

ARTICLE I: GENERAL ADMINISTRATION

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POLICY 5-1.1 PERSONNEL POLICIES - GOALS

The Division Superintendent or his designee shall be responsible for the recruitment, staffing and employee relations of personnel of the Poquoson City Public Schools subject to the exclusive final authority of the School Board and shall maintain a personnel file system for all employees of the school division.

The personnel policies shall be reviewed annually. Suggestions will be sought from staff members in the revision of personnel policies. Revisions and additions are subject to approval by the Poquoson City School Board.

LEGAL REFERENCE: Constitution of Virginia, Article VIII, § 7; Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78, 22.1-79, 22.1-289.1, 22.1-295; 22.1-313; Virginia Board of Education Regulations Governing the Employment of Professional Personnel, 8 VAC 20-440-10, Governing Local School Boards, 8 VAC 20-490-10.

Adopted: November 2002

Revised: August 2006

Reviewed: August 2011

POLICY 5-1.2 EQUAL EMPLOYMENT OPPORTUNITY

Generally

The policies contained in this Section 5 of the Poquoson City School Board Policy and Regulations Manual set forth provisions for initial and continuous employment of all personnel of the Poquoson City Public Schools. In addition to policies established by the School Board, the school division shall comply with all applicable state and federal laws and regulations.

Equal Employment Opportunity

The Poquoson City School Board shall adhere to a policy of equal employment opportunities for all employees. The School Board shall not discriminate against any employee because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, disability, national origin, or any other basis prohibited by law. Discrimination against any person shall be prohibited in the recruitment, selection, hiring, pay, examination, appointment, training, promotion, retention, discipline, and any other aspect of personnel administration for any of the above-listed reasons, because of political or religious opinion or affiliation, or because of other non-merit factors. Such non-discrimination practices shall be applied to all policies and regulations of the School Board. Personnel decisions shall be based on merit and the ability to perform the essential functions of the job, with or without accommodation.

The following notice shall be placed on all employment application forms and shall be disseminated throughout the Poquoson City Public Schools: *The Poquoson City School Board does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, including lactation, age, status as a veteran, disability, or national origin, in admission or access to, or treatment or employment in its programs and activities. The Director of Student Services is designated as the responsible person regarding assurances of non-discrimination in personnel matters (the compliance officer). He/She may be reached at the following address: 500 City Hall Avenue, Poquoson, Virginia 23662 and telephone number (757) 868-3050.*

The Poquoson City School Board shall provide facilities, programs and activities that are accessible, usable and available to qualified disabled persons. This policy shall be (1) posted in prominent areas of each school division building, (2) included in employee handbooks, and (3) provided to any employee or candidate for employment upon request. Training to prevent prohibited discrimination should be included in employee in-service training.

Any employee or student who believes that he or she has been subjected to harassment or discrimination or who has knowledge regarding the occurrence of harassment or discrimination shall file a complaint immediately as provided in Poquoson City School Board Policy 5-1.7.

LEGAL REFERENCE: Title VII of the Civil Rights Act of 1964, as amended in 1972, 42 U.S.C. 2000e-z; 29 C.F.R. 1604.11 (1987); Executive Order 11246, 1965, as amended by Executive Orders 11375 and 12086; Equal Employment Opportunity Act of 1972; Education Amendments of 1972, Title IX; 45 C.F.R., Parts 81, 86; Rehabilitation Act of 1973; Age Discrimination in Employment Act; Constitution of Virginia, Art. I, generally; Americans with Disabilities Act of 1990; Code of Virginia, 1950, as amended, §§ 2.2-3900, 2.2-3901, 2.2-3902, 2.2-3905, 2.2-3905.1, 22.1-23.3 22.1-79 (6), 22.1-295.2 and 22.1-306, et seq.; Regulations of the Virginia Board of Education, Procedures for Adjusting Grievances, 8 VAC 20-90-10, et seq.

Adopted: November 2002

Revised: August 2011, August, 2021, September 2021

POLICY 5-1.3 BOARD-STAFF COMMUNICATIONS

The Poquoson City School Board supports and encourages the concept of two-way communication between the School Board and its employees. As chief administrative officer, the Division Superintendent is the official representative of the School Board in its relations and communications with its employees.

All reports and recommendations to the Board from any officer or employee under the Division Superintendent's direction will be made through the Division Superintendent's office except when specifically directed by the Board. All Board actions requiring any report will be directed to the Division Superintendent.

The School Board further directs the Division Superintendent or his designee to:

1. arrange for special presentations to the Board by all classifications of employees at their request or when requested by the Board.
2. post on the Division's internal and external web sites information on Board actions, or and to make available School Board agendas to all interested groups in advance of regularly scheduled School Board meetings.
3. provide means by which a School Board employee can bring directly to the attention of the Division Superintendent or chief officer, or a director or a principal, matters of concern regarding school division operations or pupil instruction.

The School Board's intent is to develop the best possible working relationship with the employees of the school division. The School Board welcomes the viewpoints of employees and it shall allow time at its meetings for employees to be heard.

The School Board shall not discriminate against any employee by reason of his membership in an employee organization or participation in any lawful activities of the organization.

LEGAL REFERENCE: Code of Virginia, 1950, as amended, §§ 22.1-253.13:7D(1), 40.1-57.2, 40.1-57.3.

Adopted: November 2002

Revised: August 2011

POLICY 5-1.4 DEFINITIONS

The terms listed below, as used in the Poquoson City School Board Policies and Superintendent's Regulations, shall have the meanings and/or definitions provided.

Employees of the School Board

All employees are "employees of the School Board." All unspecified references to employees in the Poquoson City School Board Policies and Regulations shall refer to all the employees of the School Board except the division superintendent.

Full-time Employees

"Full-time employees" are personnel employed and fill 100 percent of a budgeted full-time equivalent position (FTE) and are eligible for all benefits offered by the School Board to its employees. Bus drivers and bus aides who are assigned 5 or more runs for the School Board-approved student calendar (182 days) are considered full-time employees.

Part-Time Employees

"Part-time employees" are personnel employed on a daily work schedule of fewer hours than full-time personnel in either licensed or non-licensed categories.

Licensed Personnel

"Licensed personnel" shall include those employees of the School Board, who, by reason of their positions, are required to have a teaching or other license from the Virginia Department of Education.

Classified Licensed Personnel

"Classified licensed personnel" shall include those employees of the School Board, who, by reason of their positions, are required to have a license and are classified on the Poquoson City Public Schools Uniform Pay Plan.

Classified Non-Licensed Personnel

"Classified non-licensed personnel" are those employees of the School Board who are not required to have a license and are classified on the Poquoson City Public Schools Uniform Pay Plan.

Temporary Employees

"Temporary employees" are those personnel utilized to complete special assignments, jobs or projects that are of a limited or defined duration, but not full- or part-time permanent positions. All categories of substitutes are temporary employees. Employees who are regular full-time contracted personnel may also be employed in a temporary status, e.g., full-time contracted teachers may be temporarily employed as summer school teachers. Temporary employees shall not have the right to access the grievance procedure in any matter regarding dismissal from the temporary position or other disciplinary action arising out of their services as a temporary employee. A regular full-time contracted person who is terminated from a temporary status position (e.g., a summer school teaching position) shall not have the right to the grievance procedure to contest this action.

LEGAL REFERENCE: Code of Virginia, 1950, as amended, § 22.1-78.

Adopted: November 2002

Revised: August 2011

POLICY 5-1.5 PERSONNEL RECORDS

Confidentiality of Files

The Poquoson City School Board and school administration shall protect the confidentiality of personnel files, personnel references, academic credits and other similar documents regarding individual employees, as required by applicable law. The Division Superintendent shall establish standard operating procedures for personnel records to protect the confidentiality of personnel records, personnel references, transcripts of college credits and other similar documents. Employee files are considered confidential and shall be maintained in secured area with access only by those employees authorized by the Deputy Superintendent of Instruction and Support Services.

Teacher performance indicators, or other data collected by or for the Department of Education or the School Board or made available to and able to be used by the School Board to judge the performance or quality of a teacher, maintained in a teacher's personnel file or otherwise shall be confidential but may be disclosed in a form that does not personally identify any student or other teacher (i) pursuant to court order, (ii) for the purposes of a grievance proceeding involving the teacher, or (iii) as otherwise required by state or federal law. Nothing in this section shall be construed to prohibit the release or to limit the availability of nonidentifying, aggregate teacher performance indicators or other data.

File Contents

The following are examples of materials which may be included in a School Board employee file. The list is not exhaustive, but illustrative.

1. Employment application
2. Reference forms
3. Educational transcripts
4. Employment contracts
5. Salary history forms
6. Certificate(s) and other documentation of initial licensure and of continuing education efforts
7. Letters regarding teaching certificates to Virginia Department of Education
8. Evaluations
9. Forms from other school divisions showing past teaching experience
10. Miscellaneous correspondence concerning employee
11. Garnishments and/or tax claims

References, transcripts, placement folders and other materials that are received on the basis of pledged confidentiality as a part of pre-employment routinely shall not be considered as a part of the employee file for purposes of this policy.

Personnel files of all School Board employees may be produced and maintained in digital or paper format.

Review of Contents

An employee shall have the right, upon request, to review the contents of his personnel file with the exception noted in the "File Contents" section above. No separate employee files shall be maintained that are not available for an employee's inspection.

Information determined to be unfounded after a reasonable administrative review shall not be maintained in any employee file, but may be retained in a separate sealed file by the administration if such information alleges civil or criminal offenses.

If information relative to employment is requested by banks or other establishments, written permission from the employee to release such information is required, except to comply with a judicial order or a

lawfully issued subpoena or other applicable law. The employee shall be notified of any such request for records.

Records Retention

Employee personnel files shall be maintained and destroyed consistent with schedules adopted from time to time by the Library of Virginia.

LEGAL REFERENCE: Code of Virginia, 1950, as amended, §§ 22.1-295.1, 2.2-3700, et seq. (Virginia Freedom of Information Act), 2.2-3800, et seq. (Government Data Collection and Dissemination Practices Act).

Adopted: November 2002

Revised: August 2006; August 2011, August 201, August 2016

POLICY 5-1.6 STAFF CONDUCT AND RESPONSIBILITIES

Generally

The Poquoson City Public Schools belong to the public. They serve the primary purpose of providing educational opportunities for all eligible Poquoson City citizens. Poquoson City School Board employees acknowledge that schools operate through a cooperative effort with the community. All employees have the responsibility to maintain standards of exemplary professional conduct and provide services that create a positive school environment. Employee duties, responsibilities and personal judgement shall be consistent with School Board policies and regulations. By accepting employment with the Poquoson City Public Schools, all employees shall strive to fulfill their individual responsibilities with honesty and integrity and shall strive to keep the well-being of the students as their primary goal while maintaining the highest standards of professional ethics.

Staff Conduct

To support this philosophy, School Board employees shall adhere to the following standards.

Employees shall strive to:

1. make the well-being of students the fundamental value of all decision-making and actions;
2. support the civil and human rights of all individuals;
3. maintain personal and professional behaviors that demonstrate positive role modeling for students, colleagues, and the education profession;
4. refrain from discourse and actions that undermine the integrity of self or other employees and compromise the professional standards of the school division;
5. fulfill job responsibilities with honesty and integrity;
6. maintain the standards of the school division and seek to improve effectiveness through continuous professional development;
7. avoid using position for personal gain through political, social, religious, economic, or other influence; and
8. honor all contracts with honesty and integrity until fulfillment or release.

The School Board hereby prohibits abusive work environments and any employee who contributes to an abusive work environment will be subject to appropriate disciplinary action. Further, retaliation or reprisal against a school board employee who alleges an abusive work environment or assists in the investigation of an allegation of an abusive work environment is prohibited. The following definitions apply:

1. "Abusive conduct" means conduct of a School Board employee in the workplace that a reasonable person would find hostile and that is severe enough to cause physical harm or psychological harm to another school board employee based on a determination in which the following factors are considered: the severity, nature, and frequency of the conduct and, when applicable, the continuation of the conduct after a school board employee requests that it cease or demonstrates outward signs of physical harm or psychological harm in the face of the conduct. "Abusive conduct" includes verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; the gratuitous sabotage or undermining of another School Board employee's work performance; attempts to exploit another school board employee's known psychological or physical vulnerability; or repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, or epithets. "Abusive conduct" does not include (i) a single act, unless it is especially severe, or (ii) conduct that the School Board proves with clear and convincing evidence is necessary for the furtherance of its legitimate and lawful interests.
2. "Abusive work environment" means a workplace in a school division in which abusive conduct occurs.

3. “Physical harm” means a material impairment of a school board employee’s physical health or bodily integrity, as documented by a licensed physician or another licensed health care provider.
4. “Psychological harm” means a material impairment of a school board employee’s mental health, as documented by a licensed psychologist, psychiatrist, or psychotherapist or another licensed mental health provider.

The Division Superintendent will develop and implement regulations which ensure that employees interact with other Board employees, parents, students, or visitors, with a spirit of cooperation, understanding and mutual respect. Departures from standards of conduct contained in the regulations will be deemed misconduct within the meaning of this Policy and may subject violators to disciplinary action, up to and including dismissal.

Nothing in this policy should be interpreted as infringing upon employees' civil rights and liberties that have been established by the State and Federal Constitutions, court rulings, and statutory laws and administrative regulations.

LEGAL REFERENCE: Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78, 22.1-291.4.

Adopted: November 2002

Revised: August 2011, August 2018, August 2021

POLICY 5-1.7

PROHIBITION AGAINST HARASSMENT AND RETALIATION

Policy Statement

The Poquoson City School Board is committed to maintaining a learning/working environment free from sexual abuse and harassment and harassment based on race, national origin, disability or religion. Therefore, the School Board prohibits harassment against students, employees, or others on the basis of sex, sexual orientation, gender, gender identity, race, color, national origin, disability, religion, ancestry, age, marital status, pregnancy, childbirth or related medical conditions, status as a veteran, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists, hereinafter referred to as a protected group status, at school or any school sponsored activity. The School Board encourages school division employees, patrons and students to report promptly all incidents of alleged discriminatory conduct.

It is a violation of this policy for any student or school personnel to harass a student or school personnel based on a protected group status at school or any school sponsored activity. Further, it is a violation of this policy for any school personnel to tolerate harassment based on a student's or employee's protected group status at school or any school sponsored activity, by students, school personnel or third parties participating in, observing or otherwise engaged in school sponsored activities.

For the purpose of this policy, school personnel means: school board members, school employees, agents, volunteers, contractors or other persons subject to the supervision and control of the School Division.

The School Division: (1) promptly investigates all complaints, written or verbal, of sexual harassment and harassment based on race, national origin, disability or religion; (2) promptly takes appropriate action to stop any harassment; (3) takes appropriate action against any students or school personnel who violate this policy and (4) takes any other action reasonably calculated to end and prevent further harassment of school personnel or students.

Definitions

“Compliance Officer” is the person designated by the School Board to receive complaints of harassment referred by the Title IX Coordinator and oversee investigation of those complaints as described below.¹

“Consent” is clear, unambiguous, and voluntary agreement between the participants to engage in specific sexual activity.

“Prohibited Conduct”

Sexual Harassment

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or education; or
2. submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
3. that conduct or communication substantially or unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile or offensive employment or educational environment (i.e. the conduct is sufficiently serious to limit a student's or employee's ability to participate in or benefit from the educational program or work environment).

¹ Can have more than one Compliance Officer.

Examples of conduct which may constitute sexual harassment if it meets the immediately preceding definition include:

1. unwelcome sexual physical contact;
2. unwelcome ongoing or repeated sexual flirtation or propositions or remarks;
3. sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions;
4. graphic comments about an individual's body;
5. sexual jokes, notes, stories, drawings, gestures or pictures;
6. spreading sexual rumors;
7. touching an individual's body or clothes in a sexual way;
8. displaying sexual objects, pictures, cartoons or posters; and
9. impeding or blocking movement in a sexually intimidating manner.

“Sexual Harassment Prohibited by Title IX” means conduct on the basis of sex that satisfies one or more of the following:

- an employee of the School Board conditioning the provision of an aid, benefit, or service of the School Board on an individual's participation in unwelcome sexual conduct;
- 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 Board's education program or activity; or
- “sexual assault” as defined in 20 U.S.C. § 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. § 12291(a)(10), "domestic violence" as defined in 34 U.S.C. § 12291(a)(8), or "stalking" as defined in 34 U.S.C. § 12991(a)(3).

Harassment Based on Race, National Origin, Disability or Religion

Harassment based on race, national origin, disability or religion consists of physical or verbal conduct relating to an individual's race, national origin, disability or religion when the conduct:

1. creates an intimidating, hostile or offensive working or educational environment;
2. substantially or unreasonably interferes with an individual's work or education; or
3. otherwise is sufficiently serious to limit an individual's employment opportunities or to limit a student's ability to participate in or benefit from the education program.

Examples of conduct which may constitute harassment based on race, national origin, disability or religion if it meets the immediately preceding definition include:

1. graffiti containing racially offensive language;
2. name calling, jokes or rumors;
3. physical acts of aggression against a person or his property because of that person's race, national origin, disability or religion;
4. hostile acts which are based on another's race, national origin, religion or disability; and
5. written or graphic material which is posted or circulated and which intimidates or threatens individuals based on their race, national origin, disability or religion.

Additional Prohibited Behavior

Behavior that is not unlawful may nevertheless be unacceptable for the educational environment or the workplace. Demeaning or otherwise harmful actions are prohibited, particularly if directed at personal characteristics including socioeconomic level regardless of whether the personal characteristic is protected by law.

“Title IX” means 20 U.S.C. §§ 1681-1688 and the implementing regulations.

“Title IX Coordinator” means the person designated by the School Board to coordinate its efforts to comply with its responsibilities under this policy and Title IX. The Title IX Coordinator may be contacted at Mary.Ardolino@poquoson.k12.va.us.

Complaint Procedure

Formal Procedure

1. File Report

Any student or school personnel who believes he or she has been the victim of sexual harassment or harassment based on race, national origin, religion or disability by a student, school personnel or a third party should report the alleged harassment as soon as possible to the Title IX Coordinator or to any school personnel. The alleged harassment should be reported as soon as possible, and the report generally should be made within fifteen (15) school days of the occurrence. Further, any student who has knowledge of conduct which may constitute prohibited harassment should report such conduct to the Title IX Coordinator or to any school personnel. Any school personnel who has notice that a student or other school personnel may have been a victim of prohibited harassment shall immediately report the alleged harassment to the Title IX Coordinator. Any complaint that involves the Title IX Coordinator should be reported to the superintendent.

The reporting party should use the form, Report of Harassment, attached as Regulation 5-1.7, to make complaints of harassment. However, oral reports and other written reports shall also be accepted.

The complaint and the identity of the person allegedly harassed and alleged harasser will be disclosed only to the extent necessary to fully investigate the complaint and only when such disclosure is required or permitted by law. Additionally, a person allegedly harassed who wishes to remain anonymous shall be advised that such confidentiality may limit the school division’s ability to fully respond to the complaint.

After receiving the complaint, the Title IX Coordinator makes an initial determination whether the allegations may be sexual harassment prohibited by Title IX. If they may be, the Title IX Grievance Process below is followed. If they cannot be sexual harassment prohibited by Title IX, then the complaint is referred to the Compliance Officer who follows the procedure below.

The Title IX Coordinator also determines whether the alleged harassment may also constitute criminal conduct and ensures that law enforcement officials are notified if necessary.

If the alleged harassment may also constitute child abuse, then it must be immediately reported to the Department of Social Services in accordance with Policy 7-5.7 Child Abuse and Neglect Reporting.

2. Investigation by Compliance Officer

A. Generally

The Compliance Officer

- Receives complaints of discrimination and harassment referred by the Title IX Coordinator;
- Conducts or oversees the investigation of any alleged discrimination or harassment referred by the Title IX Coordinator;
- Assesses the training needs of the school division in connection with complaints referred by the Title IX Coordinator;
- Arranges necessary training; and
- Ensures that any harassment investigation is conducted by an impartial investigator who is trained in the requirements of equal employment/education

opportunity and has the authority to protect the alleged victim and others during the investigation.

B. Compliance Officer Formal Procedure

Upon receiving a referral of a complaint of alleged prohibited harassment from the Title IX Coordinator, the compliance officer shall immediately authorize or undertake an investigation. The investigation may be conducted by school personnel or a third party designated by the school division. The investigation shall be completed as soon as practicable, which generally should be not later than 14 school days after referral of the complaint to the compliance officer. Upon receiving the complaint, the compliance officer shall acknowledge receipt of the complaint by giving written notice that the complaint has been received to both the person complaining of harassment and the person accused of harassment. Also upon receiving the complaint, the compliance officer shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the alleged harasser and the person allegedly harassed. If the compliance officer determines that more than 14 school days will be required to investigate the complaint, the person allegedly harassed and the alleged harasser shall be notified of the reason for the extended investigation and of the date by which the investigation will be concluded.

The investigation may consist of personal interviews with the person allegedly harassed, the alleged harasser, and any others who may have knowledge of the alleged harassment or the circumstances giving rise to the complaint. The investigation may also consist of the inspection of any other documents or information deemed relevant by the investigator. The school division shall take necessary steps to protect the person allegedly harassed and others pending the completion of the investigation.

In determining whether alleged conduct constitutes a violation of this policy, the division shall consider, at a minimum: (1) the surrounding circumstances; (2) the nature of the behavior; (3) past incidents or past or continuing patterns of behavior; (4) the relationship between the parties; (5) how often the conduct occurred; (6) the identity of the alleged perpetrator in relation to the alleged victim (i.e. whether the alleged perpetrator was in a position of power over the alleged victim); (7) the location of the alleged harassment; (8) the ages of the parties; and (9) the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a case-by-case determination based on all of the facts and circumstances revealed after a complete and thorough investigation.

The compliance officer shall issue a written report to the division superintendent upon completion of the investigation. If the complaint involves the division superintendent, then the report shall be sent to the School Board. The report shall include a determination of whether the allegations are substantiated, whether this policy was violated and recommendations of corrective action, if any.

All employees shall cooperate with any investigation of alleged harassment conducted under this policy or by an appropriate state or federal agency.

3. Action By Division Superintendent

Within 5 school days of receiving the compliance officer's report, the division superintendent or his designee shall issue a decision regarding whether this policy was violated. This decision must be provided in writing to the person allegedly harassed and the alleged harasser. If the division superintendent or his designee determines that prohibited harassment occurred, the Poquoson City school division shall take prompt, appropriate action to address and remedy the violation as well as prevent any recurrence. Such action may include discipline up to and including expulsion or discharge. Whether or not the division superintendent or his designee determines that prohibited harassment occurred, the division superintendent or his designee may determine that school-wide or division-wide training be conducted or that the person allegedly harassed receives counseling.

4. Appeal

If the division superintendent or his designee determines that no prohibited harassment occurred, the employee or student who was allegedly subjected to harassment may appeal this finding to the School Board within 5 school days of receiving the decision. Notice of appeal must be filed with the division superintendent who shall forward the record to the School Board. The School Board shall make a decision within 30 calendar days of receiving the record. The School Board may ask for oral or written argument from the aggrieved party and the division superintendent and any other individual the School Board deems relevant.

If the division superintendent or his designee determines that prohibited harassment occurred and discipline is imposed, the disciplined person may appeal the disciplinary sanction in the same manner as any other such sanction would be appealed.

Employees may choose to pursue their complaints under this policy through the relevant employee grievance procedure instead of the complaint procedure in this policy.

Compliance Officer Informal Procedure

If the person allegedly harassed and the person accused of harassment agree, the principal, principal's designee/supervisor of the person allegedly harassed may arrange for them to resolve the complaint informally with the help of a counselor, teacher or administrator. If the person allegedly harassed and the person accused of harassment agree to resolve the complaint informally, they shall each be informed that they have the right to abandon the informal procedures at any time in favor of the initiation of the Compliance Officer formal procedures set forth herein. The principal, or principal's designee or supervisor shall notify the person allegedly harassed and the person accused of harassment in writing when the complaint has been resolved. The written notice shall state whether prohibited harassment occurred.

Sexual Harassment Prohibited by Title IX

Definitions

"Actual knowledge" means notice of sexual harassment prohibited by Title IX or allegations of sexual harassment prohibited by Title IX to the Title IX Coordinator or any official of the school division who has authority to institute corrective measures or to any employee of an elementary or secondary school.

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment prohibited by Title IX.

"Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment prohibited by Title IX against a respondent and requesting that the allegation be investigated. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. When the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party. The allegations in a formal complaint must be investigated. In response to a formal complaint, the Title IX Grievance Process below is followed.

"Program or activity" includes locations, events or circumstances over which the School Board exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

"Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment prohibited by Title IX.

"Supportive measures" means 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 School Board's 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 harassment. Supportive measures may include counseling, extensions of

deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security or monitoring of parts of campus, and other similar measures. Any supportive measures provided to the complainant or respondent are maintained as confidential, to the extent that maintaining such confidentiality does not impair the ability to provide supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Title IX Grievance Process

Generally

Any person may report sex discrimination prohibited by Title IX, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. The reporting party may use the form attached to this Policy as Regulation 7-1.2(A), to make a complaint. Such a report may be made at any time, including non-business hours, by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Complainants and respondents are treated equitably by offering supportive measures to a complainant and by following this grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

The Title IX Coordinator promptly contacts the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain the process for filing a formal complaint.

Applicant for admission and employment, students, parents or legal guardians, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the School Board are notified

- of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator; and
- that the School Board does not discriminate on the basis of sex in its education program or activity and that it is required by Title IX not to discriminate in such a manner. The notification states that the requirement not to discriminate extends to admission and employment and that inquiries about the application of Title IX may be referred to the Title IX Coordinator, the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

The School Board prominently displays the contact information for the Title IX Coordinator and this policy on its website and in each handbook or catalog it makes available to persons listed above who are entitled to notifications.

Nothing herein precludes a respondent from being removed from the School Board's education program or activity on an emergency basis, provided that an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and that the respondent is provided with notice and an opportunity to challenge the decision immediately following the removal.

Nothing herein precludes a non-student employee respondent from being placed on administrative leave during the pendency of a grievance process.

This grievance process treats complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following this process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies are designed to restore or preserve equal access to the School Board's education or activity.

The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

All relevant evidence is evaluated objectively, including both inculpatory and exculpatory evidence. Credibility determinations are not based on a person's status as a complainant, respondent, or witness.

Any Title IX Coordinator, investigator, decision-maker, or any person who facilitates an informal resolution process may not have a conflict of interest or bias for or against complainants or respondents generally or individual complainant or respondent.

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receives training on the definition of sexual harassment prohibited by Title IX, the scope of the School Board's education program or activity, how to conduct an investigation and grievance process including appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of facts at issue, conflicts of interest, and bias. Decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators receiving training on issues of relevance in order to create investigative reports that fairly summarize relevant evidence.

A finding of responsibility may result in disciplinary action up to and including expulsion for students or dismissal of employees.

The standard of evidence used to determine responsibility is preponderance of the evidence.

The grievance process does not allow, rely upon, or otherwise use 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.

Notice of allegations

On receipt of a formal complaint, the Title IX Coordinator gives the following written notice to the parties who are known:

- notice of the grievance process, including any informal resolution process, and
- notice of the allegations of sexual harassment potentially constituting sexual harassment prohibited by Title IX, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment prohibited by Title IX, and the date and location of the alleged incident, if known.

The written notice

- includes a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- informs the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and

- informs the parties of any provisions in the School Board's code of conduct or the superintendent's Standards of Student Conduct that prohibit knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the investigator decides to investigate allegations about the complainant or respondent that are not included in the notice previously provided, notice of the additional allegations is provided to the parties whose identities are known.

Dismissal of formal complaints

A formal complaint or any allegations therein must be dismissed if the conduct alleged in the complaint

- would not constitute sexual harassment prohibited by Title IX even if proved,
- did not occur in the School Board's education program or activity, or
- did not occur against a person in the United States.

Such a dismissal does not preclude action under another provision of the School Board's code of conduct or the superintendent's Standards of Student Conduct.

A formal complaint or any allegations therein may be dismissed if at any time during the investigation:

- a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- the respondent is no longer enrolled or employed by the School Board; or
- specific circumstances prevent the School Board from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Investigation of formal complaint

When investigating a formal complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the School Board and not on the parties, provided that a party's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party are not accessed, considered, disclosed or otherwise used without the voluntary, written consent of the party's parent, or the party if the party is an eligible student, to do so for this grievance procedure.

The parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

The ability of the parties to discuss the allegations under investigation or to gather and present relevant evidence is not restricted.

The parties have the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The choice or presence of advisor for either the complainant for respondent is not limited in any meeting or grievance proceeding.

Any party whose participation is invited or expected is provided written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings with sufficient time for the party to prepare to participate.

The investigator provides both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence which will not be relied upon in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to the completion of the investigative report, the investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

The investigator creates an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the time a determination regarding responsibility is made, sends to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

After the investigator has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the question any decision to exclude a question as not relevant.

Determination regarding responsibility

The decision-maker, who cannot be the same person as the Title IX Coordinator or the investigator, must issue a written determination regarding responsibility.

The written determination must include

- identification of the allegations potentially constituting sexual harassment prohibited by Title IX;
- a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- findings of fact supporting the determination;
- conclusions regarding the application of the School Board's code of conduct or the superintendent's Standard of Student Conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the School Board imposes on the respondent, and whether remedies designed to restore or preserve equal access to the School Board's education program or activity will be provided to the complainant; and
- the procedures and permissible bases for the complainant and respondent to appeal.

The decision-maker must provide the written determination regarding responsibility to the parties simultaneously.

The determination regarding responsibility becomes final either on the date that the parties are provided with the written determination of the result of the appeal, if an appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of any remedies.

Appeals

Either party may appeal from a determination regarding responsibility or from a dismissal of a formal complaint or any allegations therein, on the following bases:

- procedural irregularity that affected the outcome of the matter;
- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Notification of appeal must be given in writing to the Title IX Coordinator.

As to all appeals, the Title IX Coordinator

- notifies the other party in writing when an appeal is filed and implements appeal procedures equally for both parties;
- ensures that the decision-maker for the appeal is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator; and
- ensures that the decision-maker for the appeal complies with the standards set forth in Title IX and this policy.

The appeal decision-maker

- gives both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- reviews the evidence gathered by the investigator, the investigator's report, and the decision-maker's written decision;
- issues a written decision describing the result of the appeal and the rationale for the result; and
- provides the written decision simultaneously to both parties and the Title IX Coordinator.

Timelines

The investigative report will be provided to the parties within 35 days from the date the formal complaint is filed.

A decision will be issued within 10 working days from the date the investigative report is submitted to the decision-maker.

Either party may appeal within 5 working days from the date the written determination regarding responsibility is given to the parties.

Any appeal will be resolved with 15 calendar days from the filing of the appeal.

If the parties agree to an informal resolution process, these deadlines are tolled from the time one party requests an informal resolution process until either the time the other party responds, if that party does not agree to the informal resolution process, or until either party withdraws from the informal resolution process.

Temporary delays of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action are permitted. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; disciplinary processes required by law or School Board policy; or the need for language assistance or accommodation of disabilities.

Informal Resolution Process

At any time during the formal complaint process and prior to reaching a determination regarding responsibility, the parties may participate in an informal resolution process, such as mediation, that does not involve a full investigation and determination of responsibility. When one party requests an informal resolution process, the other party must respond to the request within 3 days. The informal resolution process must be completed within 10 days of the agreement to participate in the process.

The informal resolution process may be facilitated by a trained educational professional, consultant, or other individual selected by the Title IX Coordinator under the following conditions:

- the parties are provided a written notice disclosing 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, resume the grievance process with respect to the formal complaint, and be informed of any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- the parties, voluntarily and in writing, consent to the informal resolution process; and
- the informal resolution process cannot be used to resolve allegations that an employee sexually harassed a student.

If the matter is resolved to the satisfaction of the parties, the facilitator shall document the nature of the complaint and the resolution, have both parties sign the documentation and receive a copy, and forward it to the Title IX Coordinator. If the matter is not resolved, the formal complaint process is resumed.

Parties cannot be required to participate in an informal resolution process.

An informal resolution process is not offered unless a formal complaint is filed.

Recordkeeping

The School Board will maintain for a period of seven years records of:

- each investigation of allegations of sexual harassment prohibited by Title IX including any determination regarding responsibility and any audio or audiovisual recording or transcript, if any, required under the Title IX regulations, any disciplinary sanctions imposed on the

respondent, and any remedies provided to the complainant designed to restore or preserve equal access to School Board's education program or activity;

- any appeal and the result therefrom;
- any informal resolution and the result therefrom; and
- all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. These materials will also be made available on the School Board's website.

For each response required under 34 C.F.R. § 106.44, the School Board must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment prohibited by Title IX. In each instance, the School Board will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its education program or activity. If the School Board does not provide a complainant with supportive measures, then it will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Retaliation

Retaliation against students or school personnel who report harassment or participate in any related proceedings is prohibited. The School Board shall take appropriate action against students or school personnel who retaliate against any student or school personnel who reports alleged harassment or participates in related proceedings. The Title IX Coordinator will inform persons who make complaints, who are the subject of complaints, and who participate in investigations of how to report any subsequent problems.

Right to Alternative Complaint Procedure

Nothing in this policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited harassment including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law.

Prevention and Notice of Policy

Training to prevent sexual harassment based on race, national origin, disability and religion should be included in employee and student orientations as well as employee in-service training.

This policy shall be (1) displayed in prominent areas of each division building in a location accessible to students, parents and school personnel; (2) included in the student and employee handbooks; and (3) sent to parents of all students within 30 calendar days of the start of school. Further, all students, and their parents/guardians, and employees shall be notified annually of the names and contact information of the compliance officers.

False Charges

Students or school personnel who knowingly make false charges of harassment shall be subject to disciplinary action as well as any possible civil or criminal legal proceedings.

LEGAL REFERENCE: Title VII of the Civil Rights Act of 1964, as amended in 1972, 42 U.S.C. 2000 d-z; 20 U.S.C. §§ 1681-1688; 29 U.S.C. § 794; Executive Order 11246, 1965, as amended by Executive Orders 11375 and 12086; Equal Employment Opportunity Act of 1972; Education Amendments of 1972, Title IX; 34 C.F.R. Part 106; 45 C.F.R. Parts 81, 86; Rehabilitation Act of 1973; Age Discrimination In Employment Act; Constitution of Virginia, Art. I, generally; Americans With Disabilities Act of 1990;

Code of Virginia, 1950, as amended, §§ 22.1-23.3, 22.1-79(6), 22.1-306, and 22.1-253.13:7; Regulations of the Virginia Board of Education, Procedures for Adjusting Grievances, 2 VAC 20-90-10, et seq.

Adopted: November 2002

Revised: July 2008, January 2021, September 2021

POLICY 5-1.8 FRAUD AND ABUSE WHISTLE BLOWER PROTECTION

Information regarding employee protections set forth in the "Fraud and Abuse Whistle Blower Protection Act" can be found in the Poquoson City Public Schools' Human Resources Department.

LEGAL REFERENCE: Code of Virginia, 1950, as amended, §§ 2.2-3009 et seq.

Adopted: August, 2016

POLICY 5-1.9 MENTAL HEALTH AWARENESS TRAINING

The Poquoson City School Board requires each teacher and other relevant personnel, as determined by the School Board, employed on a full-time basis, to complete a mental health awareness training or similar program at least once. The School Board may contract with the Department of Behavioral Health and Developmental Services, a community services board, a behavioral health authority, a nonprofit organization, or other certified trainer as defined in § 37.2-312.2 to provide such training. Such training may be provided via an online module.

LEGAL REFERENCE: Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78, 22.1-298.6.

Adopted: June 2020

POLICY 5-1.10 CULTURAL COMPETENCY TRAINING

The Poquoson City School Board requires each teacher and any other employee holding a license issued by the Board of Education, to complete cultural competency training, in accordance with guidance issued by the Board of Education, at least every two years.

LEGAL REFERENCE: Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78, 22.1-298.7

Adopted: August 2021