

I. Policy Statement

The Board of Education of Howard County is committed to providing an educational and work environment that is free from sexual discrimination, sexual harassment, and sexual misconduct. The board is also committed to fostering a climate where individuals are valued and their safety and rights are protected. To that end, the Board prohibits discrimination on the basis of sex, sexual orientation, gender identity and/or gender expression, in its educational program, co-curricular and extra-curricular activities, community partnerships, and in the workplace, in accordance with federal law. The Board recognizes that sexual misconduct is a form of discrimination on the basis of sex prohibited under Title VII of the Civil Rights Act of 1964, as amended in 1972 and 1991, and Title IX of the Education Amendments Act of 1972.

Students, employees, and third parties share responsibility for maintaining a school and work environment free from sexual discrimination, sexual harassment, and sexual misconduct. Employees, students, and third parties may be subject to disciplinary action or consequences for inappropriate behavior including that of a sexual nature, even when the behavior does not rise to the level of sexual discrimination as defined by prevailing federal and state laws. No person will be subjected to retaliation for opposing or reporting any practice deemed to violate this policy.

II. Purpose

The purpose of this policy is to set clear expectations for behaviors that promote an inclusive and equitable environment and provide guidelines for students, employees, and third parties in preventing, recognizing, reporting and addressing instances of sexual misconduct in accordance with this policy and with local, state, and federal requirements.

III. Definitions

Within the context of this policy, the following definitions apply:

- A. Gender Expression – The external manifestation of one's gender identity, usually expressed through behavior, clothing, haircut, voice or body characteristics.
- B. Gender Identity – One's internal, personal sense of his/her/their own gender.
- C. Parent – Any one of the following, recognized as the adult(s) legally responsible for the student:

1. Biological Parent – A natural parent whose parental rights have not been terminated.
 2. Adoptive Parent – A person who has legally adopted the student and whose parental rights have not been terminated.
 3. Custodian – A person or an agency appointed by the court as the legal custodian of the student and granted parental rights and responsibilities.
 4. Guardian – A person who has been placed by the court in charge of the affairs of the student and granted parental rights and responsibilities.
 5. Caregiver – An adult resident of Howard County who exercises care, custody or, control over the student, but is neither the biological parent nor legal guardian, as long as the person satisfies the requirements of the Education Article, §7-101 (c) (Informal Kinship Care).
 6. Foster Parent – An adult approved to care for a child who has been placed in their home by a state agency or a licensed child placement agency as provided by the Family Law Article, §5-507.
- D. Respondent – An individual named by a complainant as allegedly violating the policy.
- E. Retaliation – The act or process of threatening or otherwise penalizing a person for reporting an alleged violation of policy or for participating in an investigation of an alleged violation.
- F. School-Related Activity – Any school system activity, on or off school property, in which a student directly participates (e.g., school field trip, athletic event, or class/graduation activity), or an activity in which the student does not directly participate but represents the school or student body simply by being present (e.g., spectator at a school event).
- G. Sexual Discrimination – Any act or omission due to an individual’s actual or perceived sex, sexual orientation, gender, gender identity, or gender expression (including transgender or gender nonconforming) that creates an intimidating, hostile, or offensive working or educational environment; or substantially interferes with an individual’s ability to work, learn, or otherwise is sufficiently serious to limit an individual’s employment opportunities, or to limit a student’s ability to participate in or benefit from the educational program.
- H. Sexual Harassment – A form of sexual discrimination that involves unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, nonverbal or physical conduct of a sexual nature that takes place under any of the following contexts:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment or educational environment or status; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting the individual's environment or status; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive environment.

Examples of sexual harassment include but are not limited to:

1. Spreading rumors about or evaluating someone for their sexual behavior.
 2. Taunting or ridiculing someone because of perceived or actual sexual orientation, gender identity, or gender expression.
 3. Visual harassment such as derogatory posters, photography, cartoons, drawings, clothing, or gestures communicated in person or electronically.
 4. Pressuring someone for sexual activity.
 5. Sharing or pressuring someone to share (including electronically) sexually explicit material.
 6. Offensive language (epithets, dirty jokes, derogatory comments, or slurs of a sexual nature) communicated verbally or in writing, including electronic formats and social media.
- I. Sexual Misconduct – An all-inclusive term encompassing discriminatory and/or unwelcome behavior of a sexual nature including but not limited to sexual discrimination, sexual harassment, and sexual violence Sexual misconduct can be committed by a person of any gender identity and it can occur between people of the same or different gender, gender identity, or gender expression.
- J. Sexual Orientation – The nature of an individual's physical, romantic, emotional and/or spiritual attraction to another person.
- K. Sexual Violence – The use of force or manipulation to engage in physical sexual activity with an individual without their consent. Consent may be absent due to an individual's age, the presence of a disability, and/or influence of alcohol or other drugs, amongst other reasons that limit an individual's capacity to provide consent.
- L. Third Party – Parents, mentors, volunteers, vendors, contractors, and others with whom students or employees interact during school or school-related activities.

- M. Title IX – Title IX of the Education Amendments of 1972, the 1975 implementing regulation, and any memoranda, directives, guidelines, or subsequent legislation that may be issued or enacted. This law states:
- No person in the United States shall, on the basis of sex, be excluded from participating in, be denied the benefit of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.*
- N. Title IX Coordinator – The employee(s) designated to coordinate efforts to comply with and carry out responsibilities under this policy and the law.
- O. Title VII – Title VII of the Civil Rights Act of 1964, a federal anti-discrimination statute that prohibits sexual harassment in the workplace.
- P. Transgender – An umbrella term that describes people whose gender identity and/or gender expression differs from the sex they were assigned at birth.

IV. Standards

- A. It is a violation of this policy for any student, employee, or third party to engage in sexual misconduct.
- B. It is a violation of this policy for any student, employee, or third party to engage in retaliation with regard to complaints of sexual misconduct.
- C. Student, employee, or third party behavior may be severe enough to violate federal and state laws prohibiting sexual discrimination in educational institutions and the workplace (e.g., Title IX., Title VII.).
- D. Sexual violence and other conduct prohibited by this policy may require a referral to the appropriate law enforcement agencies. Therefore, individuals may be subject to criminal charges.
- E. Sexual misconduct of a student may also constitute child abuse and such cases must be addressed and reported to appropriate law enforcement and social services agencies in accordance with Policy 1030 Child Abuse and Neglect.
- F. Other forms of gender discrimination and harassment are addressed under Policy 1010 Anti-Discrimination, Policy 1040 Safe and Supportive Schools, Policy 1060 Bullying, Cyberbullying, Harassment and Intimidation, and Policy 7030 Employee Conduct and Discipline.
- G. Notice that sexual misconduct is prohibited in the HCPSS will be communicated to all students, parents, employees, and the community annually via customary channels.

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- H. The HCPSS will provide periodic training for employees on the substance of this policy.
 - I. Sexual misconduct reporting forms such as the Bullying, Cyberbullying, Harassment, or Intimidation Reporting Form and the Employee/Third Party Sexual Harassment Complaint Form will be easily accessible to students, employees, and third parties both electronically and in print form.
 - J. A student may file a complaint alleging sexual misconduct orally or in writing with a teacher, school counselor, school-based administrator, or directly with the Title IX Coordinator. All reports filed with a teacher, school counselor or school-based administrator will be forwarded to the Title IX Coordinator who will oversee and support the investigation of the complaint.
 - K. An employee or third party may file a complaint alleging sexual misconduct orally or in writing with a school-based administrator, supervisor or directly with the Title IX Coordinator. All such reports filed with a school-based administrator or supervisor will be forwarded to the Title IX Coordinator/Designee who will conduct the investigation of the complaint.
 - L. All HCPSS employees and third parties who have been made aware of alleged sexual misconduct must report to the appropriate administrator, supervisor or Title IX Coordinator immediately.
 - M. The HCPSS will investigate allegations of sexual misconduct in a timely manner, provide interim protective measures as appropriate, and address any findings. Examples of interim protective measures include but are not limited to temporary schedule changes, additional counseling/staff support, hallway escorts, safety plans, and staff administrative leave.
 - N. In all phases of complaint resolution, every effort will be made to maintain the confidentiality and protect the privacy of all parties. These efforts may be limited by the school system's legal and regulatory obligation to investigate and address allegations of sexual misconduct.
 - O. Upon completion of an investigation of a complaint, the individual conducting the investigation will consult with the Title IX Coordinator. After consultation, that individual will send a prompt, written report of the findings and recommended corrective actions, if any, within confidentiality guidelines to the complainant and the respondent.
 - P. The complainant and the respondent are entitled to appeal the investigation findings and/or recommended corrective action. All appeals will be decided by an impartial decision-maker.

- Q. The HCPSS will take steps to prevent the reoccurrence of any acts of sexual misconduct and to remedy the discriminatory effects on the victim and others. Consequences for a student, employee, or third party who violates this policy will include steps to prevent the reoccurrence of any act of sexual misconduct and will be administered according to applicable school system policies (HCPSS Student Code of Conduct; Policy 9200 Student Discipline; Policy 7030 Employee Conduct and Discipline) and other applicable state and federal laws. Consequences for violation of this policy will include all appropriate forms of discipline including expulsion from school and termination of employment.
- R. Violations of this policy are cumulative; subsequent offenses may affect the nature and severity of the consequences.
- S. Utilization and/or exhaustion of these procedures is not a prerequisite for the filing of complaints with the Office for Civil Rights. Complaints alleging Title IX violations may be filed directly with:

The OCR office for Maryland is located at:

Philadelphia Office
Office for Civil Rights
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541
FAX: 215-656-8605; TDD: 800-877-8339
Email: OCR.Philadelphia@ed.gov

The OCR National Headquarters is located at:

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

Complaints alleging sexual discrimination against an employer may be filed directly at:

Baltimore Field Office
GH Fallon Federal Building
31 Hopkins Plaza, Suite 1432
Baltimore, MD 21201
Telephone: 800-669-4000
FAX: 410-2092221; TTY: 800-669-6820

EEOC Public Portal:

<https://publicportal.eeoc.gov/portal/Login.aspx?ReturnUrl=%2fportal%2f>

V. Responsibilities

- A. The Title IX Coordinator will fulfill any of the job duties and responsibilities of that position stated in the Title IX legislation but not herein specified, including responding in a timely manner to complaints of alleged sexual misconduct.
- B. Principals will notify students, families, third parties and employees in their schools of the provisions of this policy.
- C. Supervisors will notify those under their supervision of the provisions of this policy.
- D. The Superintendent/Designee will communicate the provisions of this policy annually through customary channels.
- E. Employees will monitor student behavior and respond appropriately to both observed and reported violations of this policy.
- F. Employees in supervisory or management positions will take steps designed to address any existing sexual misconduct by those under their supervision, to prevent any recurrence, and to correct the harmful effects of the misconduct on the complainant and others.

VI. Delegation of Authority

The Superintendent is authorized to develop procedures to implement this policy.

VII. References

- A. Legal
 - Title IX of the Education Amendments of 1972
 - Title VII of the Civil Rights Act of 1964
 - The Annotated Code of Maryland, Article 49B, Section 16
 - COMAR 13A.08.01.15 (Reporting Delinquent Acts)
- B. Other Board Policies
 - Policy 1000 Civility
 - Policy 1010 Anti-Discrimination
 - Policy 1030 Child Abuse and Neglect
 - Policy 1040 Safe and Supportive Schools
 - Policy 1060 Bullying, Cyberbullying, Harassment, or Intimidation
 - Policy 7030 Employee Conduct and Discipline
 - Policy 8080 Responsible Use of Technology and Social Media
 - Policy 9200 Student Discipline

- C. Relevant Data Sources
- D. Other
 - Bullying, Cyberbullying, Harassment, or Intimidation Reporting Form
 - Employee/Third Party Sexual Harassment Complaint Form
 - Formal Concern Form
 - HCPSS Student Code of Conduct
 - HCPSS Student Statement/Witness Form

VIII. History

ADOPTED: May 28, 1992

REVIEWED:

MODIFIED: August 14, 2014

June 11, 2015

REVISED: January 30, 2001

February 7, 2008

October 2, 2018

EFFECTIVE: July 1, 2019

**SEXUAL DISCRIMINATION, SEXUAL HARASSMENT,
AND SEXUAL MISCONDUCT**

Effective: July 1, 2019

I. Announcement/Dissemination/Training

- A. Notification regarding the provisions of Policy 1020 and these procedures will be provided on a regular basis to all students, families, employees, and third parties. Principals are responsible for notifying all students, families, third parties, and employees in their schools. Supervisors are responsible for notifying those under their supervision. Notification may be through these customary channels:
1. Announced in schools over the public address system at the beginning of the school year and at other times deemed appropriate
 2. Published in school and system newsletters and/or handbooks
 3. Posted in commonly used areas
 4. Posted on school and system websites
 5. Reviewed with students by classroom teachers or other appropriate employees
 6. Provided to new students and parents through the registration process.
- B. Training for all Howard County Public School System (HCPSS) employees will include but not be limited to:
1. Review of applicable laws and policies with regard to sexual misconduct.
 2. Duties and responsibilities as school system employees when dealing with incidents involving sexual misconduct.
 3. Education as appropriate to enhance understanding and increase awareness of Policy 1020 Sexual Discrimination, Sexual Harassment, and Sexual Misconduct.
- C. School principals will develop and implement plans to help students recognize, understand, and prevent sexual misconduct, that will include:
1. Guidelines for responding to complaints of sexual misconduct.

2. Opportunities designed to develop behaviors and attitudes that mitigate against inappropriate sexual overtures and pressures in school, work, and social settings.
 3. Using available HCPSS student materials regarding sexual misconduct.
- D. Sexual misconduct information and complaint forms will be prominently displayed in school guidance offices, published on the HCPSS website, and available upon request from the Title IX Coordinator.

II. Reporting Violations of Policy

A. General

1. Employees who receive a complaint of sexual misconduct against a student should immediately consider whether the issue may constitute child abuse. If so, Policy 1030 Child Abuse and Neglect, must be followed, including all reporting requirements.
2. Reports to the Title IX Coordinator should be directed to:

Title IX Coordinator
10910 Clarksville Pike
Ellicott City, MD 21042
410.313.6600
3. Investigations regarding complaints of sexual misconduct will be conducted in a prompt, adequate, reliable, and impartial manner, which includes an opportunity for the parties to present witnesses and other evidence.
4. Complaints will be investigated in a sensitive manner that is careful to protect the complainant from harm or blame.
5. If no formal written complaint has been filed by or on behalf of a complainant who alleges he/she/they have been subjected to conduct that constitutes sexual misconduct, any school-based administrator who receives a report of a possible violation will, in consultation with the Title IX Coordinator, cause an informal investigation to proceed and will take all necessary interim actions reasonably calculated to prevent any violations from occurring during the period before the completion of informal and formal procedures under this policy. If the informal investigation suggests that there has been a violation, the school-based administrator, in consultation with the Title IX Coordinator, will initiate a formal investigation under the procedures provided herein. If the informal investigation suggests that there has been no violation, a notice of outcome and appeal procedures will be forwarded to both parties. This informal procedure is optional and without prejudice to the complainant's right to pursue a formal complaint.

6. Timelines

a. Reporting Timeline

Prompt reporting of an alleged violation of this policy is encouraged in order to avoid compromising the quality of the investigation and so the issue can be addressed as quickly as possible. All allegations will be fully investigated regardless of the timeliness of the report.

b. Investigation Commencement

The school-based administrator or Title IX Coordinator will commence a formal investigation within two working days after the filing of an oral or written complaint under this policy, unless extenuating circumstances justify a reasonable extension of that deadline.

c. Investigation Findings

- i. The school-based administrator assigned to investigate the complaint will prepare and send to the complainant and the respondent a letter of findings within fifteen (15) calendar days of commencing the investigation, unless additional time to complete the investigation is required. In that case, the school-based administrator or investigator will report on the status of the investigation to the complainant, the respondent, and the Title IX Coordinator at the expiration of the fifteen (15) day period and every fifteen (15) calendar days thereafter.
- ii. Investigation timelines conducted by the Title IX Coordinator will be followed in accordance with Section III.A.1. and 2.
- iii. If any party is not satisfied with the outcome of the investigation conducted by a school-based administrator he/she/they may, within fifteen (15) calendar days of receipt of the written report of findings, submit a letter of appeal, stating the grounds for the appeal. Appeals on investigations conducted by the Title IX Coordinator will occur in accordance with Section A.3. All appeals will be conducted by an impartial decision-maker.

7. The HCPSS will comply with law enforcement requests for cooperation and such cooperation may require that the fact-finding aspect of the investigation to be temporarily suspended while the law enforcement agency is in the process of gathering evidence. The HCPSS will promptly resume its evidence gathering process upon notification by the law enforcement agency that it has completed the investigation. Appropriate steps will be taken during the investigation to provide for the safety of the complainant and the school community.

B. Sexual Misconduct Against Students by Other Students

1. When a student reports sexual misconduct by other students to any staff member, that staff member will report it to a teacher, school counselor, school-based administrator, or the Title IX Coordinator. Such reports may be made orally or in writing. Students are encouraged to use the Bullying, Cyberbullying, Harassment, or Intimidation Reporting Form which can be obtained from the HCPSS website, the school guidance office, or the Title IX Coordinator.
2. Any staff person who receives a complaint of sexual misconduct from a student or who believes sexual misconduct has occurred will take immediate action to report and/or stop the behavior. The school-based administrator will report the complaint to the Title IX Coordinator immediately.
3. School-based administrators receiving such complaints, regardless of how it is reported, will ensure that an investigation is conducted with sensitivity to all parties. The administrator will utilize available resources, maintain the applicable timelines, and take appropriate steps, which will include notifying the respondent(s) of the complaint(s), providing due process, implementing interim measures as needed, and contacting parents of all students involved to address any findings.
4. The Title IX Coordinator will refer complaints received directly from students alleging student to student sexual misconduct to school-based administrators for investigation and appropriate action unless the Title IX Coordinator determines that extenuating circumstances, such as significant or repeated sexual misconduct by the same offender, warrant the Title IX Coordinator's involvement.

C. Sexual Misconduct Against Students by Employees/Third Parties

1. When a student reports sexual misconduct by employees or third parties to a staff member, that staff member will promptly report it to a school-based administrator, or the Title IX Coordinator. Any complaint against an administrator will be filed with the Title IX Coordinator or appropriate supervisor. Such reports may be made orally or in writing. Students are encouraged to use the Bullying, Cyberbullying, Harassment, or Intimidation Reporting Form which can be obtained from the HCPSS website, the school guidance office or the Title IX Coordinator.
2. Administrators receiving complaints alleging sexual misconduct by a school system employee or third party must immediately notify the Title IX Coordinator.
3. School-based administrators receiving such complaints, regardless of how it is reported, will ensure that an investigation is conducted with sensitivity to

all parties. The administrator will utilize available resources, maintain the applicable timelines, and take appropriate steps, which will include notifying the respondent(s) of the complaint(s), providing due process, implementing interim measures as needed, and contacting parents of all students involved to address any findings.

- D. Sexual Misconduct Against Employees/Third Parties by other Employees/Third Parties and/or Students
1. When an employee or third party reports sexual misconduct to the Title IX Coordinator or a school-based administrator or supervisor, as appropriate, school-based administrators and supervisors will promptly forward complaints of sexual misconduct from employees or third parties to the Title IX Coordinator.
 2. Employees/third parties are encouraged to use the Employee/Third Party Sexual Harassment Complaint Form, which can be obtained from the HCPSS website, the school guidance office, or the Title IX Coordinator.
 3. School-based administrators receiving such complaints, regardless of how it is reported, will ensure that an investigation is conducted with sensitivity to all parties. The administrator will utilize available resources, maintain the applicable timelines, and take appropriate steps, which will include notifying the respondent(s) of the complaint(s), providing due process, implementing interim measures as needed, and contacting parents of all students involved to address any findings.

III. Investigations Conducted by the Title IX Coordinator

- A. The Title IX Coordinator will document complaints received, investigate them, and render findings (except as noted in II.B.4.).
1. The documentation, investigation, and forwarding of written findings to the complainants and the responding party will be completed within thirty (30) days of the receipt of the complaint.
 2. If the Title IX Coordinator is unable to complete these activities within the prescribed time limit, all parties will be notified and a revised timeline will be provided.
 3. If any party is not satisfied with the outcome of the investigation conducted by the Title IX Coordinator, he/she/they may, within fifteen (15) calendar days of receipt of the written report of findings, submit a letter of appeal, stating the grounds for the appeal, with the Director of Staff Relations. All appeals will be conducted by an impartial decision-maker.

- B. If the investigation reveals that a violation has occurred, the Title IX Coordinator will make recommendations to the Superintendent/Designee designed to ensure an appropriate resolution.

IV. Resolution of Complaints

When violations have occurred, school system employees in supervisory or management positions are responsible for taking steps designed to end any existing sexual misconduct by those under their supervision, prevent any recurrence, and remedy any detrimental effects on the complainant and others. Remedies available to complainants include, but are not limited to, counseling, imposition of an order against the guilty party prohibiting further contact with the complainant or others, reinstatement of employment to the complainant, reconsideration of an award of a contract with the school system or any other remedy as is just and serves the interest of reinstating the complainant to his/her/their position prior to the misconduct.

- A. Disciplinary action against a student will be administered in accordance with the HCPSS Student Code of Conduct and Policy 9200 Student Discipline. Disciplinary action against school system employees will be administered in accordance with Policy 7030 Employee Conduct and Discipline. Action against third parties will be taken in accordance with relevant school system policies and other applicable state and federal laws.
- B. A student who violates this policy may also be required to participate in an appropriate education intervention and/or counseling designated by the school administrator and designed to increase his/her/their understanding of the offense and its impact on others.
- C. A violation of this policy may require, as a condition of continuing an employment or other relationship with the school system, participation in counseling and/or other interventions designed to assist in the recognition and correction of sexual misconduct.
- D. An individual who has been subjected to, or who has been affected by, conduct prohibited under this policy will be contacted by a school administrator, supervisor, or the Title IX Coordinator to offer appropriate supports.

V. History

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