

## **AC-R – CIVIL RIGHTS GRIEVANCE PROCEDURES**

### **I. Complaint Investigation**

When the Cambridge Public Schools receives a complaint of discrimination, harassment, inappropriate conduct or a complaint involving any other area of concern, it will investigate the allegation in a fair and expeditious manner. If the complaint involves conduct that occurred off school grounds, outside of a school's education program or activity, the Cambridge Public Schools 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 is under 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 Cambridge Public Schools believes would be useful to the investigation. The Cambridge Public Schools also will interview the person alleged to have engaged in the conduct that is the subject of the complaint. When the Cambridge Public Schools has concluded its investigation, the Cambridge Public Schools 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.

These complaint investigation procedures cover complaints alleging discrimination or harassment based on race, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, sexual orientation, pregnancy, or pregnancy-related condition as well as complaints alleging inappropriate conduct by a school employee and/or complaints involving any other areas of concern, including without limitation, concerns with respect to a student having an equal opportunity to participate in the School Meal Program and receive program benefits and for resolving disputes regarding requests for reasonable meal modifications or meal service to accommodate students with disabilities. The procedures are designed to promote the sensitive handling of employee and student issues, the thorough investigation of complaints, and to facilitate a prompt and expeditious internal review and a fair and equitable resolution of complaints alleging discrimination based on race, color, national origin, ethnicity, ancestry, religion, age, disability, genetic information, veteran status, marital status, sex, gender, gender identity, sexual orientation, pregnancy, or pregnancy-related condition. An employee or student may also select any of the routes identified in the Cambridge Public Schools Non-Discrimination Policy or identified below to discuss a concern or file a complaint of discrimination or harassment. A parent/guardian/caregiver, student, staff member or concerned community member may also select any of the routes identified in the Cambridge Public Schools Bullying Prevention and Intervention Plan to discuss a concern or file a complaint of bullying. A parent/guardian/caregiver or student also may select any of the routes identified in Section 22 of the *Cambridge Public Schools Rights and Responsibilities Handbook* to discuss a concern or file a complaint to redress a deprivation of rights. A parent/guardian/caregiver or student may also utilize the procedural safeguards set forth in the Notice of Rights Under Section 504 of the Rehabilitation of 1973 and/or Parent's Notice of Procedural Safeguards – Special Education requesting reasonable meal modifications or meal service to accommodate a student with

disabilities and for resolving related disputes. The USDA Civil Rights Complaint process may be utilized in addition to or in place of these procedural safeguards. Employees and students are encouraged to attempt resolution within their school or administrative office and may seek advice from appropriate individuals within their school or administrative office or the Office of Human Resources without being required to file a formal complaint.

The Civil Rights Grievance Procedure shall not apply to reports of sexual harassment discrimination as defined under Title IX of the Education Amendment of 1972 and its implementing regulations ("Title IX"). Allegations of conduct that could, if proven, meet the definition of sexual harassment under Title IX shall be addressed through the Cambridge Public Schools Sexual Misconduct/Title IX Policy. Similarly, allegations of conduct that meet the definition of sex-based harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX policy. Allegations of conduct that do not meet the definition of sex-based harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the Civil Rights Grievance Procedure.

Please note that while these procedures relate to the Cambridge Public Schools' policy of promoting a workplace and educational setting free from discrimination and harassment, including sexual harassment and retaliation, as detailed in this policy and in the Non-Discrimination Policy and Title IX policies, and free from bullying and retaliation as detailed in this policy and the Anti-Bullying Policy and Bullying Prevention and Intervention Plan these procedures are not designed nor intended to limit the Cambridge Public Schools' authority to discipline or take remedial action for workplace and educational conduct which the Cambridge Public Schools deems unacceptable.

#### Definitions

For the purposes of these procedures:

A. "Discrimination" means discrimination or harassment on the basis of race, age, color, national origin, sex, sexual orientation, gender identity, disability or religion by which an individual is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity of the school district.

B. "Harassment" means unwelcome conduct on the basis of race, age, color, national origin, sex, sexual orientation, gender identity disability, or religion that is sufficiently severe, persistent or pervasive to create or contribute to a hostile environment for the individual at school. Harassment may include insults, name-calling, off color jokes, threats, comments, innuendoes, notes, display of pictures or symbols, gestures or other conduct which rises to the level of a hostile environment. A hostile environment is one which unreasonably interfered with an individual's participation in, denied the individual the benefits of, or otherwise subjected the individual to discrimination under any program or activity of the District.

## Non-Title IX Sexual Harassment

a. M.G.L. c. 151B, § 1 - the term “sexual harassment” is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

b. M.G.L. c. 151C, § 1 - the term “sexual harassment” is defined as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.

c. Title VII of the Civil Rights Act of 1964 - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile environment on the basis of sex is created when the conduct is sufficiently severe or pervasive to alter the conditions of employment.

When determining whether an environment is hostile, the District shall consider the context, nature, frequency, and location of the incidents as well as the credibility of witnesses and the identity, number and relationships of the persons involved. The District must consider whether the alleged harassment was sufficient to have created such an environment for a reasonable person of the same age, gender, and experience as the Complainant, and under similar circumstances. Off-campus conduct may constitute harassment if it creates a hostile environment at school for the victim; however, conduct does not constitute harassment where the incident occurs off-campus at a non-school sponsored activity and does not create a hostile environment at school for the victim.

C. Retaliation: Retaliatory acts against any individual who exercises their rights under the civil rights statutes covered by these procedures or the applicable Title IX policy are considered to be discrimination and are unlawful. Individuals are prohibited from coercing, intimidating, threatening, or interfering with an individual because the individual exercised any right granted or protected under these procedures and/or the Title IX policy.

D. Complainant: An individual who is alleged to be the victim of conduct that could constitute discrimination, harassment, or retaliation under this Procedure. Parents/guardians/caregivers of a

complainant are not considered a complainant but may file formal complaints on behalf of a minor child and act on behalf of the minor child in any civil rights matter.

E. Party or Parties: The complainant and/or respondent.

F. Principal: The Principal or Principal's designee.

G. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute discrimination, harassment, or retaliation under these procedures.

#### A. General Policies

1. No reprisals or retaliation shall be invoked against any employee or any student for processing, in good faith, a complaint, either on an informal or formal basis, or for participating in any way in these complaint procedures.
2. 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 these complaint procedures.
3. Whenever possible, a conference should be scheduled during a time that does not conflict with regularly scheduled work and/or school programs.
4. The Cambridge Public Schools will work with an individual who files a complaint, including conducting an investigation and holding conferences, in order to fairly and expeditiously resolve the complaint.

#### B. Procedures

##### 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 or designee 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 or designee shall refer the matter to the appropriate personnel;
- (c) if the Civil Rights Coordinator or Principal or designee 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 or designee 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 or designee 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, they 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 make 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 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.

M. Identification of Civil Rights Coordinator for complaints of discrimination, harassment, and retaliation under these procedures is the Executive Director of Human Resources, Office of Human Resources, Cambridge Public Schools, 135 Berkshire Street, Cambridge, Massachusetts 02141

#### N. USDA Nondiscrimination Statement

In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, religion, political beliefs or disability.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C., 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TTY).

This institution is an equal opportunity provider.

O. If no satisfactory resolution can be reached through review by the Superintendent of Schools the student or employee has the right to take the complaint to an appropriate state or federal agency. Moreover, it should be noted that using the Cambridge Public School's complaint process does not prohibit you from filing a complaint with these agencies.

For students, complaints may be taken to the:

Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1475  
Telephone: 202-453-6020  
FAX: 202-453-6021; TDD: 800-877  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

Program Quality Assurance Services  
Massachusetts Department of Elementary and Secondary Education  
135 Santilli Highway  
Everett, MA 02149  
Phone: 781-338-3700  
Fax: 781-338-3710  
TTY: N.E.T. Relay: 1-800-439-2370  
Email: [compliance@doe.mass.edu](mailto:compliance@doe.mass.edu)

or to the Massachusetts Commission Against Discrimination at the addresses listed below, or to other appropriate state or federal agency.

Additionally, for students for complaints associated with Section 504 plans and/or individualized education programs, complaints may be filed with:

Bureau of Special Education Appeals  
14 Summer Street Malden, MA 02148  
Phone: 781-397-4750  
Fax: 781-397-4770

Additionally, for students for complaints associated with meal modification requests, complaints may be filed with:

U.S. Department of Agriculture  
Director  
Office of Civil Rights  
1400 Independence Avenue, S.W.  
Washington, D.C., 20250-9410  
or call (800) 795-3272 (voice) or (202) 720-6382 (TTY).

For employees, the contact information for state and federal employment discrimination enforcement agencies is as follows:

(1) Federal:

United States Equal Employment Opportunity Commission (EEOC)  
John F. Kennedy Federal Building  
15 New Sudbury Street, Room 475  
Boston, MA 02203-0506

Phone: 1-800-669-4000  
EEOC Boston Area Office Website: <https://www.eeoc.gov/field-office/boston/location>; and

(2) State:

Massachusetts Commission Against Discrimination (MCAD)  
Boston Headquarters  
One Ashburton Place Sixth Floor, Room 601  
Boston, MA 02108

Phone: (617)- 994-6000  
MCAD Website: <https://www.mass.gov/orgs/massachusetts-commissionagainst-discrimination>.

## **II. Disciplinary Action**

If it is determined that inappropriate conduct has been committed by a Cambridge Public Schools employee or student, the Cambridge Public Schools will take action that is appropriate under the circumstances. Action may range from counseling, restorative practices to termination of employment or discipline, up to and including expulsion.

In some cases, the conduct complained of may constitute harassment or discrimination and criminal activity (e.g., sexual harassment under Title IX and criminal activity). If you believe that the conduct also constitutes a crime you have a right to file a complaint at any time, including during or after the school's investigation into your complaint.

## **III. Conflict Resolution Measures**

Additionally, the Cambridge Public Schools has a conflict mediation program which individuals may access for the resolution for matters or conflicts that do not fall within the established informal and formal resolution processes detailed above.

CROSS REFS.: ACA-ACE Non-Discrimination subcategories

ACAB Non-Discrimination Policy

ACABA-1 Sexual Misconduct/Title IX Policy

JICFB Bullying Prevention

LEGAL REF: Section 504 of the Rehabilitation Act of 1973;

Title II of the Americans with Disabilities Act of 1990;

Title VI of the Civil Rights Act of 1964;

Title VII of the Civil Rights Act of 1964;

Title IX of the Education Amendments of 1972;

M.G.L. c. 151B and c. 151C;

M.G.L. c. 76, § 5

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