

## **PERSONNEL**

### **Sexual Harassment, Sexual violence, Inappropriate Sexual Conduct and Non-retaliation Complaint Procedures- Employees**

The School Division does not condone or tolerate any form of sexual harassment, sexual violence, other inappropriate sexual conduct or retaliation for reporting such conduct. The School Division is committed to the creation and maintenance of an educational and work environment in which all individuals who participate in school programs and activities can do so in an atmosphere free from all forms of sexual harassment, sexual violence and inappropriate sexual conduct.

#### **A. Definition of sexual harassment, sexual violence and inappropriate sexual conduct.**

Sexual harassment, sexual violence and inappropriate sexual conduct are defined as, but not limited to: unsolicited, unwelcome sexual overtures, conduct or advances, requests for sexual favors, and other verbal, written or physical conduct of a sexual nature constitutes sexual harassment when any of the following condition is present:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's access, involvement or success in any School Division program, service or activity;
2. Submission to or rejection of such conduct by an individual is used as the basis of any decision affecting such individual;
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile, or offensive education environment; and
4. Such conduct by an employee, agent, or volunteer of the School Division that denies, limits, provides different, or conditions the provision of aid, benefits, services or treatments protected under Title IX.

#### **B. Prohibited conduct**

Sexual harassment, sexual violence and inappropriate sexual conduct may be verbal, non-verbal, physical, written, electronic or visual. These terms refer to behavior that is not welcome, that is personally offensive, that lowers morale and that, therefore, interferes with the individual's rights in the educational and work

environment. Prohibited conduct that may be determined a violation of this Regulation is defined as, but is not limited to:

1. Suggestive or obscene statements, noises, letters, notes, invitations, derogatory comments, slurs, jokes, epithets, assault, touching, fondling, sexual molestation or assault, impeding or blocking movement, leering, gestures, display of sexually suggestive actions, materials, objects, posters or cartoons, or other similar conduct. This includes electronic and verbal forms of communication;
2. Unwelcome sexual advances, propositions or other sexual comments such as: sexually-oriented gestures; sounds; remarks; jokes; or comments about an individual's sexuality or sexual experience directed at or made in the presence of any other individual;
3. Physical assault or battery of a sexual nature, or the attempt thereof such as: a) rape, sexual battery, molestation or attempts to commit those offenses, or committing an act with intent to cause fear in another of immediate bodily harm or death; b) intentional physical contact which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against or poking a student's body, or touching of the clothing covering the immediate area of the complainant's intimate body parts; and c) other similar actions;
4. Continuing to express sexual interest after being informed that the interest is unwelcome;
5. Coercive sexual behaviors used to control, influence, or affect an individual's educational or employment opportunities, grades, and/or learning environment, opportunities to participate in or advance in school sponsored activities;
6. Offering or granting favors or benefits in exchange for sexual favors;
7. Preferential treatment or promise of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit any individual to engage in sexual activity for compensation or reward;
8. "Prohibited retaliation" shall be defined as adverse action against a covered individual because the individual (or closely-associated individual) engaged in protected activity;
  - a. an "adverse action" is an action that is likely to keep a reasonable person from engaging in protected activity, including, but not limited to, threats, assault or battery,

harassment, or other conduct that has the purpose of substantially interfering with a person's access to or participation in the educational environment;

- b. "covered individual" is a person who has engaged in protected activity, such as filing a sexual harassment charge, or who is closely associated with an individual who has engaged in protected activities; and
- c. "protected activity" includes, but is not limited to: reasonable opposition to a practice believed to violate sexual harassment laws on behalf of oneself or others; participation in a sexual harassment proceeding, such as cooperating with an internal investigation of alleged sexual harassment practices or acting as a witness in an investigation by an outside agency or in litigation; and the asserting of one's rights, such as objecting to sexual harassment.

### **C. Procedure for reporting, investigating and resolving complaints**

The following procedure will be utilized for reporting, investigating and resolving complaints.

1. Any individual who believes that he/she has been the subject of sexual harassment, sexual violence or inappropriate sexual conduct or who has reason to know of or suspect that another individual is being subject to such conduct in the educational or work environment should report the alleged act immediately to the principal, another school administrator of the school or the individual may file a complaint with the Chief Human Resources Officer or the Title IX coordinator. Complaints will be investigated and will be resolved as promptly, equitably and effectively as possible.
2. The Title IX Coordinator will follow the Title IX Guidelines and coordinate the investigation of the complaint. The Superintendent or designee is authorized to develop Title IX guidelines, procedures, protocols and trainings regarding compliance with applicable Title IX regulations.
3. Any principal or other administrator or the Title IX coordinator who receives a complaint of sexual harassment of an employee is required to report immediately such complaint to the Chief Human Resources Officer or designee. If the alleged incident involves the principal, the employee shall report such incident to the Title IX coordinator or the

Chief Human Resources Officer. If the complaint was made verbally, it will be reduced to written form within one (1) business day and forwarded ~~it~~ to the Chief Human Resources Officer or the Title IX coordinator.

4. ~~4.~~ If the alleged incident involves actions against an employee by a student, then the Chief Human Resources Officer or designee will report the complaint to the Director of Student Leadership and the principal of the student's school and coordinate investigation efforts.
5. If the Title IX Coordinator dismisses the complaint or informs the Chief Human Resources Officer or designee that the complaint was not proven, the Chief Human Resources Officer or designee may handle the report as a violation of this Policy or another policy or regulation.

6. Nothing in this Policy will prohibit the reporting of a complaint under this Policy to appropriate law enforcement or child protective services agencies if appropriate.

~~6. — Investigations of complaints should begin within a reasonable time after receipt of the complaint but in no circumstances later than one (1) business day after receipt of the complaint. When appropriate, interim remedial measures should be taken to ensure that the alleged victim is safe and not subjected to sexual harassment, sexual violence, inappropriate sexual conduct or retaliation pending the outcome of the investigation. The investigator should obtain written or verbal statements from the complainant, alleged victim, alleged perpetrator, and those witnesses with relevant information about the alleged conduct. The complainant, victim and alleged perpetrator should be given the opportunity to present evidence and witnesses regarding the alleged conduct and to be provided the opportunity, in accordance with applicable law and regulation, to see the information provided by the other parties. Except for extenuating circumstances, the complainant, victim, alleged perpetrator or witnesses should not be required to confront each other. In accordance with applicable law, policy and regulation, the confidentiality of the investigation, allegations, evidence obtained and outcome on the investigation will be protected. The investigator will produce a written report within fifteen (15) business days of the beginning of the investigation. With the approval of the complainant or when extenuating circumstances apply, the time period for producing the report may be extended. Such extension will be for a reasonable time period but not longer than thirty (30) business days from the beginning of the investigation.~~

~~7. — **Investigation report.** The investigation report shall include the following:~~

- a. — a summary of the complaint and supporting facts as reported by the complainant;
  - b. — a summary of the statements or evidence provided by the complainant, the victim, the alleged perpetrator and any relevant witnesses;
  - c. — any responses made by the complainant, victim or alleged perpetrator in response to the statements or evidence;
  - d. — a determination regarding whether a violation of this Regulation took place or whether the complaint was false;
  - e. — a recommendation regarding whether disciplinary action or another appropriate remedy should be taken;
  - f. — if appropriate, recommendations regarding other actions to be taken to ensure that the educational and work environment remains free from sexual harassment, sexual violence, inappropriate sexual conduct and/or retaliation; and
  - g. — other appropriate information.
8. — **Factors to consider.** In determining whether the alleged conduct constitutes a violation of this Regulation, it is necessary to evaluate the totality of the circumstances surrounding the conduct. The following factors should be considered:
- a. — the ages, intellectual or disability status of the parties involved;
  - b. — the nature, severity and scope of the conduct;
  - c. — whether the conduct is sexual in nature;
  - d. — whether the conduct is offensive;
  - e. — whether the conduct is unwelcome or inappropriate to the educational environment;
  - f. — the frequency and duration of the behavior (a single incident may result in violation of this Regulation);
  - g. — the number of persons involved in the behavior;
  - h. — the context in which the conduct occurred;
  - i. — where the conduct occurred;
  - j. — whether there have been other incidents in the educational or work environment involving the same individuals;
  - k. — whether the conduct adversely affected the individual's educational or work opportunities; and
  - l. — the remedy sought by the complainant or victim and the alleged perpetrator's response to the remedy sought; and
  - m. — any unusual or extenuating circumstances.
9. — **Appeals of investigation report.** The victim and the alleged perpetrator will be provided with a copy of the written report. Portions of the report may be redacted in accordance with applicable law, policy and regulation regarding confidentiality. If the complainant is not the victim or the victim's legal guardian, then the complainant will not be provided with the written investigation report but will be provided with a written or verbal explanation of what

~~actions were taken to investigate the allegations and whether the School Division has taken action to resolve the matter or found no basis to take action.~~

~~a. — Employees disciplined for violations of this Regulation may appeal such discipline by utilizing the applicable grievance procedures.~~

~~b. — School Division agents, volunteers, invitees, or members of the public who are determined to have acted in violation of this Regulation may be limited in accessing School Board property, buildings, busses, communication systems or attending school sponsored events as set forth in Policy 7-17 and Regulation 7-17.1.~~

~~c. — Nothing in this Regulation prohibits the School Division from seeking other appropriate criminal, civil or administrative remedies.~~

#### **D. Informal remedies or mediation**

The complainant or victim may utilize informal methods to remedy the complainant ~~or utilize mediation~~. Informal methods ~~or mediation~~ are not appropriate if the alleged conduct constitutes sexual violence or other unsafe condition for the victim. The complainant or victim cannot be compelled to utilize informal remedies ~~or mediation~~ and shall retain the right to discontinue informal remedies ~~or mediation~~ at any time.

#### **E. Retaliation and false reporting prohibited**

Retaliation against any individual who makes a complaint, participates in the investigation or resolution of a complaint is strictly prohibited and will be a violation of this Regulation. Pursuing other appropriate remedies will not be construed as retaliation. Intentional false reporting or misrepresentation of complaints or evidence regarding complaints is strictly prohibited and may result in appropriate action being taken by the School Division. Taking appropriate action against false reporting or misrepresentation will not be considered retaliation under this Regulation.

#### **F. Additional contact information for complaints of sexual harassment**

The Chief Human Resources Officer will be the contact for complaints of sexual harassment against or by School Division employees. The Chief Human Resources Officer may be contacted at: 2512 George Mason Drive, Municipal Center Building 6, Virginia Beach, Virginia 23456 telephone (757) 263-1133, facsimile (757) 263-1081.

The Title IX Coordinator for complaints regarding students is the Director of the Office of Student Leadership, Laskin Road Annex, 1413 Laskin Road, Virginia Beach, Virginia 23451, telephone (757) 263-2020, facsimile (757) 263-2022.

Complaints may also be directed to:

U.S. Department of Education, Office for Civil Rights, at (800) 421-3481 or [ocr@ed.gov](mailto:ocr@ed.gov).

Equal Employment Opportunity Commission, Federal Building, 200 Granby Street  
Suite 739, Norfolk, Virginia 23510, telephone 1-800-669-4000, facsimile (757)  
441-6720.

### **Related Links**

School Board [Policy 7-17](#)

School Board [Regulation 7-17.1](#)

Adopted by Superintendent: July 24, 2015

[Adopted by the School Board: 2020](#)