



## Superintendent's Circular

NUMBER:  
EQT-03  
Version 01

### SEXUAL MISCONDUCT TOWARD STUDENTS

*This Circular will remain in effect unless rescinded or superseded by a subsequent version.*

#### INTRODUCTION

The Boston Public Schools (BPS) is committed to ensuring that students learn in an environment free of sexual misconduct. Sexual misconduct committed against a BPS student will not be tolerated. In addition, acts of retaliation against an individual who reports an allegation of sexual misconduct or cooperates with a related investigation are unacceptable and will not be tolerated.

Students participating in BPS academic, educational, extracurricular, athletic, and school programs or activities are protected from sexual misconduct by other students, parents, BPS employees, and third parties (e.g., visitors). In addition, BPS students may be protected from sexual misconduct that occurs outside the context of a school's education program, activity, or school property, if the behavior was in connection with a school program or activity which includes locations, events, or circumstances over which the district exercised substantial control over both the person accused of the conduct and the context in which the sexual misconduct occurred.

The Boston Public Schools treats reports of sexual misconduct with the utmost seriousness. We will address any sexually

inappropriate communication or behavior directed toward students, regardless of whether that conduct is unlawful. This policy is neither designed nor intended to limit the district's authority to discipline or take remedial action for conduct that the Boston Public Schools deems unacceptable.

## **DEFINITION OF SEXUAL MISCONDUCT**

For the purposes of this policy, sexual misconduct constitutes sexually inappropriate comments and/or behaviors of any kind. Below are examples of sexual misconduct:

### **Sexual Violence**

Sexual violence is broadly defined as any sexual activity that is forced, coerced, or unwanted. It also includes any sexual act against another person who is incapable of giving consent, either because of their temporary or permanent mental or physical incapacity, or because they are a minor.

Consent is defined as clear, active agreement and permission to engage in any form of verbal or nonverbal sexual communication or activity with another person. The initiator of the sexual contact is responsible for obtaining consent before engaging in any sexual contact. Consent can be withdrawn by either party at any point. Consent must be voluntary and may not be valid if a person is being subjected to an emotional, psychological, physical, reputational, or financial threat, intimidation, or coercion. Consent to engage in one sexual activity, or past agreement to engage in a particular sexual activity, cannot be presumed to constitute consent to engage in a different sexual activity or to engage again in a sexual activity. Consent cannot be

validly given by a person who is incapacitated or under the age of sixteen.

Sexual violence may include criminal acts, such as indecent assault and battery, rape, abuse, or assault with intent to rape. Any acts that may be criminal will be referred to law enforcement.

Examples of sexual violence may include, but are not limited to, the following:

- Unwelcome sexual touching
- Non-consensual sexual contact that occurs during school or non-school hours, on or off school grounds, including dating violence
- Recruiting, transporting, obtaining, or providing a student of any gender for the purpose of sex.

### **Other Forms Of Sexual Misconduct**

Sexual misconduct includes unwelcome conduct of a sexual nature that denies or limits, on the basis of sex, a student's ability to participate in or to receive benefits, services, or opportunities in the school's program or activities.

Examples of behavior that may constitute sexual misconduct depending upon the totality of the circumstances, the ages of the student or other individuals involved, and the severity and pervasiveness of the conduct, include but are not limited to:

- Sexual advances, whether or not they involve touching
- Requests for sexual favors

- Making an educational decision or benefit contingent upon a student's submission to unwelcome sexual conduct
- Offensive public sexual display of affection, including groping, fondling, gestures, or inappropriate touching of oneself or others
- Consensual groping, fondling, sexual touching, or sex on school property or at any school-sponsored activity
- Sexual jokes or references
- Comments regarding a student's body or a student's sexual activity or orientation
- Offensive name calling or profanity that is sexually suggestive, sexually degrading, or based on sexual stereotypes or sexual orientation
- Different treatment because of pregnancy status
- Displaying or distributing sexually explicit drawings, pictures, or other materials in any form (such as sexting)
- Trafficking of youth for sexual purposes, such as recruiting, transporting, or otherwise exploiting a minor in exchange for money, shelter, or food
- Sexual advances or contact, whether or not they are consensual, between a student and employee, contractor, or community partner
- Sexual activity between students in a school, or any building where BPS business is conducted
- Other verbal, nonverbal, or physical conduct of a sexual nature.

Any student, regardless of gender identity or sexual orientation, can be a target of sexual misconduct, and the alleged targets and the subject of the concern can be of the same or different genders.

Employees of the Boston Public Schools who become aware of any possible sexual misconduct toward or involving students must report the incident or concern to their school leader, supervisor, and/or the Office of Equity as soon as practicable, generally within the same school day. The same reporting requirement applies to partners or contractors providing services to students in or under the auspices of the Boston Public Schools.

The above list of examples is not exhaustive. If you are unsure whether a student may have been a target of sexual misconduct or if you have knowledge of a possible incident of sexual misconduct involving a student, immediately contact your school principal/head of school, supervisor, or the Office of Equity at 617-635-9650 or [bpsequity@bostonpublicschools.org](mailto:bpsequity@bostonpublicschools.org).

## **REPORTING AND INVESTIGATING SEXUAL MISCONDUCT**

A student, parent, or other third party who believes that a student has been subjected to inappropriate sexual conduct may report the incident to the principal/head of school or the Office of Equity.

The Boston Public Schools will promptly investigate allegations of sexual misconduct even when the incident is being investigated by law enforcement or another entity. Our obligation is to determine if there has been a violation of a BPS circular and/or the BPS Code of Conduct. The investigation will be conducted in a manner maintaining confidentiality to the

extent practicable under the circumstances. Incidents that a BPS employee becomes aware of directly or indirectly, such as from a note or an overheard conversation, will also be investigated.

Interim measures for the safety of the students involved must be taken upon receipt of the report to ensure equal access to educational programs and activities.

If the investigation results in a finding of a violation of this policy, Boston Public Schools will take steps to end the misconduct, prevent any further misconduct, remedy its effects where appropriate, and take disciplinary action, as deemed appropriate under the circumstances.

## REPORTING PROCEDURES

*(see Appendix A checklist)*

These instructions assume that the Office of Equity has already been informed of an incident as required, and that a school administrator has been instructed to follow this protocol.

After receiving a report of sexual misconduct, the building administrator must immediately (within the same school day, with rare exceptions):

1. **Ensure that a student who discloses sexual misconduct is not interviewed by any other BPS employee subsequent to the initial disclosure**, unless otherwise specifically directed by law enforcement, the state Department of Children and Families (DCF), or the Office of Equity. To minimize the alleged target's emotional distress and to preserve the integrity and reliability of any investigation, the initial

disclosure conversation should be limited to the essential facts. The BPS staff member who first receives the report must document the conversation as thoroughly as possible.

2. **Assess the need for emergency interim safety measures** to prevent any additional incidents and ensure that the target is able to fully engage in the school's programs and activities. Implement any plan as appropriate.
3. **Report the incident to your school's Safety Specialist or Safety Services at 617-635-8000 if the allegation involves sexual assault or violence**, such as physical contact or threats. Call Safety Services even if you are not sure if the alleged incident constitutes sexual violence. Inform the school nurse if medical care is needed.

If Safety Services are not available, call 911.

Depending on the nature of the allegations, the Office of Safety Services may work directly with the Boston Police Department School Unit. Thereafter, the Boston Police Crimes Against Children Unit may conduct the investigation. A team investigation may include other agency involvement. By law, the police cannot provide the Boston Public Schools with a written report regarding an incident of sexual violence.

4. **Contact the Department of Children and Families (DCF)** to file a 51A report if the allegation warrants. As mandated reporters, employees of the Boston Public Schools are required to report situations when there is reasonable cause to believe a student is suffering from physical or emotional injury that causes harm or a substantial risk of harm to the student's health or welfare.

Questions related to school employees' obligation to file a 51A report with DCF should be directed to the Office of Legal Advisor. Please also refer to Superintendent's Circular SSS-17 on Child Abuse and Neglect.

If the alleged subject is over 18 years old, under 7 years old, or has a disability that might manifest as inappropriate sexual conduct, please call the Office of Equity prior to filing a 51A.

5. **Always alert the school's operational leader.** If you wish, and/or upon request of the Office of Equity, also alert the school's elementary or secondary school superintendent. Depending on the severity and complexity of the allegations, the school superintendent and/or operational leader will then partner with the designated school administrator and/or the Office of Equity to complete the investigation.
6. **Notify the parent(s) or legal guardian(s) of the reporter or alleged victim,** if a minor, unless the parent/legal guardian is the subject of the concern and/or such notification will create a substantial risk to the student's health, safety, or welfare.
7. **If the subject of the concern is a minor, the building administrator (or other Office of Equity Designee) should notify the subject's parent(s) or legal guardian(s).** For reasons of confidentiality, do not inform the subject's family of the alleged target's identity or gender.
8. **Submit Section 1 of the Equity Student Incident & Investigation Form** within the same school day, if possible, but always within 48 hours of the incident. This document



should be treated as confidential and sent to the Office of Equity only. Only share this document or other related documents as directed by the Office of Equity, Office of Legal Advisor, or law enforcement authorities. [The form can be submitted digitally via this link.](#)

**9. Investigate and document the allegation.** If it is determined by a preponderance of the evidence that inappropriate conduct occurred, the Boston Public Schools will take such actions as it deems appropriate under the circumstances. For students, such actions will be consistent with the Code of Conduct, and may also include training, mediation, or restorative practices. For employees, such actions will be consistent with the district's labor practices, and may include training, restorative practices, and/or discipline.

**10. Submit Section 2 of the Equity Student Incident & Investigation Form** within 10 days of the incident. When completing the narrative, staff should document witness statements and the subject's response to the allegation(s). Additionally, staff should document the investigatory findings and remedial action taken, if any. [The form can be submitted digitally via this link.](#)

During the investigation, the alleged target of the misconduct should not discuss the incident with the subject of the concern present under any circumstances.

For detailed guidance on investigating and documenting allegations of sexual misconduct, please follow the Boston Public Schools Protocols for Sexual Misconduct

**Investigations Conducted by School Leaders and Central Office Managers.**

All reports submitted through the Equity Student Incident & Investigation Form will be reviewed by the Office of Equity.

**PROHIBITION OF RETALIATION**

Retaliation against an individual who reports sexual misconduct and retaliation against individuals for cooperating with a related investigation is unlawful and will not be tolerated by the Boston Public Schools.

Reports of retaliation should be brought to the building administrator or the person who is conducting the investigation. A student who feels there has been retaliation following a complaint may also call the Office of Equity at 617-635-9650.

**BPS TITLE IX COORDINATOR**

The Boston Public Schools' Title IX coordinator is responsible for ensuring compliance with the investigatory process outlined in EQT-3, and tracking incidents across the district. Any parent or employee who raises concerns regarding the investigatory process and/or outcomes may contact the district's Title IX coordinator:

Director of Compliance and Title IX Coordinator  
Boston Public Schools  
2300 Washington Street, Roxbury, MA 02119  
Phone: 617-635-9650, Fax: 617-635-7940

Email: [bpsequity@bostonpublicschools.org](mailto:bpsequity@bostonpublicschools.org)

## OTHER RESOURCES

United States Department of Education Office for Civil Rights  
(OCR)

5 Post Office Square, 8th Floor, Boston, MA 02109  
(617) 289-0111

Massachusetts Commission Against Discrimination (MCAD)

Office Location:	Address:
Boston	One Ashburton Place, Room 601 Boston, MA 02108 (617) 994-6000
Springfield	436 Dwight Street, Suite 220 Springfield, MA 01103 (413) 739-2145
New Bedford	800 Purchase Street, Room 501 New Bedford, MA 02740 (508) 990-2390
Worcester	484 Main Street, Room 320 Worcester, MA 01608 (508) 453-9630

Massachusetts Department of Elementary and Secondary  
Education

Program Quality Assurance

75 Pleasant Street, Malden, MA 02148-4906  
(781) 338-3700

**For more information about this circular, contact:**

Owner:	Director of Training and School Support
Department:	Office of Equity
Mailing Address:	2300 Washington St., Roxbury, MA 02119
Phone:	617-635-9650
Fax:	617-635-7940
Email:	<a href="mailto:bpsequity@bostonpublicschools.org">bpsequity@bostonpublicschools.org</a>

**For matters involving DCF, contact:**

Department:	Office of Legal Advisor
Mailing Address:	2300 Washington Street, Boston, MA 02119
Phone:	617-635-9320
Fax:	617-635-9327
Email:	<a href="mailto:legal@bostonpublicschools.org">legal@bostonpublicschools.org</a>

Mary Skipper, Superintendent

## **APPENDIX A: CHECKLIST FOR SCHOOL ADMINISTRATORS**

These instructions assume that the Office of Equity has already been informed of an incident as required, and that a school administrator has been instructed to follow this protocol.

After receiving a report of sexual misconduct, including sexual harassment and sexual violence, the school or central office administrator (or the elementary or secondary school superintendent, elementary or secondary school assistant superintendent, and/or operational leader if the complaint is against the school or central office administrator) must immediately:

- ☐ **Receive a disclosure of sexual misconduct.** Whoever the students report to first must document the following:
  1. Who is the subject of the concern?
  2. What did the subject say or do?
  3. If physical contact was made, where did the subject touch you (clarify if contact was made above clothing or directly on the student's skin)?
  4. Is this the first time something like this happened?
  5. Was anyone else there when it happened?
  6. Did you tell anyone else what happened?

Students cannot be interviewed more than once by a BPS employee and should only be interviewed with one adult in the room.

- ☐ **Assess the need for emergency interim measures and implement as appropriate.**

- ☐ **Report the incident to your school's Safety Specialist or Safety Services** at (617) 635-8000 if the allegation involves sexual violence, such as physical contact or threats. Call Safety Services even if you are not sure if the alleged incident constitutes sexual violence. If Safety Services is not available, call 911.
- ☐ **Contact the Department of Child and Family Services** to file a 51A report if the allegation warrants.
- ☐ **Alert the Operational Leader.** In addition, upon request of the Office of Equity, alert the school's elementary or secondary school superintendent.
- ☐ **Notify the parent(s) or legal guardian(s)** of the alleged target of the misconduct, unless the parent/legal guardian is the subject of the investigation and/or such notification will create a substantial risk to the student's health, safety, or welfare.
- ☐ **Notify the subject's parent(s) or legal guardian(s)** if that individual is a minor.
- ☐ **Submit Section 1 of the Equity Student Incident & Investigation Form** within the same school day if possible, but always within 48 hours of the incident.
- ☐ **Investigate and document the allegations consistent with the Office of Equity Protocols** to determine if a violation of the circular has occurred. If a Code of Conduct violation is found, conduct disciplinary proceedings.
- ☐ **Submit Section 2 of the Equity Student Incident & Investigation Form** within 10 days of the incident.