OUR OPINION

Miss Hall's scandal calls for hard look at consent law

Can a 16-year-old high school student truly consent to have sex with her or his teacher?

To many — including this editorial board — the ethically obvious answer would be no. Yet Massachusetts General Laws, which put the age of consent at 16 without exceptions for relationships between minors and those in authoritative positions over them, say otherwise.

We share the community concern over that disturbing dissonance highlighted by the sex abuse scandal at Miss Hall's School. Multiple former students at the all-girls private school in Pittsfield have come forward with credible allegations of sexual abuse and misconduct by Matthew Rutledge, a longtime history teacher, adviser and coach at the school.

After a monthslong investigation, the Berkshire District Attorney's Office announced last week that Mr. Rutledge will not face criminal charges in Massachusetts.

"While the alleged behavior is profoundly troubling, it is not illegal," Berkshire District Attorney Timothy Shugrue said in a statement.

As an attorney representing one of Mr. Rutledge's accusers stressed to The Eagle, the DA should not be faulted for following the law. That's his job, including in the toughest of situations like this one where the letter of the law unfortunately clashes with our moral intuitions.

But it's our job as concerned citizens to ask whether the state's consent statute reasonably represents our society's values and protects its most vulnerable members. A comparison to the law one state over suggests room for improvement. While Mr. Rutledge is not facing criminal charges here, he may still in neighboring Connecticut. (Mr. Rutledge also faces a civil lawsuit with counts that include assault and battery filed by one of his accusers in Berkshire Superior Court.)

One accuser alleges that in addition to his conduct at Miss Hall's in Pittsfield, he also sexually abused her in her hometown of Wilton, Conn., while visiting her and her family. While the age of consent there is 16, as in Massachusetts and 28 other states, Connecticut's state law has a carve-out for abuse of a minor student by an adult in authority.

This seems sensible. In our opinion, a 16- or 17-year-old can't possibly consent, in any meaningful or moral sense, to a sexual relationship with an adult who has disciplinary and grading authority over them. The understandable community outrage at the legal outcome of this scandal, at least on this side of the state line, suggests we are far from alone in holding that opinion. Legislators who represent these shocked Berkshire citizens ought to take a close look at the law that left a DA unable to prosecute alleged yearslong sexual misconduct by a trusted educator that most acknowledge is "profoundly troubling." Because right now, our state's legal system abides by that sort of egregious behavior in spaces where young people should be educated and nurtured, not used and abused.

To be sure, we should be careful about reshaping general laws over a singular scandal. In this case, though, an applicable alternative to a troubling status quo exists right next door for thoughtful study. Connecticut's specific carveout — which raises the age of consent when one party has a position of supervision, power or authority over the other — does not appear to have proven disruptive while building in an important protection for minors. Massachusetts wouldn't necessarily have to copy and paste Connecticut's statute, but it's at least worth examining as a way to strengthen state law so that it can hold accountable those who abuse positions of power over students who aren't even old enough to buy a pack of cigarettes.

Connecticut state law specifically recognizes how inherently problematic that behavior is and how damaging it is to vulnerable youth. There is no reason why Massachusetts General Laws can't do the same. We hope this sad scandal moves the Berkshire delegation and Beacon Hill leadership to address this issue at the start of a new legislative session next year.