

1 **PROCEDURES FOR INVESTIGATING STAFF COMPLAINTS OF**
2 **DISCRIMINATION, HARASSMENT, BULLYING, HOSTILE OR ABUSIVE WORK**
3 **ENVIRONMENT AND UNETHICAL CONDUCT**
4

5 Alexandria City Public Schools (ACPS) is committed to maintaining a safe, welcoming, and
6 friendly environment that fosters a spirit of mutual trust and respect, and is free from the
7 discrimination, harassment or bullying of employees, students or other members of the school
8 community. Such conduct is offensive, damages morale, undermines the integrity of the
9 educational or employment experience and impairs the productivity and stability of the school
10 division.

11
12 Any person who believes a student has been discriminated against, harassed or bullied by
13 anyone on school property or during a school activity should report the complaint according to
14 the procedures in Regulation JB-R/JFHA-R: *Procedures for Investigating Student Complaints*
15 *of Discrimination, Harassment and Bullying.*

16
17 Any employee or candidate for employment who believes they have been discriminated
18 against, harassed, bullied or subjected to a hostile or abusive work environment in violation of
19 Policies GB, GBA/JFHA or any applicable state or federal nondiscrimination or harassment
20 law should report the complaint as outlined below.

21
22 **I. Employee Complaint Procedures for Discrimination, Bullying, Hostile or Abusive**
23 **Work Environment, Unethical Conduct or Harassment Other than Sexual**
24 **Harassment**
25

26 The following procedures apply to employee complaints of discrimination, harassment,
27 bullying, unethical conduct or a hostile or abusive work environment that do **not**
28 constitute sexual harassment. (Section II of this regulation outlines the sexual harassment
29 grievance process.)

30
31 **A. Report**
32

33 Any person who believes they have not received equal employment opportunities in
34 accordance with Policy GB or who has been subjected to harassment, bullying, a
35 hostile or abusive work environment or unethical conduct as defined in Policy
36 GBA/JFHA should report the alleged behavior or incident as soon as possible to the
37 Title IX Coordinator or to one of the Compliance Officers designated in this
38 regulation. (If a report is made to the Compliance Officers or another staff member,
39 they will promptly notify the Title IX Coordinator.)
40

41 The alleged behavior or incident should be reported as soon as possible, and the
42 report generally should be made within 15 school days of the occurrence. (“School
43 days” are days when ACPS schools are in session.) Further, any employee who has
44 knowledge of conduct which may constitute prohibited discrimination, harassment or
45 bullying shall report such conduct to the Title IX Coordinator or one of the

46 Compliance Officers listed in this regulation. If the complaint is against the
47 Compliance Officer, the complaint can be made to the Superintendent. Reports
48 received by the Compliance Officer or Superintendent are shared with the Title IX
49 Coordinator, who makes an initial determination whether the allegations may be
50 sexual harassment prohibited by Title IX.

51
52 **The Title IX Coordinator may be contacted at:**

53
54 Title IX Coordinator
55 Executive Director of Equity & Alternative Programs
56 Alexandria City Public Schools
57 1340 Braddock Place
58 Alexandria, VA 22314
59 703-619-8165
60 titleixcoordinator@acps.k12.va.us

61
62 **The Compliance Officer (for staff) may be contacted at:**

63
64 Executive Director of Human Resources
65 Alexandria City Public Schools
66 1340 Braddock Place, Alexandria, VA 22314
67 703-619-8010
68 staff.compofficer@acps.k12.va.us

69
70 **The Alternate Compliance Officer (for staff) may be contacted at:**

71
72 Director of Employee Engagement and Relations
73 Alexandria City Public Schools
74 1340 Braddock Place, Alexandria, VA 22314
75 703-619-8169
76 staff.compofficer@acps.k12.va.us

77
78 The person making the report should use form GB-F/GBA-F posted on the ACPS
79 website, to make complaints of discrimination, harassment, bullying, a hostile or
80 abusive work environment or unethical conduct. However, oral reports and other
81 written reports are also accepted.

82
83 The complaint, the identity of the person allegedly subjected to the prohibited
84 conduct and the person or persons allegedly responsible for the conduct will be
85 disclosed only to the extent necessary to fully investigate the complaint and only
86 when such disclosure is required or permitted by law. Additionally, a person who has
87 allegedly been discriminated against, harassed, bullied or subjected to a hostile or
88 abusive work environment or unethical conduct and who wishes to remain
89 anonymous is advised that such confidentiality may limit ACPS' ability to fully

90 respond to the complaint.

91
92 Anonymous reports may be made to the Compliance Officer through the Department
93 of Human Resources:

94
95 **Human Resources – Compliance Officer**

96 Alexandria City Public Schools

97 1340 Braddock Place, 5th Floor

98 Alexandria, VA 22314

99 Phone: 703-619-8010

100 staff.compofficer@acps.k12.va.us

101
102 In such cases, the Compliance Officer shall review the complaint and determine if an
103 investigation is warranted and, if so, issue a written report to the Superintendent upon
104 completion of the investigation. In addition, the Compliance Officer will submit a
105 report of all anonymous complaints received to the Superintendent annually.

106
107 After receiving a complaint, the Title IX Coordinator makes an initial determination
108 whether the allegations may be sexual harassment. If they may be, the Grievance
109 Process in Section II of this regulation is followed. If the allegations do not constitute
110 sexual harassment, then the complaint is referred to the Compliance Officer, who
111 follows the procedures below.

112
113 The Title IX Coordinator, in conjunction with the Compliance Officer, also
114 determines whether the alleged conduct may also constitute criminal conduct and
115 ensures that law enforcement officials are notified if necessary.

116
117 If the alleged conduct may also constitute child abuse, it is reported to the
118 Department of Social Services in accordance with Policy GAE: *Child Abuse and*
119 *Neglect Reporting*.

120
121 B. Investigation

122
123 1. Generally

124
125 The Compliance Officer:

- 126 ● Receives complaints of discrimination, harassment, bullying, a hostile or
127 abusive work environment or unethical conduct referred by the Title IX
128 Coordinator;
- 129 ● Conducts or oversees the investigation of the alleged conduct referred by the
130 Title IX Coordinator;
- 131 ● Assesses the training needs of the school division in connection with
132 complaints referred by the Title IX Coordinator;
- 133 ● Arranges necessary training; and
- 134 ● Ensures that any investigation is conducted by an impartial investigator who is

135 trained in the requirements of equal employment/education opportunity and
136 has the authority to protect the alleged victim and others during the
137 investigation.

138 139 2. Compliance Officer Formal Procedure

140
141 Upon receiving a written, attributed (not anonymous) complaint of alleged
142 discrimination, harassment, bullying, a hostile or abusive work environment or
143 unethical conduct from the Title IX Coordinator, the Compliance Officer
144 immediately authorizes or undertakes an investigation. The investigation may be
145 conducted by school personnel or a third party designated by the Compliance
146 Officer. The investigation shall be completed as soon as practicable, which
147 generally should not be later than 14 school days after referral of the complaint to
148 the Compliance Officer. Upon receiving the complaint, the Compliance Officer
149 will acknowledge receipt of the complaint by giving written notice that the
150 complaint has been received to both the person subjected to the alleged,
151 prohibited conduct and the person(s) allegedly responsible for it. Upon receiving
152 the complaint, the Compliance Officer also determines whether interim measures
153 should be taken pending the outcome of the investigation. Such interim measures
154 may include, but are not limited to, separating the person complaining of the
155 prohibited conduct and the person or persons allegedly responsible for it. If the
156 Compliance Officer determines that more than 14 school days will be required to
157 investigate the complaint, the person allegedly discriminated against, harassed,
158 bullied, or subjected to the hostile or abusive work environment or unethical
159 conduct and the person(s) allegedly responsible for the prohibited conduct will be
160 notified of the reason for the extended investigation and the date by which the
161 investigation will be concluded.

162
163 The investigation may consist of personal interviews with the person allegedly
164 subjected to the conduct, the person(s) alleged to have engaged in the prohibited
165 conduct or otherwise violated Policies GB or GBA/JFHA, and any others who
166 may have knowledge of the circumstances giving rise to the complaint. The
167 investigation will consider witnesses and evidence from both the person allegedly
168 subjected to the conduct and the person(s) allegedly responsible for the prohibited
169 conduct. The investigation may also consist of the inspection of any other
170 documents or information deemed relevant by the investigator. ACPS shall take
171 necessary steps to protect the person allegedly subjected to the conduct and others
172 pending the completion of the investigation.

173
174 In determining whether alleged conduct constitutes a violation of this policy,
175 ACPS considers, at a minimum: (1) the surrounding circumstances; (2) the nature
176 of the behavior; (3) past incidents or past or continuing patterns of behavior; (4)
177 the relationship between the parties; (5) how often the conduct occurred; (6) the
178 identity of the alleged perpetrator in relation to the alleged victim (i.e., whether
179 the alleged perpetrator was in a position of power over the alleged victim); (7) the

180 location of the alleged harassment; (8) the ages of the parties; and (9) the context
181 in which the alleged incident(s) occurred. Whether a particular action or incident
182 constitutes a violation of this policy requires a case by case determination based
183 on all of the facts and circumstances revealed after a complete investigation.
184

185 C. Compliance Officer's Report

186
187 The Compliance Officer issues a written report to the Superintendent upon
188 completion of the investigation. If the complaint involves the Superintendent, then the
189 report is sent to the School Board. The report includes a determination of whether the
190 allegations are substantiated, whether Policy GB or GBA/JFHA were violated and
191 recommendations for corrective action, if any.
192

193 All employees must cooperate with any investigation of alleged discrimination,
194 harassment, bullying, unethical conduct or a hostile or abusive work environment
195 conducted under this regulation or by an appropriate state or federal agency.
196

197 D. Action by Superintendent or Designee

198
199 Within five (5) school days of receiving the Compliance Officer's report, the
200 Superintendent or designee issues a decision regarding (1) whether Policies GB or
201 GBA/JFHA were violated; and (2) what action, if any, should be taken.
202 (Circumstances may support the Superintendent's reasonable extension beyond five
203 school days for good cause.) This decision must be provided in writing to the person
204 allegedly subjected to the conduct and the person allegedly responsible for the
205 prohibited conduct. If the Superintendent or designee determines that it is more likely
206 than not that prohibited conduct occurred, ACPS will take prompt, appropriate action
207 to address and remedy the violation as well as prevent any recurrence. Such action
208 may include discipline up to and including dismissal. Whether or not the
209 Superintendent or designee determines the prohibited conduct occurred, the
210 Superintendent or designee may determine that schoolwide or Divisionwide training
211 be conducted or that the person allegedly subjected to the prohibited conduct receives
212 counseling.
213

214 For complaints regarding bullying, a hostile or abusive work environment or
215 unethical conduct
216 against employees other than the Superintendent or School Board members, the
217 Superintendent's decision is final. For such complaints against the Superintendent or
218 Board Members, the decision of the School Board is final.
219

220 If the complaint alleges that the Superintendent has violated Policies GB, GBA/JFHA
221 or this regulation, the School Board appoints a committee of three (3) School Board
222 Members at its next Board meeting to investigate the matter. The committee shall

223 make the decision and determine what action should be taken. The committee issues a
 224 written decision within 14 calendar days of the time the Board receives the
 225 Compliance Officer's report or the committee is appointed. The committee may also
 226 determine that additional information and/or an extension of the time for a decision
 227 are required. If such determination is made, the committee will notify the person
 228 making the complaint and the Superintendent in writing.

229
 230 The written decision must be mailed to or personally delivered to the person making
 231 the complaint within five calendar days of the issuance of the decision by the
 232 committee. If the Superintendent, Superintendent's designee or committee concludes
 233 that prohibited discrimination occurred, ACPS shall take prompt, appropriate action
 234 to address and remedy the violation as well as prevent any recurrence. Such action
 235 may include discipline up to and including dismissal.

236 E. Appeal

237
 238
 239 For complaints regarding discrimination and harassment, if the Superintendent,
 240 designee or Board committee determines that no prohibited discrimination or
 241 harassment occurred, the person who was allegedly subjected to the discrimination or
 242 harassment may appeal the finding to the School Board within five (5) school days of
 243 receiving the decision. Written notice of appeal must be filed with the Superintendent
 244 or with a member of the Board committee which issued the written decision, who will
 245 forward the record to the School Board. The School Board makes a decision within
 246 30 calendar days of receiving the record. The School Board may ask for oral or
 247 written argument from the aggrieved party, the Superintendent, designee, the
 248 committee, or any other individual the School Board deems relevant. Written notice
 249 of the School Board's decision will be given to both the person allegedly
 250 discriminated against or harassed, and the person or persons responsible for the
 251 alleged conduct.

252
 253 If the Superintendent or designee determines the prohibited conduct occurred and
 254 discipline is imposed, the disciplined person may appeal the sanction in the same
 255 manner as any other such sanction would be appealed.

256
 257 Employees may choose to pursue their complaints under this policy through the
 258 relevant employee grievance procedure instead of the complaint procedure in this
 259 policy.

260 F. Compliance Officer Alternative Informal Procedure

261
 262
 263 If the person allegedly subjected to the prohibited conduct and the person accused of
 264 the conduct agree, the principal, designee or supervisor of the person allegedly
 265 subjected to the conduct may, in lieu of the procedure above, arrange for them to
 266 resolve the complaint informally with the help of a counselor, teacher or
 267 administrator.

268
 269 If the person allegedly subjected to the conduct and the person accused of the
 270 prohibited conduct agree to resolve the complaint informally, they shall each be
 271 informed that they have the right to abandon the informal procedure at any time in
 272 favor of the initiation of the Compliance Officer Formal Procedure discussed above.
 273 The principal, designee or supervisor notifies the person allegedly subjected to the
 274 conduct and the person accused of the conduct in writing when the complaint has
 275 been resolved.

276
 277 **II. Sexual Harassment**

278
 279 ACPS complies with Title VII of the Civil Rights Act, as well as Title IX of the
 280 Education Amendments of 1972, which prohibit discrimination on the basis of sex,
 281 including sexual harassment and sexual violence (see Policy GBA/JFHA and Policy GB)
 282 in all school division educational programs and activities. ACPS not only complies with
 283 the letter of Title IX's requirements but also endorses the law's intent and spirit. ACPS is
 284 committed to compliance in all areas addressed by Title IX, including but not limited to,
 285 access to education, career education, math and science, standardized testing, athletics,
 286 education for pregnant and parenting students, the learning environment, technology, as
 287 well as preventing and addressing sexual harassment.

288
 289 ACPS provides educational, preventative and training programs regarding sexual or
 290 gender-based harassment and discrimination, encourages reporting incidents, prevents
 291 incidents of sexual and gender-based harassment and discrimination from denying or
 292 limiting an individual's ability to participate in or benefit from the school division
 293 programs, makes timely services available for those who have been affected by
 294 discrimination or harassment, and provides prompt and equitable methods of
 295 investigation and resolution to stop discrimination and harassment, remedy any harm,
 296 and prevent its recurrence.

297
 298 Any student, employee, or third party who engages in harassment or discrimination, or
 299 retaliates against another person because of reporting harassment or discrimination or
 300 participating in an investigation, is subject to immediate discipline, up to and including
 301 termination, dismissal, suspension and/or expulsion.

302
 303 Questions regarding Policies GB, GBA/JFHA or this regulation, including Title IX, may
 304 be directed to the Compliance Officers or the ACPS Title IX Coordinator.

305
 306 Questions regarding Title IX may also be referred to the Office of Civil Rights:

307
 308 U.S. Department of Education
 309 Assistant Secretary for Civil Rights
 310 400 Maryland Avenue, SW
 311 Washington, D.C. 20202-1328
 312 Telephone: 800-421-3481

313 TDD: 800-877-8339
314 Email: OCR@ed.gov

315
316

317 A. Title IX Definitions

318

319 **“Actual knowledge”** means notice of sexual harassment prohibited by Title IX or
320 allegations of sexual harassment prohibited by Title IX to the Title IX Coordinator or
321 any official of the school division who has authority to institute corrective measures
322 or to any employee of an elementary or secondary school.

323

324 **“Complainant”** means an individual who is alleged to be the victim of conduct that
325 could constitute sexual harassment prohibited by Title IX.

326

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

335

336 **“Program or activity”** includes locations, events or circumstances over which the
337 School Board exercises substantial control over both the respondent and the context
338 in which the sexual harassment occurs.

339

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

342

343 **“Supportive measures”** means non-disciplinary, non-punitive, individualized
344 services offered as appropriate, as reasonably available, and without fee or charge to
345 the complainant or the respondent before or after the filing of a formal complaint or
346 where no formal complaint has been filed. Such measures are designed to restore or
347 preserve equal access to the School Board’s education program or activity without
348 unreasonably burdening the other party, including measures designed to protect the
349 safety of all parties or the educational environment or deter sexual harassment.
350 Supportive measures may include counseling, extensions of deadlines or other
351 course-related adjustments, modifications of work or class schedules, campus escort
352 services, mutual restrictions on contact between the parties, changes in work
353 locations, leaves of absence, increased security or monitoring of parts of campus, and
354 other similar measures. Any supportive measures provided to the complainant or
355 respondent are maintained as confidential to the extent that maintaining such
356 confidentiality does not impair the ability to provide supportive measures. The Title
357 IX Coordinator is responsible for coordinating the effective implementation of

358 supportive measures.

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361

362 B. Grievance Process

363

364 1. Generally

365

366 Any person may report sex discrimination, including sexual harassment (whether
367 or not the person reporting is the person alleged to be the victim of conduct that
368 could constitute sex discrimination or sexual harassment), in person, by mail, by
369 telephone, or by electronic mail, using the contact information listed for the Title
370 IX Coordinator or by any other means that results in the Title IX Coordinator
371 receiving the person's verbal or written report. (If a report is made to another staff
372 member, that staff member then notifies the Title IX Coordinator.) The reporting
373 party may use the Form GB-F/GBA-F, *Report of Discrimination/Harassment*, to
374 make a complaint. Such a report may be made at any time, including non-
375 business hours, by using the telephone number, electronic mail address, or U.S.
376 mail address listed for the Title IX Coordinator.

377

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

382

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

388

389 Applicants for enrollment and employment, students, parents or legal guardians,
390 employees, and all unions or professional organizations holding collective
391 bargaining or professional agreements with the School Board are notified:

- 392 ● Of the name or title, office address, electronic mail address, and telephone
393 number of the Title IX Coordinator; and

- 394 ● That the School Board does not discriminate on the basis of sex in its
395 education program or activity and that it is required by Title IX not to
396 discriminate in such a manner. The notification states that the requirement not
397 to discriminate extends to enrollment and employment and that inquiries
398 about the application of Title IX may be referred to the Title IX Coordinator,
399 the Assistant Secretary for Civil Rights of the United States Department of
400 Education, or both.

401

402 The School Board prominently displays the contact information for the Title IX

403 Coordinator and Policies GB, GBA/JFHA and this regulation on its website and
404 in each handbook or catalog it makes available to persons listed above who are
405 entitled to notifications.

406
407 Nothing herein precludes a respondent from being removed from the School
408 Board's education program or activity on an emergency basis, provided that an
409 individualized safety and risk analysis determines that an immediate threat to the
410 physical health or safety of any student or other individual arising from the
411 allegations of sexual harassment justifies removal, and that the respondent is
412 provided with notice and an opportunity to challenge the decision immediately
413 following the removal.

414
415 Nothing in this regulation precludes a non-student employee respondent from
416 being placed on administrative leave during the pendency of a grievance process.

417
418 This grievance process treats complainants and respondents equitably by
419 providing remedies to a complainant where a determination of responsibility for
420 sexual harassment has been made against the respondent, and by following this
421 process before the imposition of any disciplinary sanctions or other actions that
422 are not supportive measures against a respondent. Remedies are designed to
423 restore or preserve equal access to the School Board's education program or
424 activity.

425
426 The respondent is presumed not responsible for the alleged conduct until a
427 determination regarding responsibility is made at the conclusion of the grievance
428 process.

429
430 All relevant evidence is evaluated objectively. Credibility determinations are not
431 based on a person's status as a complainant, respondent, or witness.

432
433 Any Title IX Coordinator, investigator, decision-maker, or any person who
434 facilitates an informal resolution process may not have a conflict of interest or
435 bias for or against complainants or respondents generally or an individual
436 complainant or respondent.

437
438 Title IX Coordinators, investigators, decision-makers, and any person who
439 facilitates an informal resolution process receives training on the definition of
440 sexual harassment prohibited by Title IX, the scope of the School Board's
441 education program or activity, how to conduct an investigation and grievance
442 process including appeals, and informal resolution processes, and how to serve
443 impartially, including by avoiding prejudgment of the facts at issue, conflicts of
444 interest, and bias. Decision-makers receive training on issues of relevance of
445 questions and evidence, including when questions and evidence about the
446 complainant's sexual predisposition or prior sexual behavior are not relevant.
447 Investigators receive training on issues of relevance in order to create

448 investigative reports that fairly summarize relevant evidence.

449

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

452

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

455

456 This grievance process does not allow, rely upon, or otherwise use questions or
457 evidence that constitute, or seek disclosure of, information protected under a
458 legally recognized privilege unless the person holding such privilege has waived
459 the privilege.

460

461 2. Notice of allegations

462

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

- 465 ● Notice of the grievance process, including any informal resolution process;
466 and
- 467 ● Notice of the allegations of sexual harassment potentially constituting sexual
468 harassment prohibited by Title IX, including sufficient details known at the
469 time and with sufficient time to prepare a response before any initial
470 interview. Sufficient details include the identities of the parties involved in the
471 incident, if known, the conduct allegedly constituting sexual harassment
472 prohibited by Title IX, and the date and location of the alleged incident, if
473 known.

474

475 The written notice:

- 476 ● Includes a statement that the respondent is presumed not responsible for the
477 alleged conduct and that a determination regarding responsibility is made at
478 the conclusion of the grievance process;
- 479 ● Informs the parties that they may have an advisor of their choice, who may
480 be, but is not required to be, an attorney, and may inspect and review
481 evidence; and
- 482 ● Informs the parties of any provisions in the Student Code of conduct or the
483 Employee Standards of Conduct that prohibit knowingly making false
484 statements or knowingly submitting false information during the grievance
485 process.

486

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

491

492 3. Dismissal of Formal Complaints

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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 Student Code of Conduct or the Employee Standards of 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.

4. 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 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 or respondent is not limited in any meeting or grievance proceeding.

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

541
 542 The investigator provides both parties an equal opportunity to inspect and review
 543 any evidence obtained as part of the investigation that is directly related to the
 544 allegations raised in a formal complaint, including the evidence which will not be
 545 relied upon in reaching a determination regarding responsibility and evidence,
 546 whether obtained from a party or other source, so that each party can
 547 meaningfully respond to the evidence prior to conclusion of the investigation.
 548 Prior to the completion of the investigative report, the investigator must send to
 549 each party and the party's advisor, if any, the evidence subject to inspection and
 550 review in an electronic format or a hard copy, and the parties must have at least
 551 10 days to submit a written response, which the investigator will consider prior to
 552 completion of the investigative report.

553
 554 The investigator creates an investigative report that fairly summarizes relevant
 555 evidence and, at least 10 days prior to the time a determination regarding
 556 responsibility is made, sends to each party and the party's advisor, if any, the
 557 investigative report in an electronic format or a hard copy, for their review and
 558 written response.

559
 560 After the investigator has sent the investigative report to the parties and before
 561 reaching a determination regarding responsibility, the decision-maker must afford
 562 each party the opportunity to submit written, relevant questions that the party
 563 wants asked of any party or witness, provide each party with the answers, and
 564 allow for additional, limited follow-up questions from each party. Questions and
 565 evidence about the complainant's sexual predisposition or prior sexual behavior
 566 are not relevant, unless such questions and evidence about the complainant's prior
 567 sexual behavior are offered to prove that someone other than the respondent
 568 committed the conduct alleged by the complainant, or if the questions and
 569 evidence concern specific incidents of the complainant's prior sexual behavior
 570 with respect to the respondent and are offered to prove consent. The decision-
 571 maker(s) must explain to the party proposing the question any decision to exclude
 572 a question as not relevant.

573 574 5. Determination Regarding Responsibility

575
 576 The decision-maker, who cannot be the same person as the Title IX Coordinator
 577 or the investigator, must issue a written determination regarding responsibility.

578
 579 The written determination must include:
 580 ● Identification of the allegations potentially constituting sexual harassment;
 581 ● A description of the procedural steps taken from the receipt of the formal
 582 complaint through the determination, including any notifications to the

- 583 parties, interviews with parties and witnesses, site visits, and methods used to
 584 gather other evidence;
- 585 ● Findings of fact supporting the determination;
 - 586 ● Conclusions regarding the application of the Student Code of Conduct or the
 587 Employee Standards of Conduct to the facts;
 - 588 ● A statement of, and rationale for, the result as to each allegation, including a
 589 determination regarding responsibility, any disciplinary sanctions the School
 590 Board imposes on the respondent, and whether remedies designed to restore
 591 or preserve equal access to the School Board’s education program or activity
 592 will be provided to the complainant; and
 - 593 ● The procedures and permissible bases for the complainant and respondent to
 594 appeal.

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

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

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

607 6. Appeals

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

- 611 ● Procedural irregularity that affected the outcome of the matter;
- 612 ● New evidence that was not reasonably available at the time the determination
 613 regarding responsibility or dismissal was made, that could affect the outcome
 614 of the matter; and
- 615 ● The Title IX Coordinator, investigator, or decision-maker had a conflict of
 616 interest or bias for or against complainants or respondents generally or the
 617 individual complainant or respondent that affected the outcome of the matter.

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

621 As to all appeals, the Title IX Coordinator:

- 622 ● Notifies the other party in writing when an appeal is filed and implements
 623 appeal procedures equally for both parties;
- 624 ● Ensures that the decision-maker for the appeal is not the same person as the
 625 decision-maker that reached the determination regarding responsibility or
 626 dismissal, the investigator, or the Title IX Coordinator; and
- 627 ● Ensures that the decision-maker for the appeal complies with the standards set

628 forth in Title IX and this regulation.

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- The appeal decision-maker (Superintendent):
- 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.

7. 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 five (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 paused 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, but is not limited to, 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.

8. 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

673 resolution process, the other party must respond to the request within three (3)
 674 days. The informal resolution process must be completed within 10 days of the
 675 agreement to participate in the process.

676
 677 The informal resolution process may be facilitated by a trained educational
 678 professional, consultant, or other individual selected by the Title IX Coordinator
 679 under the following conditions:

- 680 ● The parties are provided a written notice disclosing the allegations, the
 681 requirements of the informal resolution process, including the circumstances
 682 under which it precludes the parties from resuming a formal complaint arising
 683 from the same allegations; provided, however that at any time prior to
 684 agreeing to a resolution, any party has the right to withdraw from the informal
 685 resolution process, resume the grievance process with respect to the formal
 686 complaint, and be informed of any consequences resulting from participating
 687 in the informal resolution process, including the records that will be
 688 maintained or could be shared;
- 689 ● The parties, voluntarily and in writing, consent to the informal resolution
 690 process; and
- 691 ● The informal resolution process cannot be used to resolve allegations that an
 692 employee sexually harassed a student.

693
 694 If the matter is resolved to the satisfaction of the parties, the facilitator shall
 695 document the nature of the complaint and the resolution, have both parties sign
 696 the documentation and receive a copy, and forward it to the Title IX Coordinator.
 697 If the matter is not resolved, the formal complaint process is resumed.

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

700
 701 An informal resolution process is not offered unless a formal complaint is filed.

702 703 9. Recordkeeping

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 705 The School Board will maintain for a period of seven (7) years records of:

- 706 ● Each investigation of allegations of sexual harassment prohibited by Title IX
 707 including any determination regarding responsibility and any audio or
 708 audiovisual recording or transcript, if any, required under the Title IX
 709 regulations, any disciplinary sanctions imposed on the respondent, and any
 710 remedies provided to the complainant designed to restore or preserve equal
 711 access to School Board's education program or activity;
- 712 ● Any appeal and the result therefrom;
- 713 ● Any informal resolution and the result therefrom; and
- 714 ● All materials used to train Title IX Coordinators, investigators, decision-
 715 makers, and any person who facilitates an informal resolution process. These
 716 materials will also be made available on the ACPS website.

718 For each response required under 34 C.F.R. § 106.44, the School Board must
 719 create, and maintain for a period of seven (7) years, records of any actions,
 720 including any supportive measures, taken in response to a report or formal
 721 complaint of sexual harassment prohibited by Title IX. In each instance, the
 722 School Board will document the basis for its conclusion that its response was not
 723 deliberately indifferent, and document that it has taken measures designed to
 724 restore or preserve equal access to its education program or activity. If the School
 725 Board does not provide a complainant with supportive measures, then it will
 726 document the reasons why such a response was not clearly unreasonable in light
 727 of the known circumstances.

728
 729 Any mandatory provision of the federal Title IX regulation (34 C.F.R. Part 106) that
 730 is not expressly set forth in this Regulation is incorporated by this reference.

731
 732 Revised: September 14, 2017
 733 Revised: June 17, 2021
 734 Revised: December 16, 2021

735
 736 Legal Refs.: Americans with Disabilities Act of 1990.
 737 Title VII of the Civil Rights Act of 1964.
 738 Title IX of the Education Amendments of 1972.
 739 Section 504 of the Rehabilitation Act of 1973.
 740 *Sexual Harassment Guidance: Harassment of Students by*
 741 *School Employees, Other Students, or Third Parties*, Office of Civil Rights.
 742 20 U.S.C. §§ 1681-1688.
 743 29 U.S.C. § 621, 794.
 744 42 U.S.C. §§ 2000d-2000d-7.
 745 42 U.S.C. §§2000d-2000d-17.
 746 34 CFR Part 106.

747
 748 Code of Virginia, 1950 as amended, §§2.2-3900, 2.2-3901, 2.2-3902, 22.1-23.3,
 749 22.1-291.4, 22.1-295.2.

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 751
 752 Cross Refs.: AC Nondiscrimination
 753 AD Educational Philosophy
 754 BCE School Board Committees
 755 GB Nondiscrimination in Employment
 756 GB-F/GBA-F Report of Discrimination/Harassment
 757 GBA/JFHA Prohibition Against Harassment, Bullying, Hostile or
 758 Abusive Work Environment and Retaliation
 759 GBM Licensed Staff Grievances

760	GBMA	Support Staff Grievances
761	GCPD	Professional Staff Members, Contract Status and Discipline
762	GDPD	Support Staff Members; Contract Status and Discipline
763	JB	Nondiscrimination in Education
764	JB-R/JFHA-R	Procedures for Investigating Student Complaints of
765		Discrimination, Harassment and Bullying
766	JFC	Student Conduct
767	JHG	Child Abuse and Neglect Reporting
768	KKA	Service Animals in Public Schools
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