not involve Sexual Misconduct, but arise out of the same facts or circumstances as a report or complaint of Sexual Misconduct or a report or complaint of Sexual Misconduct for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.

7. School. For purposes of this policy, "school" is defined to include all Cambridge Public Schools, grounds and facilities, including without limitation, school-sponsored events, trips, sports events, extracurricular and athletic activities, CPS-supported on-line and/or digital platforms, and programs or other similar events connected to school, including but not limited to, traveling to and from school or on a school-sponsored field trip.
8. Supportive Measures: Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are discussed in further detail below in Section V of this policy.
9. Libel. Libel is written or published statements that cause serious damage or harm to another person's reputation.
10. Slander. Slander is spoken statements that cause serious damage or harm to another person's reputation.

IV. Reports and Intake Procedures for Complaints

If any CPS student, the student's parent/guardian/caregiver, or other person, including, but not limited to, a CPS employee, believes that they or a CPS student has been subjected to any form of Sexual Misconduct, the individual is encouraged to report the incident. School employees are mandatory reporters of possible Sexual Misconduct towards students. All reports of Sexual Misconduct, whether they involve conduct between students or conduct between adults and students must be relayed to the CPS' Title IX Coordinator in addition to the Deputy/School level Title IX Coordinator(s) ("Deputy Title IX Coordinators") to be further evaluated.

All Employees who observe incidents or receive reports incidents of Sexual Misconduct involving students shall report such incidents immediately to the Principal, Assistant Principal, Dean, Deputy Title IX Coordinators and the CPS' Title IX Coordinator. After receiving such a report from any employee, administrators must relay the report to the CPS' Title IX Coordinator to be evaluated. Administrators aware of allegations of Sexual Misconduct involving any employee shall report such incidents to the CPS' Title IX Coordinator, the Superintendent or designee and the CPS Executive Director of Human Resources. Failure to report such incidents may result in disciplinary action, up to and including termination.

This mandatory reporting obligation is in addition to the requirements set forth in the CPS Administrative Guidelines for Reporting Abuse and Neglect for reporting child abuse or neglect, if child abuse or neglect is suspected. Additionally, in connection with receiving a report of Sexual Misconduct, steps must be taken to ensure the safety and well-being of the party making the disclosure.

Once a report is received or at any point during an investigation, the Complainant can state that they do not want an investigation but the CPS may have an obligation to move forward based on the health and/or safety of the school environment and school community. When the Complainant requests that no investigation into a particular incident be conducted or no disciplinary action be taken, the CPS will assess the request against its obligation to provide a safe school environment for all students, staff and others within its school community, including the Complainant. There are cases when the CPS may proceed with the investigation and/or discipline despite the request for no investigation and/or no disciplinary action to be taken. In such cases, the CPS Title IX Coordinator will notify the Complainant within ten (10) work days of the report having been made of the intention to unilaterally initiate the formal grievance process.

Additionally, once a report of Sexual Misconduct is received, an intake of the report will be conducted and the information received will be reviewed within two (2) work days to determine whether the CPS has jurisdiction to process the report and to determine whether the report falls under Title IX. At all times during this process, the CPS will provide supportive measures to the parties whether or not it ultimately has jurisdiction over the report and whether or not the report falls under Title IX.

If the CPS has jurisdiction the CPS Title IX Coordinator or Deputy Title IX Coordinator will reach out the Complainant and will: (1) confidentially contact the Complainant to review supportive measures that have been offered to date and to offer additional supportive measures, if necessary; and consider the Complainant's wishes with respect to supportive measures, (2) inform the Complainant of the availability of supportive measures with or without filing a formal complaint; (3) explain the process for how to file a formal complaint; (4) inform the Complainant that any report will not result in discipline, and (5) respect the Complainant's wishes with respect to whether to investigate unless the Title IX Coordinator determines it is necessary to pursue the complaint.

If the report involves a CPS employee, it will be forwarded to the CPS Title IX Coordinator for investigation, and to the Superintendent or designee and Executive Director of Human Resources. All other reports that have not been screened-in as falling under Title IX will be forwarded to the CPS Title IX Officer and/or the Deputy Title IX Coordinators for an additional review to determine whether the report falls under Title IX.

The CPS may consolidate complaints against more than one Respondent or more than one complaint against more one or more Respondents, or by one party against another party when the allegations arise out of the same facts or circumstances.

V. Supportive Measures

In all incidents, CPS will coordinate with schools to provide the parties with supportive measures which are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are available to the Complainant, Respondent, and as appropriate, witnesses or other impacted individuals. The Deputy Title IX Coordinator(s) or CPS Title IX Coordinator will maintain consistent contact with the parties to ensure that safety and emotional and physical well-being are being addressed. Supportive measures may be modified or terminated, as appropriate at the conclusion of the informal resolution process or formal complaint process. Complainants and Respondents may also seek additional modification or termination of supportive measures if circumstances change materially. To the extent there is a continuing need for supportive measures after the conclusion of the resolution process or formal complaint process, the Deputy Title IX Coordinator(s) or the CPS Title IX Coordinator will work with appropriate CPS personnel and with appropriate school resources to provide continued assistance to the parties.

Supportive measures are designed to restore and preserve equal access to the CPS' schools, educational programs, CPS-supported on-line and/or digital platforms, extracurricular and/or athletic activities, without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Complainant's school environment or deter Sexual Misconduct as detailed in this policy. Applicable supportive measures include, but are not limited to, the following: (i) check in/check-out; (ii) counseling or social work support at school; (iii) safety plan; (iv) mutual restrictions on contact between the parties; (v) referral to external counseling, medical/health services and/or advocacy services; (vi) extension of time to complete assignments, (vii) extensions of deadlines or other course related adjustments, (viii) modifications to course schedules, (ix) school building or school facility escort services; and/or (x) increased security and monitoring of certain areas of the school buildings or school facilities, and other similar measures.

Additionally, in the presence of an immediate threat and to ensure the safety and well-being of the school environment, the CPS may consult with its Office of Safety and Security, Office of Student Services, Office of Equity, Inclusion and Belonging, Superintendent, Assistant Superintendent for Elementary Education, Assistant Superintendent for Secondary Education and/or Assistant Superintendent for the Office of Student Services to explore additional options of removal or placement. Emergency removal of student Respondents will only occur if the CPS follows the following steps: (i) undertake an individualized safety and risk analysis to determine whether there is a serious threat to the health or safety of students, employees or other individuals arising from the allegations that would justify the removal; (ii) consult with the student's individualized education program and/or 504 team, if applicable; (iii) provide the Respondent with written notice of the emergency removal; and (iv) provide an opportunity for the Respondent to challenge the decision immediately following notice of the removal. At all times, the CPS reserves its right to remove the CPS employees or other adult Respondents when it is necessary during the course of an investigation to ensure the health and safety of students, staff and/or the school community.

The CPS may also utilize supportive measures on a district-wide, school-wide or classroom, program or activity-wide level or throughout a work site, or CPS-supported on-line and digital platforms, including without limitation, increased security, policy exceptions, and/or educational programming if needed to help stop, prevent and/or remedy misconduct.

A party may challenge a decision to provide, deny, modify or terminate supportive measures that are applicable to them. Challenges to support measures must be made in writing within ten (10) work days following the implementation of the supportive measures. The written challenge shall include a brief statement of the facts and specific request for relief and directed to the Title IX Coordinator who shall designate an impartial person to review the challenge and issue a written decision. If the party is a student

whose home language is not English, the written determination also will be provided in the student's home language.

V. Filing a Formal Title IX Complaint and the Formal Complaint Process

If a Title IX/Sexual Misconduct Formal Grievance Form is completed by the Complainant, the CPS Title IX Coordinator will promptly appoint a principal, assistant principal, dean, Executive Director of Human Resources, Assistant Superintendent for Elementary Education, Assistant Superintendent for Secondary Education, Assistant Superintendent for the Office of Student Services or Deputy Title IX Coordinator to serve as an investigator ("Investigator"). The Investigator will investigate the allegations subject to the formal grievance process. The investigation may include, among other things, interviewing the Complainant, the Respondent, and any witnesses; reviewing law enforcement investigation documents if applicable and if available; reviewing relevant student or employment files (preserving confidentiality wherever necessary) and gathering and examining other relevant documents, social media and other evidence. Once the investigation is completed, the Investigator will turn the completed investigation file over to the individual that has been designated by the CPS Title IX Coordinator to be the Decision maker in the matter. The Decisionmaker may be the CPS Title IX Coordinator, Deputy Title IX Coordinator, principal, Executive Director of Human Resources, Assistant Superintendent for Elementary Education, Assistant Superintendent for Secondary Education, Assistant Superintendent for the Office of Student Services or Superintendent and will not be the same person who conducted the investigation ("Decisionmaker").

A written question and answer period also will be facilitated by the Decisionmaker. Each party may submit the written questions that they have for the other party and any witnesses to the Decision maker for review. The questions must be relevant to the formal grievance. The Decisionmaker will determine if the questions submitted are relevant and will then forward the relevant questions to the other party or witnesses for response via first class mail and email if email addresses have been provided. If the parties involve a student whose home language is not English, the written questions also will be provided in the student's home language. Responses will be returned to the Decisionmaker who will then review the responses, determine what is relevant or not and issue a decision as to whether the Respondent is responsible for the alleged Sexual Misconduct.

The decision will be provided to the parties at the same time via first class mail and email if email addresses have been provided. If the parties involve a student whose home language is not English, the written determination also will be provided in the student's home language. The decision will explain if any policies were violated, the steps and methods taken to investigate, the findings of the investigation, conclusions about the findings, the ultimate determination and the reasons for it, any disciplinary sanctions imposed on the Respondent that relate directly to the Complainant to the extent permitted under the confidentiality provisions of student record and personnel record laws, and any remedies available to the Complainant to restore or preserve equal access, and the parties' appeal rights. Remedies and supportive measures that do not impact the Respondent should not be disclosed in the written determination; rather the determination should simply state that remedies will be provided to the Complainant.

The CPS presumes that reports of Sexual Misconduct are made in good faith. If after an investigation a determination is made that the alleged behavior does not constitute a violation of school policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not mean that the report was made in bad faith.

The complaint investigation process is detailed more fully below in Section VIII of this policy.

VI. Informal Voluntary Resolution of Concerns

The informal voluntary resolution process is available only after a formal complaint has been filed, prior to a determination of responsibility, and if the Complainant and Respondent voluntarily consent to the process in writing. If the parties involve a student whose home language is not English, the written consent form must be provided in the student's home language. The parties must not be required or pressured to participate in an informal resolution process.

Informal voluntary resolution is not available in cases in which a CPS employee is alleged to have engaged in Sexual Misconduct towards a student, or if such process would conflict with Federal, State or local law.

Informal voluntary resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent, mediation, indirect action by the Title IX Coordinator; and other forms of resolution that can be tailored to the needs of the parties including, but not limited to, mandatory training, reflective writing assignment, counseling, or other methods designed to restore or preserve equal access to the school's education programs or activities.

The informal voluntary resolution process may not be used to reach an agreement upon disciplinary consequences or sanctions.

Within seven (7) work days of receiving a request to start the informal resolution process, the CPS Title IX Coordinator will determine if the informal voluntary resolution process is appropriate. If it is appropriate, the CPS Title IX Coordinator will appoint an official to facilitate an effective and appropriate resolution. The CPS Title IX Coordinator, a Deputy Title IX Coordinator or a principal may serve as the facilitator. The facilitator will provide each party with written notice of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. The written notice will be sent via first class mail and via email if email addresses have been provided. If the parties involve a student whose home language is not English, the written notice must be provided in the student's home language.

Both parties must provide voluntary, written consent to participate in the informal voluntary resolution process.

Within five (5) work days of the appointment of the facilitator, the parties may identify to the Deputy Title IX Coordinator or the CPS Title IX Coordinator in writing any potential conflict of interest or bias posed by such facilitator to the matter. The Deputy Title IX Coordinator or the CPS Title IX Coordinator will consider the information and appoint another facilitator if a material conflict of interest or bias exists.

The facilitator will request a written statement from the parties to be submitted within fourteen (14) work days. Each party may request that witnesses be interviewed, but the CPS will not conduct a full investigation as part of the informal voluntary resolution process. The facilitator will hold a meeting(s) with the parties and coordinate the informal resolution measures. The informal voluntary resolution process should be completed within thirty (30) work days unless good cause exists to extend the time. The parties will be notified in writing and given the reason for the delay and an estimated time of completion. Such notice will be sent via first class mail and via email if email addresses have been provided. If the

parties involve a student whose home language is not English, the notice also will be provided to the student in their home language.

Any resolution of a formal complaint through the informal voluntary resolution process must address the concerns of the Complainant and the responsibility of the school to address alleged violations of its policy while also respecting the due process rights of the Respondent. Notwithstanding the foregoing, any resolution of a formal complaint through the informal voluntary resolution process will not address any disciplinary consequences or sanctions.

At the conclusion of the informal voluntary resolution process, which can include, but is not limited to, meetings, interviews, and the receipt of statements, the facilitator will write an informal voluntary resolution report and provide the parties with the informal voluntary resolution report simultaneously via first class mail and via email if email addresses have been made available. If the parties involve a student whose home language is not English, the informal voluntary resolution report also will be provided in the student's home language. At any time prior to resolving a formal complaint through the informal voluntary resolution process, either party may withdraw from the informal voluntary resolution process and resume or begin the formal resolution process by submitting a written statement of withdrawal to the facilitator.

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 back by the facilitator to the CPS Title IX Coordinator for the appointment of an investigator.

VII. 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 supportive measures as described above from the CPS.

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

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

The presence of an Advisor (as defined below) throughout the process.

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

A prompt, fair and thorough investigation of the allegations, including comprehensive interviews of relevant parties and adherence to the investigation timelines established by this policy.

Adequate time to review evidence 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 CPS Title IX Coordinator, Deputy Title IX Coordinators, Investigator, Facilitator or Decision maker for a possible conflict of interest and a transparent process on behalf of the CPS regarding assessing any possible conflicts 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, formal complaint process or informal voluntary resolution process that they are expected to maintain the privacy of the process. This does not prohibit either a Complainant or Respondent from obtaining the assistance from others, such as their family members, counselors, therapists, clergy, doctors, and/or attorneys (“Advisor”).

The parties cannot engage in retaliation, including against witnesses.

When the CPS receives a complaint of Sexual Misconduct, the allegations will be reviewed as detailed above in this Policy and a determination will be made as to the necessity and scope of any interim supportive measures to prevent further acts of Sexual Misconduct and to provide a safe educational environment. As detailed above in Section V of this policy, 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 educational environment, or deter Sexual Misconduct. Supportive measures may include, but are not limited to, the following: (i) check in/check-out; (ii) counseling or social work support at school; (iii) safety plan; (iv) mutual restrictions on contact between the parties; (v) referral to external counseling, medical/health services and/or advocacy services; (vi) extension of time to complete assignments, (vii) extensions of deadlines or other course-related adjustments, (viii) modifications to course schedules, (ix) school building or school facility escort services; and/or (x) 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 and that have been clearly communicated to the Complainant and Respondent is a violation of the CPS policy and a basis for disciplinary action, up to and including termination or expulsion.

The CPS will undertake an investigation into the allegations of Sexual Misconduct in a fair, thorough and prompt manner by an Investigator named by the CPS Title IX Coordinator or Deputy Title IX Coordinator (including principal, assistant principal or dean, Deputy Title IX Coordinators,

Executive Director of Human Resources, Assistant Superintendent for Elementary Education, Assistant Superintendent of Secondary Education or Assistant Superintendent for the Office of Student Services) specifically trained in conducting sexual misconduct investigations.

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 regarding the allegations in the complaint. The notice shall state: (i) the CPS Title IX formal complaint process, and informal resolution process, (ii) sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), (iii) the conduct alleged to constitute sex discrimination, (iv) the date(s) and location(s) of the alleged incident(s), (v) the right to have an Advisor of their choice, (vi) the prohibition against knowingly making false statements or knowingly submitting false evidence, (vii) a statement that retaliation is prohibited, (viii) a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the process, (ix) a statement 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. The burden is on the CPS – not the parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

If the complaint involves conduct that occurred off school grounds, via a CPS-sponsored online or digital platform, 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, the school will notify the parents/guardians/caregivers of the student before beginning the investigation. Such notification will be made verbally and followed up with a written notification via first class mail and via email if email addresses have been made available. If the parties involve a student whose home language is not English, the notice also will be provided in the student's home language. The CPS will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence. 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), and if the Respondent is a student, the school will notify the parents/guardians caregivers of the student before beginning the investigation. Such notification will be made verbally and followed up with a written notification via first class mail and via email if email addresses have been made available. If the parties involve a student whose home language is not English, the notice also will be provided in the student's home language. The investigation will include the gathering of physical, documentary, or other relevant and available evidence, including law enforcement reports (if available). 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 evidence that supports the allegations against the Respondent and evidence that supports that the Respondent did not engage in the conduct alleged.

Credibility determinations shall 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) work days. When more than forty-five (45) work 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. Such notification will be made in writing via first class mail and via email if email addresses have been made available. If the parties involve a student whose home language is not English, the notice also will be provided to the student in their home language. 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.

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 equal opportunity for review a copy of the Investigative Report for review and written response and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. A Complainant or Respondent must submit any comments to the Investigator in writing via first class or via email within ten (10) work days after the Investigative Report was provided. Following the receipt of any comments submitted, or after the ten (10) work 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 but will not make a final determination as to whether a violation of the policy has occurred, reserving that decision to the designated Decision-maker in connection with this investigation (principal, Deputy Title IX Coordinators, Executive Director of Human Resources, Assistant Superintendent of Elementary Education, Assistant Superintendent for Secondary Education, Assistant Superintendent of Student Services, ~~Executive Director of Academics Chief Academic Officer~~ or Superintendent). In accordance with the requirements of federal Title IX regulations, the Decisionmaker cannot be the same person as the CPS Title IX Coordinator or the Investigator and shall have been trained in conducting Title IX/sexual misconduct investigations and determinations. The parties will be provided with a copy of the final Investigative Report simultaneously.

Prior to the CPS Decisionmaker reaching a determination regarding responsibility, and in lieu of a hearing, the Decisionmaker 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 Decisionmaker will strive to reach a determination of responsibility within thirty (30) work days. When more than thirty (30) work days is required for reaching the determination, in writing, that additional time is needed prior to issuance of the written determination.

The CPS will use a "preponderance of the evidence" standard (known as 51% more likely than not) to determine whether the evidence gathered supports a finding that the Respondent violated this policy.

The Decisionmaker 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 the parties to appeal. The parties will be provided with a copy of this written determination simultaneously via first class mail. If the parties involve a student whose home language is not English, the written determination also will be provided in the student's home language. If the Decisionmaker makes the determination that sexual misconduct has occurred, the Title IX Coordinator will be responsible for implementation of any remedies, and the matter will be referred to the Superintendent of Schools or designee for any appropriate disciplinary action, up to and including termination for employees or expulsion for students.

Please note that while these procedures relate to the CPS' policy of promoting an 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 and which is a violation of federal or state laws and regulations, Cambridge School Committee policies and/or CPS and school based codes of conduct.

VIII. Dismissals

The Title IX Coordinator may dismiss a complaint if (i) the conduct alleged would not constitute sexual harassment as defined in Title IX regulations even if proved, did not occur in CPS' education program or activity or did not occur against a person in the United States; (ii) the Complainant voluntarily withdraws any or all of the allegations in the complaint; (iii) the Respondent is no longer participating in the CPS' education program or activity and is not employed by CPS; or (iv) specific circumstances prevent the CPS from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal, the CPS will promptly and simultaneously notify the parties in writing of the dismissal and the reasons therefore.

The CPS will notify the parties that a dismissal may be appealed. The procedures for filing an appeal are set forth in Section X.

IX. Appeals of a Dismissal of a Formal Complaint or a Determination of Responsibility

Each party may appeal the dismissal of a formal complaint or any included allegations and/or a determination regarding responsibility. Appeals can be made 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 that could affect the outcome of the matter, or (iii) the CPS Title IX Coordinator, Deputy Title IX Coordinators, Investigator or Decisionmaker had a conflict of interest or bias against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Appeal procedures will be implemented equally for all parties.

Appeal requests must be made in writing within ten (10) work days following the issuance of the final determination. The written appeal shall state the basis for the appeal, including a brief statement of the facts and specific request for relief and directed to the attention of Superintendent or designee. The Appeal Officer will not be the same person who conducted the investigation and also will not be the same person who made the determination. Upon receipt of an appeal, written notice will be provided to the other party via first class mail, and notice of receipt of the written appeal shall be given to the party that filed the written appeal via first class mail. If the parties involve a student whose home language is not

English, this written notice also will be provided to the student in their home language.

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 and equal opportunity to submit a written statement in support of or challenging the outcome of the appeal within ten (10) work days of the issuance of the notice of the appeal. Additionally, the CPS Appeal Officer will strive to complete the appeal within twenty (20) work days. When more than twenty (20) work days is required, the CPS Appeal Officer shall inform the parties that additional time is needed for the appeal process. When more than twenty (20) work days is required, the CPS Appeal Officer shall inform both the Complainant and Respondent, in writing, that the appeal process 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.

The Appeal Officer shall not be the same person who served as the CPS Decision-maker that reached the determination regarding responsibility or dismissal or the same person who served as the CPS Investigator of the complaint. The Appeal Officer will decide the appeal considering new evidence presented at the meetings with the appeal officer, the investigation file, the determination decision, and the appeal statements of both parties. The Appeal Officer will issue a written decision that will be sent to both the Complainant and Respondent simultaneously via first class mail and email if email addresses have been provided. The written decision will notify the parties of the results of the appeal and the rationale for the decision. If the parties involve a student whose home language is not English, the written determination also will be provided in the student's home language.

X. Disciplinary Sanctions and Remedies

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, other measures to ensure the safety of CPS students, staff and the school community and education program or activity and/or disciplinary action up to and including termination or expulsion.

When a Respondent is found responsible for the Sexual Misconduct as alleged, remedies must be provided to the Complainant. If the Respondent is permitted to stay at the school where they attend or work, and in addition to any appropriate disciplinary action that may be taken, when determined to be appropriate, the CPS will require training for the Respondent, in an effort to allow growth and learning from past actions. In addition to training, the CPS will offer a transformative response, including but not limited to, reconciliation meetings, mediated conferences, and transformative educational programs such as the mandated completion of sexual violence/consent training within the school and other measures to ensure the safety of the CPS' students, staff, and the school community and its education program or activity, all at no cost to the Respondent or Complainant. Under no circumstances will the Complainant be made or pressured to take part in such restorative measures.

XI. Addressing Conduct that Does Not Meet the Criteria Under Title IX

It is important to note that conduct that does not meet the criteria under Title IX may violate other federal and state laws or Cambridge School Committee policies or the codes of conduct of the Cambridge Public Schools or may otherwise be inappropriate and require an immediate response in the form of supportive measures and remedies to prevent its recurrent and address its effects. With this policy, the Cambridge School Committee adopts a two-prong approach. All conduct not covered under the criteria of this policy will be referred to the appropriate CPS administrator to address under the applicable federal

and state laws or Cambridge School Committee policies or the codes of conduct of the Cambridge Public Schools.

XII. State and Federal Remedies

If no satisfactory resolution has been reached, the Complainant 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.

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; 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) 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 MCAD
Email: MCAD@mass.gov

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
~~ACABA-2 Cambridge School Department's Non-Discrimination on the Basis of Sex/Title IX Policy~~

~~NOTE: This policy applies to all complaints of sex discrimination occurring before August 1, 2024. All complaints of discrimination relating to incidents that occurred on or after August 1, 2024 will be addressed pursuant to the procedures set forth in the Cambridge School Department's NonDiscrimination on the Basis of Sex/Title IX Policy.~~

~~Last updated: September 17, 2024~~