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2 **PROCEDURES FOR INVESTIGATING STUDENT COMPLAINTS OF**
3 **DISCRIMINATION, HARASSMENT AND BULLYING**
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6 Alexandria City Public Schools (ACPS) is committed to maintaining a safe, welcoming, and
7 friendly environment that fosters a spirit of mutual trust and respect, and is free from the
8 discrimination, harassment or bullying of students, employees or other members of the school
9 community. Such conduct is offensive, damages morale, undermines the integrity of the
10 educational or employment experience and impairs the productivity and stability of the school
11 division.

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13 Any employee or candidate for employment who believes they have been discriminated against,
14 harassed, bullied or subjected to a hostile work environment in violation of Policies GB,
15 GBA/JFHA or any applicable state or federal nondiscrimination or harassment law, should report
16 the complaint according to the procedures in Regulation GB-R/GBA-R: *Procedures for*
17 *Investigating Staff Complaints of Discrimination, Harassment, Bullying, Hostile Work*
18 *Environment and Unethical Conduct.*

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20 Any person who believes a student has been discriminated against, harassed or bullied by anyone
21 on school property or during a school activity in violation of Policies JB, GBA/JFHA or any
22 applicable state or federal nondiscrimination or harassment law should report the complaint as
23 outlined below.

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25 **I. Student Complaint Procedures for Discrimination, Bullying or Harassment Other**
26 **than Sexual Harassment**
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28 The following procedures apply to reports of discrimination, harassment or bullying of a
29 student that **do not** constitute sexual harassment prohibited by Title IX. (Section II of this
30 regulation outlines the Title IX grievance process.)
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32 A. Report
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34 Any student who believes he/she/they have been the victim of prohibited
35 discrimination, harassment or bullying should report the alleged behavior or incident
36 as soon as possible to the Title IX Coordinator, to one of the Compliance Officers
37 designated in this regulation or to any other school personnel. (If a report is made to
38 another staff member, that staff member notifies the Title IX Coordinator.) The
39 alleged behavior or incident should be reported as soon as possible, and the report
40 generally should be made within fifteen (15) school days of the occurrence. Further,
41 any student who has knowledge of conduct which may constitute prohibited
42 discrimination, harassment or bullying should report the conduct to one of the
43 Compliance Officers or to any school personnel. **Any employee who has knowledge**
44 **of conduct which may constitute prohibited discrimination, harassment or**
45 **bullying shall immediately report such conduct to one of the Compliance**
46 **Officers.**

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The person reporting the prohibited conduct should use Form JB-F/JFHA-F: Report of Discrimination/Harassment. However, oral reports and other written reports are also accepted. The complaint should be filed with either the building principal or one of the Compliance Officers. The principal immediately forwards any such report to the Compliance Officer. Any complaint that involves the Compliance Officer is reported to the Superintendent. Reports received by the Compliance Officer or Superintendent are shared with the Title IX Coordinator, who makes an initial determination whether the allegations may be sexual harassment prohibited by Title IX.

The complaint, the identity of the person making the complaint and the identity of the person or persons allegedly responsible for the discrimination, harassment or bullying will not be disclosed except as required by law or policy, as necessary to fully investigate the complaint, or as authorized by the person reporting it. A person making a report who wishes to remain anonymous will be advised that such confidentiality may limit the school division’s ability to respond fully to the reported discrimination, harassment or bullying.

After receiving a 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 in section II of this regulation is followed. If the allegations do not constitute sexual harassment prohibited by Title IX, then the complaint is referred to the Compliance Officer, who follows the procedures in this section of the regulation.

The Title IX Coordinator, in conjunction with the Compliance Officer, determines whether the alleged discrimination, harassment or bullying may also constitute criminal conduct and ensures that law enforcement officials are notified if necessary.

If the alleged discrimination, harassment or bullying may also constitute child abuse, then it is reported to the Department of Social Services in accordance with Policy GAE: *Child Abuse and Neglect Reporting*.

B. Investigation

1. Generally

- The Compliance Officer:
- Receives complaints of discrimination, harassment or bullying referred by the Title IX Coordinator;
 - Conducts or oversees the investigation of any alleged discrimination, harassment or bullying 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 discrimination, harassment or bullying 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.

2. Compliance Officer Formal Procedure

Upon receiving a complaint of alleged prohibited discrimination, harassment or bullying from the Title IX Coordinator, the Compliance Officer immediately authorizes or undertakes 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 should generally be no later than 14 school days after referral of the complaint to the Compliance Officer. Upon receiving the complaint, the Compliance Officer acknowledges receipt of the complaint by giving written notice that the complaint has been received, to both the person complaining of the prohibited conduct and the person or persons allegedly responsible for it. Upon receiving the complaint, the Compliance Officer also determines whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the person complaining of the prohibited conduct and the person or persons allegedly responsible for it. If the Compliance Officer determines that more than 14 school days will be required to investigate the complaint, the person making the complaint and the person or persons allegedly responsible for the prohibited conduct will 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 discriminated against, harassed or bullied, the person or persons allegedly responsible for the prohibited conduct, and any others who may have knowledge of it or the circumstances giving rise to the complaint. The investigation will consider witnesses and evidence from both the person allegedly discriminated against, harassed or bullied and the person or persons responsible for the alleged conduct. The investigation may also include the inspection of any documents or information deemed relevant by the investigator. ACPS shall take necessary steps to protect the person allegedly discriminated against, harassed or bullied and others pending the completion of the investigation.

In determining whether alleged conduct constitutes a violation of this policy, ACPS considers, 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 conduct; (8) the ages of the parties; and (9) the context

138 in which the alleged incident(s) occurred. Whether a particular action or incident
139 constitutes a violation of Policies JB or GBA/JFHA requires a case by case
140 determination based on all of the facts and circumstances revealed by a complete
141 and thorough investigation.

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143 3. Compliance Officer’s Report
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145 The Compliance Officer issues a written report to the Superintendent upon
146 completion of the investigation. If the complaint involves the Superintendent, then
147 the report is sent to the School Board. The report includes a determination of
148 whether the allegations are substantiated, whether Policies JB or GBA/JFHA were
149 violated and recommendations for corrective action, if any.

150
151 All employees must cooperate with any investigation of alleged discrimination,
152 harassment or bullying conducted under this regulation or by an appropriate state or
153 federal agency.
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155 C. Action by Superintendent or Designee
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157 Within five (5) school days of receiving the Compliance Officer’s report, the
158 Superintendent or designee issues a decision regarding (1) whether Policies JB or
159 GBA/JFHA were violated; and (2) what action, if any, should be taken.
160 (Circumstances may support the Superintendent’s reasonable extension beyond five
161 school days for good cause.) This decision must be provided in writing to the person
162 allegedly discriminated against, harassed or bullied and the person allegedly
163 responsible for the prohibited conduct. If the Superintendent or designee determines
164 that it is more likely than not that prohibited conduct occurred, ACPS will take
165 prompt, appropriate action to address and remedy the violation as well as prevent any
166 recurrence. Such action may include discipline up to and including expulsion or
167 discharge. Whether or not the Superintendent or designee determines the prohibited
168 conduct occurred, the Superintendent or designee may determine that schoolwide or
169 divisionwide training be conducted, or that the person allegedly discriminated against,
170 harassed or bullied receives counseling.
171

172 D. Appeal
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174 If the Superintendent or designee determines that no prohibited conduct occurred, the
175 student who was allegedly subjected to the conduct may appeal this finding to the
176 School Board within five (5) school days of receiving the decision. Notice of appeal
177 must be filed with the Superintendent, who forwards the record to the School Board.
178 The School Board makes a decision within 30 calendar days of receiving the record.
179 The School Board may ask for oral or written argument from the aggrieved party, the
180 Superintendent and any other individual the School Board deems relevant. Written
181 notice of the School Board’s decision will be given to both the person allegedly

182 discriminated against, harassed or bullied and the person or persons responsible for
183 the alleged conduct.

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185 If the Superintendent or designee determines that prohibited conduct occurred and
186 discipline is imposed, the disciplined person may appeal the sanction in the same
187 manner as any other such sanction would be appealed.

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189 E. Compliance Officer Alternative Informal Procedure

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191 If the person allegedly subjected to the conduct and the person accused of the
192 prohibited conduct agree, the principal, designee or supervisor of the person allegedly
193 harassed, bullied or discriminated against may, in lieu of the procedure above,
194 arrange for them to resolve the complaint informally with the help of a counselor,
195 teacher or administrator.

196
197 If the person who was allegedly harassed, bullied or discriminated against and the
198 person accused of the conduct agree to resolve the complaint informally, they are
199 each informed that they have the right to abandon the informal procedure at any time
200 in favor of the initiation of the Compliance Officer Formal Procedure in this
201 regulation. The principal or designee notifies the student who was allegedly harassed,
202 bullied or discriminated against and the person accused of the conduct in writing
203 when the complaint has been resolved. The written notice shall state whether
204 prohibited conduct occurred.

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206 F. Contact Information for Reporting Complaints of Discrimination, Harassment and
207 Bullying

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209 The Title IX Coordinator is the staff member designated by ACPS to coordinate its
210 efforts to comply with its responsibilities under this regulation and Title IX.

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212 **The Title IX Coordinator may be contacted at:**

213
214 Title IX Coordinator
215 Executive Director of Equity & Alternative Programs
216 Alexandria City Public Schools
217 1340 Braddock Place
218 Alexandria, VA 22314
219 703-619-8165
220 titleixcoordinator@acps.k12.va.us

221
222 **The Compliance Officer (for students) may be contacted at:**

223
224 Executive Director of Student Services
225 Alexandria City Public Schools
226 1340 Braddock Place, Alexandria, VA 22314

227 703-619-8160
228 student.compofficer@acps.k12.va.us

229
230 **The Alternate Compliance Officer (for students) may be contacted at:**

231
232 Executive Director of Student Support Teams
233 Alexandria City Public Schools
234 1340 Braddock Place, Alexandria, VA 22314
235 703-619-8034
236 student.compofficer@acps.k12.va.us

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238 **II. Title IX: Discrimination and Harassment on the Basis of Sex**

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240 ACPS complies with Title IX of the Education Amendments of 1972, which prohibits
241 discrimination on the basis of sex, including sexual harassment and sexual violence (see
242 Policy GBA/JFHA and Policy JB) in all school division educational programs and
243 activities. ACPS not only complies with the letter of Title IX's requirements but also
244 endorses the law's intent and spirit. ACPS is committed to compliance in all areas
245 addressed by Title IX, including access to education, career education, math and science,
246 standardized testing, athletics, education for pregnant and parenting students, the learning
247 environment, technology, as well as preventing and addressing sexual harassment.

248
249 ACPS provides educational, preventative and training programs regarding sexual or
250 gender-based harassment and discrimination, encourages reporting incidents, prevents
251 incidents of sexual and gender-based harassment and discrimination from denying or
252 limiting an individual's ability to participate in or benefit from school division programs,
253 makes timely services available for those who have been affected by discrimination or
254 harassment, and provides prompt and equitable methods of investigation and resolution to
255 stop discrimination and harassment, remedy any harm, and prevent its recurrence.

256
257 Any student, employee, or third party who engages in harassment or discrimination, or
258 retaliates against another person because of reporting harassment or discrimination or
259 participating in an investigation, is subject to immediate discipline, up to and including
260 termination, dismissal, suspension and/or expulsion.

261
262 Questions regarding Policies JB, GBA/JFHA or this regulation, including Title IX, may
263 be directed to the Compliance Officers or the ACPS Title IX Coordinator listed above.

264
265 Questions regarding Title IX may also be referred to the Office of Civil Rights:

266
267 U.S. Department of Education
268 Assistant Secretary for Civil Rights
269 400 Maryland Avenue, SW
270 Washington, D.C. 20202-1328
271 Telephone: 800-421-3481
272 TDD: 800-877-8339
273 Email: OCR@ed.gov

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A. 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.

B. Title IX Grievance Process

1. 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 above 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. (If a report is made to another staff member, that staff member then notifies the Title IX Coordinator.) The reporting party may use the form JB-F-F/JFHA-F: *Report of Harassment*, to make a complaint. Such a report may be made at any time, including non-business hours, by using the telephone number, electronic mail address, or U.S. mail 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.

Applicants for enrollment 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 enrollment 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 Policies JB, GBA/JFHA and this regulation on its website and in each handbook or catalog it makes available to the 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

366 physical health or safety of any student or other individual arising from the
367 allegations of sexual harassment justifies removal, and that the respondent is
368 provided with notice and an opportunity to challenge the decision immediately
369 following the removal.

370
371 Nothing precludes a non-student employee respondent from being placed on
372 administrative leave during the pendency of a grievance process.

373
374 This grievance process treats complainants and respondents equitably by
375 providing remedies to a complainant where a determination of responsibility for
376 sexual harassment has been made against the respondent, and by following this
377 process before the imposition of any disciplinary sanctions or other actions that
378 are not supportive measures against a respondent. Remedies are designed to
379 restore or preserve equal access to the School Board's education program or
380 activity.

381
382 The respondent is presumed not responsible for the alleged conduct until a
383 determination regarding responsibility is made at the conclusion of the grievance
384 process.

385
386 All relevant evidence is evaluated objectively. Credibility determinations are not
387 based on a person's status as a complainant, respondent, or witness.

388
389 Any Title IX Coordinator, investigator, decision-maker, or any person who
390 facilitates an informal resolution process may not have a conflict of interest or
391 bias for or against complainants or respondents generally or an individual
392 complainant or respondent.

393
394 Title IX Coordinators, investigators, decision-makers, and any person who
395 facilitates an informal resolution process receives training on the definition of
396 sexual harassment prohibited by Title IX, the scope of the School Board's
397 education program or activity, how to conduct an investigation and grievance
398 process including appeals and informal resolution processes, and how to serve
399 impartially, including by avoiding prejudgment of the facts at issue, conflicts of
400 interest, and bias. Decision-makers receive training on issues of relevance of
401 questions and evidence, including when questions and evidence about the
402 complainant's sexual predisposition or prior sexual behavior are not relevant.
403 Investigators receive training on issues of relevance in order to create
404 investigative reports that fairly summarize relevant evidence.

405
406 A finding of responsibility may result in disciplinary action up to and including
407 expulsion for students or dismissal of employees.

408
409 The standard of evidence used to determine responsibility is preponderance of the
410 evidence.

411

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

416
417 2. Notice of allegations
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419 On receipt of a formal complaint, the Title IX Coordinator gives the following
420 written notice to the parties who are known:

- 421 ● Notice of the grievance process, including any informal resolution process;
422 and
- 423 ● Notice of the allegations of sexual harassment potentially constituting sexual
424 harassment prohibited by Title IX, including sufficient details known at the
425 time and with sufficient time to prepare a response before any initial
426 interview. Sufficient details include the identities of the parties involved in the
427 incident, if known, the conduct allegedly constituting sexual harassment
428 prohibited by Title IX, and the date and location of the alleged incident, if
429 known.

430
431 The written notice:

- 432 ● Includes a statement that the respondent is presumed not responsible for the
433 alleged conduct and that a determination regarding responsibility is made at
434 the conclusion of the grievance process;
- 435 ● Informs the parties that they may have an advisor of their choice, who may be,
436 but is not required to be, an attorney, and may inspect and review evidence;
437 and
- 438 ● Informs the parties of any provisions in the Student Code of Conduct or the
439 Employee Standards of Conduct that prohibit knowingly making false
440 statements or knowingly submitting false information during the grievance
441 process.

442
443 If, in the course of an investigation, the investigator decides to investigate
444 allegations about the complainant or respondent that are not included in the notice
445 previously provided, notice of the additional allegations is provided to the parties
446 whose identities are known.

447
448 3. Dismissal of Formal Complaints
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450 A formal complaint or any allegations therein must be dismissed if the conduct
451 alleged in the complaint:

- 452 ● Would not constitute sexual harassment prohibited by Title IX even if proved;
- 453 ● Did not occur in the School Board's education program or activity; or
- 454 ● Did not occur against a person in the United States.

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456 Such a dismissal does not preclude action under another provision of the Student
457 Code of Conduct or the Employee Standards of Conduct.

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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/guardian, 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.

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 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.

504 Prior to the completion of the investigative report, the investigator must send to
505 each party and the party’s advisor, if any, the evidence subject to inspection and
506 review in an electronic format or a hard copy, and the parties must have at least
507 10 days to submit a written response, which the investigator will consider prior to
508 completion of the investigative report.

509
510 The investigator creates an investigative report that fairly summarizes relevant
511 evidence and, at least 10 days prior to the time a determination regarding
512 responsibility is made, sends to each party and the party’s advisor, if any, the
513 investigative report in an electronic format or a hard copy, for their review and
514 written response.

515
516 After the investigator has sent the investigative report to the parties and before
517 reaching a determination regarding responsibility, the decision-maker must afford
518 each party the opportunity to submit written, relevant questions that the party
519 wants asked of any party or witness, provide each party with the answers, and
520 allow for additional, limited, follow-up questions from each party. Questions and
521 evidence about the complainant’s sexual predisposition or prior sexual behavior
522 are not relevant, unless such questions and evidence about the complainant’s prior
523 sexual behavior are offered to prove that someone other than the respondent
524 committed the conduct alleged by the complainant, or if the questions and
525 evidence concern specific incidents of the complainant’s prior sexual behavior
526 with respect to the respondent and are offered to prove consent. The decision-
527 maker(s) must explain to the party proposing the question any decision to exclude
528 a question as not relevant.

529
530 5. Determination Regarding Responsibility

531
532 The decision-maker, who cannot be the same person as the Title IX Coordinator
533 or the investigator, must issue a written determination regarding responsibility.

534
535 The written determination must include:

- 536 ● Identification of the allegations potentially constituting sexual harassment
537 prohibited by Title IX;
- 538 ● A description of the procedural steps taken from the receipt of the formal
539 complaint through the determination, including any notifications to the
540 parties, interviews with parties and witnesses, site visits, and methods used to
541 gather other evidence;
- 542 ● Findings of fact supporting the determination;
- 543 ● Conclusions regarding the application of the Student Code of Conduct or the
544 Employee Standards of Conduct to the facts;
- 545 ● A statement of, and rationale for, the result as to each allegation, including a
546 determination regarding responsibility, any disciplinary sanctions the School
547 Board imposes on the respondent, and whether remedies designed to restore or
548 preserve equal access to the School Board’s education program or activity will
549 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.

6. 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 regulation.

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.

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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 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 resolution process, the other party must respond to the request within three 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

642 resolution process, resume the grievance process with respect to the formal
643 complaint, and be informed of any consequences resulting from participating
644 in the informal resolution process, including the records that will be
645 maintained or could be shared;

- 646 ● The parties, voluntarily and in writing, consent to the informal resolution
647 process; and
- 648 ● The informal resolution process cannot be used to resolve allegations that an
649 employee sexually harassed a student.

650
651 If the matter is resolved to the satisfaction of the parties, the facilitator shall
652 document the nature of the complaint and the resolution, have both parties sign
653 the documentation and receive a copy, and forward it to the Title IX Coordinator.
654 If the matter is not resolved, the formal complaint process is resumed.

655
656 Parties cannot be required to participate in an informal resolution process.

657
658 An informal resolution process is not offered unless a formal complaint is filed.

659
660 9. Recordkeeping

661
662 The School Board will maintain for a period of seven (7) years records of:

- 663 ● Each investigation of allegations of sexual harassment prohibited by Title IX
664 including any determination regarding responsibility and any audio or
665 audiovisual recording or transcript, if any, required under the Title IX
666 regulations, any disciplinary sanctions imposed on the respondent, and any
667 remedies provided to the complainant designed to restore or preserve equal
668 access to School Board's education program or activity;
- 669 ● Any appeal and the result therefrom;
- 670 ● Any informal resolution and the result therefrom; and
- 671 ● All materials used to train Title IX Coordinators, investigators, decision-
672 makers, and any person who facilitates an informal resolution process. These
673 materials will also be made available on the ACPS website.

674
675 For each response required under 34 C.F.R. § 106.44, the School Board must
676 create, and maintain for a period of seven (7) years, records of any actions,
677 including any supportive measures, taken in response to a report or formal
678 complaint of sexual harassment prohibited by Title IX. In each instance, the
679 School Board will document the basis for its conclusion that its response was not
680 deliberately indifferent, and document that it has taken measures designed to
681 restore or preserve equal access to its education program or activity. If the School
682 Board does not provide a complainant with supportive measures, then it will
683 document the reasons why such a response was not clearly unreasonable in light
684 of the known circumstances.

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686 Adopted: December 3, 1996
687 Amended: July 6, 2000

688 Amended: June 21, 2001
689 Amended: December 18, 2014
690 Amended: June 17, 2021
691
692 Legal Refs: 20 U.S.C. §§ 1681-1688.
693 29 U.S.C. §§ 794.
694 42 U.S.C. §§ 2000d through 2000d-7.
695
696 34 CFR 106.9.
697
698 Code of Virginia, 1950 as amended, §§ 2.2-3900, 2.2-3901, 2.2-3902,
699 22.1-212.6:1.
700
701 Cross Refs: AC Nondiscrimination
702 AD Educational Philosophy
703 GB Nondiscrimination in Employment
704 GB-R/GBA-R Procedures for Investigating Staff Complaints of
705 Discrimination, Harassment, Bullying, Hostile
706 Work Environment and Unethical Conduct
707 JB Nondiscrimination in Education
708 JB-F/JFHA-F Report of Discrimination/Harassment
709 JBA Section 504 Nondiscrimination Policy and
710 Hearings Procedures
711 JFHA/GBA Prohibition Against Harassment, Bullying, Hostile
712 Work Environment and Retaliation
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