

Office of School Board Attorney
Walter J. Harvey, School Board Attorney

SUBJECT: FINAL READING: TO AMEND POLICIES 5517, *ANTI-DISCRIMINATION/HARASSMENT (STUDENTS)*; 5517.02, *DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURES FOR STUDENTS*; 5517.03, *DATING VIOLENCE OR ABUSE*; 2260, *NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY*; 5610, *SUSPENSION AND EXPULSION OF STUDENTS*

COMMITTEE: PERSONNEL, STUDENT, SCHOOL, AND COMMUNITY SUPPORT

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Consistent with the Board's statutory responsibility to periodically review and update its policies to conform to legislative changes and District practices, at its regular meeting of August 12, 2020, the Board authorized the amendment of several Board policies related to harassment and discrimination based on protected categories. These amendments were developed after extensive review of regulations that are scheduled to take effect on August 14, 2020 to implement Title IX of the Education Amendments of 1972. The policy amendments were drafted in collaboration with, and reviewed by, the Superintendent, Cabinet, and District staff of departments that will implement them.

On May 6, 2020, the United States Department of Education (Department) issued new Title IX regulations defining sexual harassment, which is a form of sex discrimination, and prescribing requirements for responding to allegations of sexual harassment. The regulations require the Board to implement procedures that will apply to all aspects of the Board's prohibition against sexual harassment, including receiving reports of sexual harassment; processing formal complaints; conducting investigations; decision-making; and providing appeals. Currently the Board's policies apply broadly to discrimination and harassment based on all protected categories, including sex, race, color, ethnic or national origin, citizenship status, religion, marital status, disability, genetic information, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, and pregnancy. The Department's Title IX regulations on sexual harassment require several Board policies to be amended to carve out new procedures specifically for complaints of sexual harassment.

Policies 5517, 5517.02, and 5517.03 apply to the prohibition on discrimination and harassment by and against students, including dating violence, and the procedures for resolving complaints of discrimination and harassment based on protected categories. Policy 2260 specifies that the Board will not discriminate or tolerate harassment in its educational programs or activities. Policy 5610 addresses the most severe sanctions that students can receive for violating the Code of Student Conduct. The proposed amendments to each of these policies reference the distinctive process required when allegations of sexual harassment by or against students are made. The amendments provide notice of how students (or their parents) can contact the Principal and/or the District's Civil Rights Compliance Department (CRC) to make a complaint of sexual harassment. As referenced throughout the policies, the Title IX regulations require the Board to authorize the District's Title IX Coordinator to coordinate the Board's Title IX obligations. As such, the CRC is developing a *Title IX Sexual Harassment Manual* that specifies the steps to be taken by CRC to investigate and/or to delegate certain aspects of the investigation in response to formal complaints of sexual harassment; the role of decision-makers; and how to process an appeal by either party to a formal grievance process. The policy amendments also clarify that student disciplinary consequences related to complaints of sexual harassment must be addressed through the process required by the Title IX regulations. The proposed revisions include renaming Policy 5517, *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*; Policy 5517.02, *Discrimination and Harassment Complaint Procedures for Students*; and Policy 5517.03, *Prohibition on Dating Violence and Abuse*.

A draft version of the District's *Title IX Sexual Harassment Manual* was posted on the [Office of Civil Rights Compliance Draft Title IX Sexual Harassment Manual's Webpage](#) on September 1, 2020.

The Notice of Intended Action was published in the *Miami Daily Business Review* on August 17, 2020 and posted in various places for public information and mailed to various organizations representing persons affected by the amended policies and individuals requesting notification. The time to request a hearing or protest the adoption of these amendments has elapsed.

Attached are the Notice of Intended Action, policy amendments, and the District's *Title IX Sexual Harassment Manual*. Changes are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, adopt the propose amendments to Board Policies 5517, *Anti-Discrimination/Harassment (Students)*; 5517.02, *Discrimination/Harassment Complaint Procedures for Students*; 5517.03, *Dating Violence or Abuse*; 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, and 5610, *Suspension and Expulsion of Students* and authorize the Superintendent to file the amended policies with The School Board of Miami-Dade County, Florida to be effective October 21, 2020.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 12, 2020, its intention to amend Board Policies 5517, *Anti-Discrimination/Harassment (Students)*; 5517.02, *Discrimination/Harassment Complaint Procedures for Students*; 5517.03, *Dating Violence or Abuse*; 5610, *Suspension and Expulsion of Students*, and 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, at its regular meeting on October 21, 2020.

PURPOSE AND EFFECT: Board Policies 5517, *Anti-Discrimination/Harassment (Students)*; 5517.02, *Discrimination/Harassment Complaint Procedures for Students*; 5517.03, *Dating Violence or Abuse*; 5610, *Suspension and Expulsion of Students*, and 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, are proposed to be amended to be in compliance with regulations implementing Title IX of the Education Amendments of 1972, at 34 C.F.R. Part 106, effective August 14, 2020.

The amendments to Board Policy 5517, *Anti-Discrimination/Harassment (Students)*, incorporate the regulatory definition of sexual harassment; clarify the Board's jurisdictional authority over allegations of discrimination and harassment; reference the process to be applied to allegations and complaints of sexual harassment; and align the confidentiality and record keeping requirements of the policy to the Title IX regulations. They authorize the District's Title IX Coordinator to coordinate the Board's Title IX obligations. For clarity, the policy is proposed to be renamed *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*.

The amendments to Board Policy 5517.02, *Discrimination/Harassment Complaint Procedures for Students*, reference the distinctive process to be applied for allegations of sexual harassment as opposed to discrimination and harassment based on other protected categories. They authorize the District's Title IX Coordinator to coordinate the Board's Title IX obligations. For clarity, the policy is proposed to be renamed *Discrimination and Harassment Complaint Procedures for Students*.

The amendments to Board Policy 5517.03, *Dating Violence or Abuse*, align it with the regulatory definition of dating violence; reference the specific process for complaints of sexual harassment (of which dating violence is a sub-set); align the record-keeping requirements; and revise language related to supportive measures for student victims. For clarity, the policy is proposed to be renamed *Prohibition on Dating Violence and Abuse*.

The policy amendments to Board Policy 5610, *Suspension and Expulsion of Students*, clarify that all decisions and appeals regarding disciplinary consequences for allegations of sexual harassment will be addressed through the Board's sexual harassment grievance process.

The policy amendments to Board Policy 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, align the confidentiality and record keeping requirements of the policy to the newly promulgated Title IX regulations.

SUMMARY: Board Policies 5517, *Anti-Discrimination/Harassment (Students)*; 5517.02, *Discrimination/Harassment Complaint Procedures for Students*; 5517.03, *Dating Violence or Abuse*; 5610, *Suspension and Expulsion of Students*, and 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, incorporate specific requirements from newly promulgated Title IX regulations. The proposed revisions include renaming Policy 5517, *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*; 5517.02, *Discrimination and Harassment Complaint Procedures for Students*; and 5517.03, *Prohibition on Dating Violence and Abuse*.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41 (1), (2), 1001.42 (8), 1000.05, F.S.; 6A-19.008 F.A.C.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 20 U.S.C. § 1681, 34 C.F.R. Part 106.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF October 21, 2020 which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided in Section 120.54(1), F.S., must do so in writing by September 9, 2020, to the Superintendent, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by the School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based. (Section 286.0105, Florida Statutes)

COPIES OF THE PROPOSED AMENDED POLICIES are available at cost to the public for inspection and copying in the Citizen Information Center, Room 102, 1450 N.E. Second Avenue, Miami, Florida 33132.



Book	Policy Manual
Section	October 21, 2020 - <u>Final</u> Reading
Title	ANTI-DISCRIMINATION/HARASSMENT (STUDENTS)
Code	5517
Status	<u>Final</u> Reading
Adopted	May 11, 2011
Last Revised	April 17, 2019

5517 - **ANTI-PROHIBITION ON DISCRIMINATION/ AND HARASSMENT AGAINST STUDENTS BASED ON PROTECTED CATEGORIES (STUDENTS)**

The School Board shall comply with all Federal laws and regulations prohibiting discrimination and all requirements and regulations of the U.S. Department of Education. The Board will enforce its prohibition against discrimination/ and harassment based on sex, race, color, ethnic or national origin, religion, marital status, disability, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, pregnancy, and any other basis prohibited by law. The Board shall maintain an educational and work environment free from all forms of discrimination/ and harassment, which includes Title IX of the Education Amendments of 1972. Title IX prohibits all forms of sex discrimination and unwelcome sexual conduct, including conditioning any aid, benefit or service of the school on an individual's participation in unwelcome sexual conduct, sexual assault, dating or domestic violence, stalking, and all forms of sexual harassment that a reasonable person would determine so severe, pervasive, and objectively offensive that it denies a student access to an education program or activity. Such conduct may include, but is not limited to, ~~sexual harassment and other sexual misconduct such as~~ unwelcome touching, graphic verbal comments, sexual jokes, slurs, gestures or pictures, whether in-person or through any other method, including sexual cyber-harassment. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of prohibited discrimination or harassment against students by employees, other students and their parents or guardians, or third parties. This policy prohibits discrimination and harassment at locations, events, or circumstances over which the Board exercises substantial control over both the respondent and the context in which the prohibited conduct occurs, including but not limited to such events occurring on school property, during any school-related or school-sponsored program or activity, and on school-sponsored transportation. ~~at all School-District operations, programs, and activities on school property, or at another location if it occurs during an activity sponsored by the Board.~~ This policy also prohibits retaliation

against a person who has made a report or filed a formal complaint alleging unlawful discrimination or harassment, or who has participated as a witness in a discrimination or harassment investigation.

For additional information about Title IX or any other discrimination ~~or~~ or harassment concerns contact:

Office of Civil Rights Compliance (CRC)
Executive Director/District Title IX Coordinator
155 N.E. 15th Street, Suite P104E
Miami, FL 33132
Phone: (305) 995-1580
Fax: (305) 995-2047
crc@dadeschools.net
<http://crc.dadeschools.net/>

For additional information on Section 504 of the Rehabilitation Act of 1973 or any other student disability concerns contact:

Division of Special Education
504 Coordinator
1501 N.E. 2nd Avenue, Suite 409
Miami, FL 33132
Phone: (305) 995-1796
Fax: (305) 523-0591
ese@dadeschools.net
<http://ese.dadeschools.net/>

The Board will take immediate steps to discipline individuals for:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful discrimination ~~or~~ or harassment, or who has participated as a witness in a discrimination ~~or~~ or harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of discrimination ~~or~~ or harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of prohibited discrimination ~~or~~ or harassment, when responsibility for reporting and/or investigating unlawful discrimination or harassment charges comprises part of one's ~~supervisory~~ duties.

The District compliance officer will supervise compliance with Federal and State regulations and address complaints in accordance with law and Policy 5517.02. The Board will provide proper notice of nondiscrimination for Title II, Title VI, and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

Reports and Complaints

~~Students are encouraged to promptly report incidents of discriminatory or harassing conduct to their Principal or the Office of Civil Rights Compliance (CRC) so that the conduct can be~~

~~addressed before it becomes severe, pervasive, or persistent.~~

Students who believe they have been ~~harassed or discriminated against~~ the victim of discrimination, harassment or retaliation are entitled to use the complaint ~~process~~ procedures in Policy 5517.02, ~~or, if the complaint involves sexual harassment prohibited by Title IX, to file a formal complaint in accordance with the District's Title IX Sexual Harassment Manual and request an investigation.~~ Students and parents are encouraged to present complaints of discrimination or harassment by other students or employees to the Principal, complaints against employees will be referred by the Principal to the GRC Office. Reports will be addressed as soon as possible after the alleged conduct occurs while the facts are known and potential witnesses are available. When a sexual harassment report is made, supportive measures will be offered, and the formal complaint process will be explained to the complainant. During ~~an~~ the investigation ~~of prohibited conduct~~, the complainant and the ~~respondent~~ subject of the complaint shall be provided an equal opportunity to present witnesses and evidence relevant to the complaint. The Principal shall apply the Code of Student Conduct to allegations of discrimination ~~and~~ and harassment by students, except as otherwise specified in law or regulation.

~~The investigative process through GRC involves the investigation of complaints of harassment and discrimination based on the protected categories. The GRC office investigates each case within a reasonable time.~~

~~Documentation of investigations of complaint and of any corrective action taken by the school site and throughout the District will be maintained by the department that conducted the investigation. Records of ongoing investigations are kept confidential until a final determination is made on each case. During the investigative process, appropriate preventive measures will be taken to protect the victims and the school community. Subsequent to the completion of a case, the complainant and the subject of the complaint will be provided with written notification of the outcome of the investigation. The District will take remedial action, as necessary, to address and resolve any substantiated complaint of discrimination or harassment and to prevent its recurrence.~~

Initiating a report or formal complaint will not adversely affect the complainant's participation in educational or extra-curricular programs unless the complainant makes the complaint maliciously or with knowledge that it is false. Investigation of an allegation shall not proceed solely on the basis of an anonymous complaint without first attempting to ascertain the identity of the complainant. If after such efforts, the complainant remains anonymous, the investigation will proceed to the extent possible.

The Superintendent shall develop guidelines setting forth the conditions and requirements to implement this policy in accordance with federal and state laws, regulations, and Board policies. The District's Title IX Coordinator is authorized to coordinate the Board's Title IX obligations.

Privacy/Confidentiality

The District respects the privacy of students, including the complainant, the ~~respondent~~ individual(s) against whom the complaint is filed, and the witnesses, consistent with the Board's legal obligations to investigate, take appropriate action, and comply with any regulatory, discovery or disclosure obligations. All records generated under this policy and

Policy 5517.02 shall be maintained as confidential to the extent permitted by law, except as otherwise set forth in law or regulation.

The complaint processes in Policy 5517.02 and/or the Title IX Sexual Harassment Manual ~~is~~are not intended to interfere with student rights to pursue complaints with the United States Department of Education, Office for Civil Rights, or the Florida Department of Education. The CRC Office processes such complaints according to the procedures and standards set forth by Federal and State agencies.

Retention of Investigatory Records and Materials

~~All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of an investigation and/or, in accordance with Policy 8320, upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.~~

All individuals responsible for receiving reports, applying formal complaint procedures, and/or conducting investigations under this policy, Policy 5517.02, Policy 5517.03, and/or the Title IX Sexual Harassment Manual shall retain all information, documents, electronically stored information (ESI), and electronic media created and/or received as part of the report, complaint, or investigation. The information shall be retained immediately upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

~~The information, documents, ESI, and electronic media created or received as part of an investigation shall be retained for not less than three (3) years, but longer if required by Policy 8320 or the District's records retention schedule.~~

The information, documents, ESI, and electronic media created or received a part of a sexual harassment complaint procedure shall be retained for not less than seven (7) years. All other types of investigations shall be maintained for not less than three (3) years, but longer if required by Policies 8320, 8330 or the District's records retention schedule.

Education and Training

The Board promotes preventative educational measures to create greater awareness of unlawful harassment and discrimination. The Superintendent shall provide appropriate training to members of the School District community related to the implementation of this policy and Policy 5517.02. The District's sexual harassment training information shall be retained for not less than seven (7) years.

Employee Sexual Conduct

Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.

Effect of Other Policies

The definition of harassment that is not based upon protected categories is contained within the Code of Student Conduct, referenced in Policy 5500. Florida law also defines *Bullying and Harassment*, as set forth in Policy 5517.01. In accordance with Florida law, Policy 5517.03 defines *Dating Violence or Abuse*. Policy 5136.02 defines *Sexting*.

Effective 7/1/11
Revised 11/19/13

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Legal	34 C.F.R. Part 106 F.A.C. 6A-19.008 F.S. 110.1221 F.S. 784.049 F.S. 1000.05 F.S. 1006.07 20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as The Individuals with Disabilities Act) 42 U.S.C. 2000d et seq. 42 U.S.C. 2000e et seq. 29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967 29 U.S.C. 794, Rehabilitation Act of 1973 42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended 20 U.S.C. 1681 et seq. 42 U.S.C. 1983 National School Boards Association Inquiry and Analysis – May 2008
Cross References	F.S. 1006.148 F.S. 1006.147



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Book	Policy Manual
Section	October 21, 2020 - <u>Final</u> Reading
Title	DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURES FOR STUDENTS
Code	5517.02
Status	<u>Final</u> Reading
Adopted	May 11, 2011
Last Revised	April 17, 2019

5517.02 - **DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURES FOR STUDENTS**

The Office of Civil Rights Compliance (CRC) is responsible for investigating complaints of discrimination and harassment, including sexual harassment and retaliation filed by employees, students and their parents. The CRC office accepts complaints of discrimination/ and harassment directly from any member of the School District community. Upon receipt of a complaint, the CRC Compliance Officer will route the complaint to the appropriate school or District office for investigation and/or response. ~~Documentation of investigations of complaints and of any corrective action taken by the school site and throughout the District will be maintained by the department that conducted the investigation.~~

Complaint Procedures

~~Any student/parent who has a good faith belief that a student has been subjected to prohibited discrimination/harassment may seek resolution of his/her complaint through the procedures described below.~~

~~Students/parents are encouraged to promptly report complaints of discriminatory or harassing conduct to their Principal. In addition to the manner prescribed in Policy 5517, a student/parent may also file the complaint directly with the Region Office or the District's Office of Civil Rights Compliance (CRC).~~

CRC Office Contact Information

Office of Civil Rights Compliance (CRC)
Executive Director/District Title IX Coordinator
155 N.E. 15th Street, Suite P104E
Miami, FL 33132
Phone: (305) 995-1580
Fax: (305) 995-2047

Complaint Procedures

Any student or parent who has a good faith belief that a student has been subjected to prohibited discrimination or harassment may seek resolution of their complaint through the procedures described below. The Superintendent shall develop guidelines setting forth the conditions and requirements to implement this policy in accordance with federal and state laws, regulations, and Board policies. The District's Title IX Coordinator is authorized to coordinate the Board's Title IX obligations, including specific procedures related to sexual harassment.

Students and parents are encouraged to promptly report complaints of discriminatory or harassing conduct to their Principal. A student or parent may also file the complaint directly with the Region Office or the District's Office of Civil Rights Compliance (CRC). Supportive measures will be immediately considered upon receipt of a report of prohibited conduct.

This procedure is not intended to interfere with the rights of students ~~or~~ or parents to pursue a complaint of discrimination/harassment with the United States Department of Education, Office for Civil Rights ("OCR"), or the Florida Department of Education.

- A. Complaints must be in writing and include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, prohibited conduct; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and identification of the resolution which the complainant seeks.

Anonymous complaints shall not be processed, without first attempting to ascertain the identity of the complainant and except as outlined in Policy 5517.01 and the District's Title IX Sexual Harassment Manual. If after such efforts, the complainant remains anonymous, the investigation will proceed to the extent possible required by law or regulation.

The complaint must be signed attesting that it is true to the best of the complainant's knowledge, information, and belief. The Principal or the CRC Office will assist the complainant in reducing verbal complaints to writing. Any complainant who knowingly submits false information will be subject to discipline according to the Code of Student Conduct or applicable laws. During the investigation of a complaint, the complainant and the respondent ~~subject of the complaint~~ shall be provided an opportunity to present witnesses and other evidence relevant to the complaint.

The initiation of a discrimination or harassment complaint by student ~~or~~ or parent will not be used as a basis for actions that adversely affect the student's standing in his/her educational or extra-curricular activities unless the student makes the complaint maliciously or with knowledge that it is false. Additionally, participation in or assistance with the investigation of a complaint shall not be used as the basis of any adverse action against the student or parent.

- B. Students ~~and~~ and parents should make every effort to submit a complaint as soon as possible after the prohibited conduct while the facts are known and potential witnesses

are available, and to ensure a timely response to the conduct in question. ~~Under Federal guidelines~~ Except as otherwise set forth in law, regulation, or policy, complaints must be filed within 180 calendar days of the date of the last act of alleged prohibited conduct ~~discrimination~~.

Processing Complaints

A. School-Site Complaints

If a complaint is made directly to a school staff member other than the Principal, the staff member shall immediately refer the complaint to the Principal and/or the CRC Department. The Principal will immediately refer sexual harassment matters to the District's Title IX Coordinator for processing in accordance with the District's Title IX Sexual Harassment Manual. All complaints involving student to student harassment, ~~excluding~~ including sexual harassment, will be first investigated at the school site. If such complaints are made directly to the District Office, the Region Office or the CRC Office, they will be referred to the school site for the initial investigation. Complaints involving harassment, including sexual harassment, of a student by an employee or other representatives of the school system will be investigated by the CRC Office. All complaints of sexual harassment against students will be investigated in accordance with the District's Title IX Sexual Harassment Manual. All reports that may constitute sexual harassment must be referred to the District's CRC Office.

For all other types of complaints, Principals are required to:

1. receive and document the complaint and notify the CRC Office within twenty-four (24) hours of receiving the complaint; for verbal complaints, assist the complainant in reducing the complaint to writing and encourage the complainant to attest that it is true to the best of the complainant's knowledge, information, and belief;
2. provide a copy of this Policy 5517.02 to the complainant;
3. interview meet with the complainant (student/parent) to ascertain the facts pertinent to the allegations;
4. interview meet with the student(s) accused of the alleged harassment the respondent to obtain a response to the complaint both orally and in writing;
5. interview meet with all available witnesses identified by the person(s) making the report ~~of harassment~~, the complainant and/or the respondent ~~subject of the complaint~~, individually and confidentially. Witnesses will be asked to make a statement both orally and in writing regarding the alleged facts that form the basis of the complaint;
6. document all reports and interventions on the appropriate student case management forms within ten (10) workdays;

Upon completion of the investigation, any student(s) found by a preponderance of evidence to have violated this policy will be subject to any of the disciplinary actions described in the Code of Student Conduct and coded on the appropriate

student case management form with notification of the investigation outcome to the CRC Office. **All decisions regarding sexual harassment against students, including disciplinary decisions, will be made in accordance with the District's Title IX Sexual Harassment Manual.**

*The principal shall contact Miami-Dade County Schools Police in accordance with the Code of Student Conduct.

7. provide complainant and respondent ~~subject of the complaint~~ with a written notification of the outcome of the investigation in accordance with student confidentiality requirements; and

Absent unusual circumstances, the written report of the investigation will be provided within ten (10) workdays of reaching a final determination.

8. notify the CRC Office concurrently in writing of the outcome of the complaint.

~~If the complaint is made directly to a school staff member other than the Principal, they shall immediately refer the complaint to the Principal.~~

~~School-site administrators shall apply the Code of Student Conduct to all allegations of harassment by students and to report the allegations to the CRC Office.~~ Additional procedures concerning complaints of bullying are contained in Policy 5517.01. Students and parents are encouraged to direct complaints alleging discrimination or harassment by employees to the CRC Office. Any ~~such complaints filed~~ reports made to or known by with any employee the school must be immediately forwarded to by the Principal and/or to the CRC Office. The Principal must forward all reports of sexual harassment to the CRC Office.

B. Appeals to the Region Office

If the complaint is not resolved to the complainant's satisfaction after discussion with the Principal, the student/parent may appeal to the Region Office by submitting a letter to the corresponding Region Office within fifteen (15) workdays of the Principal's final determination.

Within fifteen (15) workdays, the Region Office shall address appeals of complaints made to the school site by:

1. reviewing documentation submitted by the Principal;
2. providing a copy of this Policy 5517.02 to the complainant;
3. discussing the allegations with the complainant, the respondent ~~subject of the complaint~~, and witnesses (in person or otherwise), if necessary;
4. appending existing documentation to outline the steps taken to address the complaint, including the outcome/resolution;
5. providing complainant and the respondent ~~subject of the complaint~~ with a written notification of the outcome of the investigation in accordance with student confidentiality requirements; and

Absent unusual circumstances, the written report of the investigation will be provided within ten (10) workdays of reaching a final determination by the Region Office.

6. notifying the CRC Office concurrently in writing of the outcome of the complaint.

All appeals of determinations regarding sexual harassment against students will be processed in accordance with the District's Title IX Sexual Harassment Manual.

C. Complaints to the CRC Office

The Compliance Officer is responsible for accepting complaints and routing them for investigation and/or response within three (3) workdays. Students ~~and~~ parents should be aware that submitting complaints to other District offices (e.g., Superintendent) may require additional time to process.

Investigations conducted by the CRC Office, absent unusual circumstances, may take thirty (30) workdays. The complainant and the respondent ~~subject of the complaint~~ will be provided a written report of the findings summarizing the evidence gathered during the investigation and the final determination of the case. The written report of the investigation will be provided within ten (10) workdays of reaching a final determination. All complaints of sexual harassment against students will be investigated in accordance with the District's Title IX Sexual Harassment Manual. All reports that may constitute sexual harassment must be referred to the District's CRC Office.

D. Appeals of CRC Decisions

If the student ~~or~~ parent does not agree with the final determination made by the CRC Office, s/he may appeal the determination to the Superintendent by submitting a letter of appeal within fifteen (15) workdays of the date of the final determination.

The Superintendent or designee shall address the requests for appeal within fifteen (15) workdays of receipt of the written request by:

1. reviewing documentation submitted by the CRC office;
2. reviewing information provided by complainant and respondent;
3. obtaining additional information if determined necessary to do so;
4. providing complainant and respondent written notification of the outcome of the appeal; and

Absent unusual circumstances, the written notification will be provided within fifteen (15) workdays of the review.

5. notifying the CRC Office concurrently in writing of the outcome of the review.

All appeals of determinations regarding sexual harassment against students will be processed in accordance with the District's Title IX Sexual Harassment Manual.

E. Other School District Offices/Sites:

Complaints filed with any other School District site shall be referred directly to the CRC Office for routing and processing.

For complaints filed directly with the United States Department of Education and/or the Florida Department of Education, the Compliance Officer coordinates the District's investigation and response to the Federal or State agency. However, the Federal or State agency provides a written response directly to the complainant. The School Board will provide proper notice of nondiscrimination for Title II, Title VI, and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990.

E. Corrective Strategies:

Appropriate remedial/corrective action for students who commit acts of harassment range from behavioral interventions up to and including suspension or expulsion as outlined in the Code of Student Conduct. Removal from the class where the infraction occurred may be implemented as a preventive measure, pending the outcome of the investigation. All decisions regarding sexual harassment against students, including disciplinary decisions, will be made in accordance with the District's Title IX Sexual Harassment Manual.

Consequences and appropriate remedial action for a school employee found to have committed an act of harassment shall include discipline in accordance with District policies, administrative procedures, and collective bargaining agreements. Alternate assignments to another location are considered when the nature of the allegation is so egregious as to warrant the removal of an employee from the site to an alternate assignment until the resolution of the case. All decisions regarding sexual harassment against students will be made in accordance with the District's Title IX Sexual Harassment Manual.

Consequences and appropriate remedial action for a visitor or volunteer found to have committed an act of harassment shall be determined by the school administrator after consideration of the nature and circumstances of the act, including reports to appropriate law enforcement officials. Temporary removal of the alleged subject of the complaint from the premises may be implemented as a preventive measure.

~~Retention of Investigatory Records and Materials~~

~~All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of an investigation and/or, in accordance with Policy 8320, upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.~~

~~The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).~~

~~The information, documents, ESI, and electronic media created or received as part of an investigation shall be retained for not less than three (3) years, but longer if required by Policy 8320 or the District's records retention schedule.~~

Privacy/Confidentiality.

The District respects the privacy of students, including the complainant, the respondent, and all reporters and witnesses, consistent with the Board's legal obligations to investigate, take appropriate action, and comply with any regulatory or discovery or disclosure obligations. All records generated under this policy shall be maintained as confidential to the extent permitted by law, except as otherwise set forth in law or regulations.

The complaint processes in this policy and the Title IX Sexual Harassment Manual are not intended to interfere with student rights to pursue complaints with the United States Department of Education, Office for Civil Rights, or the Florida Department of Education. The CRC Office processes such complaints according to the procedures and standards set forth by Federal and State agencies.

Retention of Investigatory Records and Materials

All individuals responsible for receiving reports, applying formal complaint procedures, and/or conducting investigations under this policy, Policy 5517, Policy 5517.03, or the Title IX Sexual Harassment Manual shall retain all information, documents, electronically stored information (ESI), and electronic media created and/or received as part of the report, complaint, or investigation. The information shall be retained immediately upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media created or received as part of a sexual harassment complaint procedure shall be retained for not less than seven (7) years. All other types of complaint investigations shall be maintained for not less than three (3) years, but longer if required by Policies 8320, 8330 or the District's records retention schedule.

Effective 7/1/11
Revised 11/19/13

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Legal F.A.C. 6A-19.008
 F.S. 1000.05
 34 C.F.R. Part 106



Book	Policy Manual
Section	October 21, 2020 - <u>Final</u> Reading
Title	DATING VIOLENCE OR ABUSE
Code	5517.03
Status	<u>Final</u> Reading
Adopted	September 3, 2013
Last Revised	April 17, 2019

5517.03 - PROHIBITION ON DATING VIOLENCE ~~OR AND~~ ABUSE

Student dating violence ~~or~~and abuse is prohibited in all locations, events, or circumstances over which the Board exercises substantial control over both the respondent and the context in which the dating violence or abuse occurs, including but not limited to such events occurring on ~~secondary schools on~~ school property, during any school-related or school-sponsored program or activity, and on school-sponsored transportation~~and/or during school-sponsored transportation.~~

Definition

The term “dating violence” is a type of sexual harassment that means violence committed by a person—

- A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- B. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship;
 - ii. The type of relationship;
 - iii. The frequency of interaction between the persons involved in the relationship.

Student dating violence may~~es~~ involve a pattern of emotional, verbal, sexual, or physical abuse used by one person in a current or past dating relationship to exert power and control over another. Abuse may include insults, coercion, social sabotage, sexual harassment, stalking, threats and/or acts of physical or sexual abuse. It may also include abuse, harassment, and stalking via electronic devices such as cell phones and computers, harassment through a third party, and may be physical, mental, or both.

Title IX also prohibits other forms of sexual harassment that are similar to dating violence, including sexual assault, domestic violence, and stalking. Policy 5517 further defines sexual harassment.

Reporting Procedures Requirement

- A. ~~All verbal or written reports/complaints alleging violations of this policy shall be submitted to the Principal or designee. Students and parents are encouraged to report dating violence and abuse to the Principal and/or the District's Civil Rights Compliance Office. Formal complaints will be investigated pursuant to the District's Title IX Sexual Harassment Manual.~~ Students and parents are encouraged to report dating violence and abuse to the Principal and/or the District's Civil Rights Compliance Office. Formal complaints will be investigated pursuant to the District's Title IX Sexual Harassment Manual.
- B. All school employees ~~who witness an act of dating violence or abuse or who have a reasonable suspicion that an act of dating violence and/or abuse has taken place~~ must report dating violence or abuse the incident to the Principal and/or the District's Civil Rights Compliance Office, or designee. The employee shall also immediately report the incident to School Police if there is reason to suspect that the incident might constitute a crime. Any uncertainty regarding whether an alleged violation might constitute a crime must be resolved in favor of reporting the incident to School Police.
- C. An employee's failure to report may result in action(s) or discipline consistent with the collective bargaining agreement provisions, the District's Title IX Sexual Harassment Manual or other applicable School Board policy.
- D. Nothing in this policy shall relieve a reporter of the obligation to report a reasonable suspicion of child abuse or neglect to the Florida Abuse Hotline or local law enforcement pursuant to F.S. 39.201.

Complaints/Reports

- A. ~~Complaints and reports should be submitted as soon as possible after the alleged incident but shall be submitted within ninety (90) school days after the most recent alleged act of dating violence and/or abuse. The Principal or designee shall document and investigate any complaints or reports and take immediate action to prevent the reoccurrence of the behavior. Appropriate disciplinary action may be taken pursuant to the Code of Student Conduct (Policy 5500).~~
- B. ~~Failure on the part of the alleged victim to initiate a complaint within ninety (90) school days or to cooperate with the investigation may result in the complaint being deemed abandoned regarding that particular incident.~~
- C. ~~Additional procedures regarding complaints about bullying and harassment are contained in Policy 5517.01 and Policy 5517.02 and the allegations may also be required to be reported to the Office of Civil Rights pursuant to Policy 5517.~~
- D. ~~Each school shall publicize the procedure for submitting a complaint or report of dating violence in person or anonymously and how this report will be addressed.~~
- E. ~~The victim of student dating violence or abuse, anyone who witnessed an act of dating violence or abuse, and anyone who has reasonable suspicion that an act of dating violence or abuse has taken place pursuant to this policy may submit a report of dating violence or abuse.~~
- F. ~~Submission of a good faith complaint or report of student dating violence or abuse will not affect the complainant or reporter's future employment, grades, learning or working environment, or work assignments. Appropriate action will be pursued for persons found~~

~~to have wrongfully and intentionally accused another of an act of dating violence or abuse.~~

- G. ~~Any written or verbal reports of an act of dating violence or abuse shall be considered an official means of reporting. Reports may be made anonymously but disciplinary action may not be based solely on the basis of an anonymous report.~~

Retention of Investigatory Records and Materials

~~All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of an investigation and/or, in accordance with Policy 8320, upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.~~

~~The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).~~

~~The information, documents, ESI, and electronic media created or received as part of an investigation shall be retained for not less than three (3) years, but longer if required by Policy 8320 or the District's records retention schedule.~~

Supportive Measures and Reasonable Accommodations

- A. Supportive measures for a student who is known or reported to be a victim of dating violence or abuse will be provided in accordance with the District's Title IX Sexual Harassment Manual. ~~Principals shall include the policy in the school's student/parent handbook.~~
- B. If a student ~~s~~ or ~~their~~ parent(s)/guardian(s) inform ~~presents~~ the school that with a court-issued a court has issued a ~~that with a court-issued a~~ restraining or protective order, a copy of the order should be maintained in the student's files. The school shall notify School Police immediately if it reasonably believes that a criminal or civil restraining order has been violated. School Police shall respond to a report of a violation of a criminal or civil restraining order.
- C. Whenever possible, face-to-face contact between the victim and alleged perpetrator should be avoided during the pendency of the investigation.
- D. ~~The student who is allegedly experiencing dating violence or abuse may submit a verbal or written request for accommodations to the school. If the request is made verbally, the school administrator shall document the request in writing and provide a written decision to the student as soon as possible. A denial of a request for accommodation must specify the reason(s) for the denial. If scheduling changes are requested or determined by the school to be in the best interest of the victim, the school will accommodate the victim's preference to the extent possible.~~

The Superintendent shall develop guidelines setting forth the conditions and requirements to implement this policy in accordance with federal and state laws, regulations, and Board policies. The District's Title IX Coordinator is authorized to coordinate the Board's Title IX obligations.

Retention of Investigatory Records and Materials

All individuals responsible for conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of an investigation and/or upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media created or received as part of a sexual harassment complaint procedure shall be retained for not less than seven (7) years. All other types of complaint investigations shall be maintained for not less than three (3) years, but longer if required by Policies 8320, 8330 or the District's records retention schedule.

Dating Violence and/or Abuse Prevention Curriculum

Instruction regarding dating violence or abuse will be provided for students in grades 7 through 12 as a component of the health education curriculum as listed in F.S. 1003.42. This instruction includes, but is not limited to, the definition of dating violence or abuse, the warning signs of dating violence or abusive behavior, the characteristics of healthy relationships, measures to prevent and stop dating violence or abuse, and community resources available to victims of dating violence or abuse. The curriculum must emphasize prevention based education. Schools should also implement a peer mentor or peer education component that will foster a deeper understanding of the issues by allowing students to relate to a similarly situated peer.

Professional Development

The Principal shall review the policy with faculty/staff at the Opening of Schools meeting. Teachers, school administrators, counseling professionals, and other school site employees shall also be provided training in proper identification, investigation, and intervention of dating violence or abuse incidents that fall within the jurisdiction of the school.

Students, parents/legal guardians, teachers, and school volunteers shall be provided information on this policy, evidence-based methods of preventing dating violence or abuse, and how to effectively identify and respond to dating violence or abuse incidents.

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Legal F.A.C. 6A-19.008
 34 C.F.R. Part 106
 F.S. 1003.42
 F.S. 1006.148



Book	Policy Manual
Section	October 21, 2020 - <u>Final</u> Reading
Title	NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY
Code	2260
Status	<u>Final</u> Reading
Adopted	May 11, 2011
Last Revised	April 17, 2019

2260 - **NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY**

The School Board shall provide equal opportunity for all students and will not discriminate or tolerate harassment in its educational programs or activities on any basis prohibited by law or Board policy.

The Superintendent shall:

A. Curriculum Content

review current and proposed courses of study and textbooks to detect any bias based upon sex, race, color, ethnic or national origin, religion, marital status, disability, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, and pregnancy; ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc., toward the development of human society;

B. Staff Training

develop an ongoing program of in-service training for school personnel designed to identify and solve problems of color/racial, gender, religious, national, cultural, or other bias in all aspects of the program;

C. Student Access

review current and proposed programs, activities, facilities, and practices to verify that all students have equal access thereto and are not segregated on the basis of sex, race, color, ethnic or national origin, religion, marital status, disability, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, and pregnancy in any duty, work, play, classroom, or school practice, except

as may be permitted under State and Federal laws and regulations;

The Board may establish and maintain a single-gender nonvocational class, extra-curricular activity, or school for elementary, middle, or high school students.

D. District Support

verify that similar aspects of the District's program receive similar support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

E. Student Evaluation

verify that tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on any basis prohibited by law or Board policy.

The District Compliance Officer will supervise compliance with Federal and State regulations and address complaints according to law and Policy 5517.02. The Board shall provide proper notice of nondiscrimination for Title II, Title VI, and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Act is provided to students, their parents, staff members, and the general public.

The Superintendent shall develop guidelines setting forth the conditions and requirements to implement this policy in accordance with federal and state laws, regulations, and Board policies. The District's Title IX Coordinator is authorized to coordinate the Board's Title IX obligations.

Privacy/Confidentiality

The privacy of students, the individuals against whom the complaint is filed, and the witnesses, shall be respected consistent with the Board's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations. All records generated under this policy and its related administrative procedures shall be maintained as confidential to the extent permitted by law or regulation.

Retention of Investigatory Records and Materials

All individuals responsible for ~~charged with~~ conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of a report, ~~a~~ investigation and/or, in accordance with Policy 8320, upon receipt of specific information and/or ~~written notice~~ report that could lead to an investigation, formal complaint, or potential litigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

~~The information, documents, ESI, and electronic media created or received as part of an investigation shall be retained for not less than three (3) years, but longer if required by Policy 8320 or the District's records retention schedule.~~

All information, documents, ESI, and electronic media created or received in response to a report or formal complaint of sexual harassment shall be retained for not less than seven (7) years. All other types of complaint investigations shall be maintained for not less than three (3) years, but longer if required by Policy 8320, 8330 or the District's records retention schedule.

Effective 7/1/11

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Legal

- 34 C.F.R. Part 106
- F.A.C. 6A-19.008
- F.S. 553.501 et seq., Florida Americans with Disabilities Accessibility Implementation Act
- F.S. 760.08
- F.S. 760.021
- F.S. 1000.05, Florida Educational Equity
- F.S. 1002.311
- F.A.C. 6A-19.001
- Fourteenth Amendment, U.S. Constitution
- 20 U.S.C. Section 1681, Title IX of Education Amendment Act
- 20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974
- 20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act
- 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
- 29 U.S.C. Section 794, Rehabilitation Act of 1973
- 42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964
- 42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990
- 42 U.S.C. 6101 et seq.
- 34 C.F.R. Part 110 (7/27/93)
- 29 C.F.R. Part 1635
- Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979
- Title III of the No Child Left Behind Act of 2001



Book	Policy Manual
Section	October 21, 2020 - <u>Final</u> Reading
Title	SUSPENSION AND EXPULSION OF STUDENTS
Code	5610
Status	<u>Final</u> Reading
Adopted	May 11, 2011
Last Revised	April 17, 2019

5610 - **SUSPENSION AND EXPULSION OF STUDENTS**

Suspension and expulsion are the most severe sanctions and cannot be imposed without due process. Prior to the use of suspension, the administrator should consider less restrictive alternatives such as Alternative Education Settings (AED) which include the School Center for Special Instruction (SCSI) and Student Success Center (SSC). Students assigned to SCSI and SSC must be afforded the opportunity to complete classwork. Students with disabilities must continue to receive a Free Appropriate Public Education (FAPE) while assigned to SCSI.

No student is to be suspended, expelled, or excluded from an activity, program, or a school unless his/her behavior represents misconduct as specified in the Code of Student Conduct (CSC), Policy 5500. The CSC shall also specify the procedures to be followed by school officials. In addition to the procedural safeguards and definitions in this policy and the CSC, the procedures in Policy 2460 shall apply to students identified as disabled under the IDEA and/or Section 504 of the Rehabilitation Act of 1973. All disciplinary decisions and appeals related to sexual harassment shall be handled in accordance with Policies 5517, 5517.02 and 5517.03.

Definitions

- A. "Suspension" shall be the temporary exclusion of a student from the District's program for a period not to exceed ten (10) school days.
- B. "Expulsion" shall be the exclusion of a student from a traditional school for the number of school days remaining in the school year in which the incident that gives rise to the expulsion takes place and one (1) additional school year.

Suspension from School or From Riding School Bus

- A. When a student's actions violate law, School Board policies, or school rules, the student may be suspended by the Principal. A student who is suspended shall not be allowed to attend his/her regular classes or school-sponsored activities for a prescribed number of

days not to exceed ten (10). The Principal may suspend a student from riding the school bus for a prescribed number of days not to exceed ten (10). Parents of students suspended from the school bus have the obligation to provide transportation to and from school. If bus transportation is a related service on a student's Individualized Education Plan (IEP), a bus suspension must be counted towards the ten (10) days of suspension. Outdoor suspension criterion are located in the CSC.

- B. A teacher shall not suspend a student from school or class, nor shall a bus driver suspend a student from riding a school bus.
- C. The Superintendent may suspend a student from any or all co-curricular or extra-curricular activities for violations of the CSC. The length of suspension shall be determined according to the CSC. Additionally, a manifestation determination meeting may be required for students with disabilities, depending on the number of days of suspension given (Policy 2460).
- D. Prompt notice of a suspension shall be given by telephone to the student's parent if possible. Formal written notification to the student's parent shall be initiated within twenty-four (24) hours of the time the student is informed of the suspension.
- E. Except in the event of emergencies or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct that is defined as willful disobedience, open defiance of authority of a member of the school staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school, all out-of-school suspensions shall not begin prior to the beginning of the next school day following the infraction unless the parents have been notified.
- F. Prior to the suspension, the student shall be given an informal and impartial hearing before the Principal and shall be informed of the charge(s) against him/her which may result in suspension. If the student denies the charge(s), s/he shall be given an explanation of the evidence, an opportunity to present his/her version of the case, and notification of the action taken by the Principal. In cases of extremely disruptive or dangerous behavior, persons or groups involved may be immediately suspended and ejected from the school campus without a prior hearing. In such instances, each student shall be afforded an informal hearing before the Principal prior to the expiration of suspension. Students are not entitled to full procedural rights that the law guarantees to students who are recommended for expulsion or are defendants in criminal cases. At suspension hearings, students are not:
 - 1. entitled to the presence of an attorney;
 - 2. allowed to confront or cross-examine witnesses;
 - 3. allowed to record mechanically, or have a court reporter record the proceedings unless the Principal has elected to record or report the hearing verbatim.

If the parent(s) feel that the child has not been afforded a fair hearing at the school, they may request a review by the Region Superintendent. The appeal may consist of a review of the previous hearing, with a ruling on the facts and the validity of the suspension, or the hearing may be reconvened by the Region Superintendent or designee for additional testimony that may be deemed necessary in making a final decision.

- G. The Principal shall determine, in consultation with teachers, when appropriate, whether the student should be given the opportunity to make up school work and course requirements missed while absent due to out-of-school suspension. If this privilege is given, the student shall have a reasonable amount of time, up to five (5) school days comparable to the days of suspension, following the suspension to complete the school work missed and shall do so on his/her own initiative. Failure to make up all written assignments missed during the approved time frame of suspension will result in the student being given the academic grade of "F" for those written assignments. Under no circumstances are teachers required to make special provisions to comply with this procedure. Upon completion of the make-up work, the student should submit the work to the teacher. The teacher must grade and record the make-up work as it is received. For students in exceptional education classes, refer to the Exceptional Student Education Policies and Procedures (SP&P) Policy 2460.
- H. The Superintendent may grant to a Principal the authority to waive mandatory suspension policies.

Expulsion/Administrative Assignment

- A. A Principal may recommend expulsion of a student to the Superintendent. The Principal shall provide the Superintendent an adequate history of the student's actions and alternative measures taken relevant to the recommendation. When the Superintendent makes a recommendation for expulsion to the Board, written notice shall be given to the student and his/her parent of the recommendation and charges and advising the student and parent of their right to due process. Offenses requiring the recommendation for expulsion are located in the CSC.
- B. Upon receipt of a recommendation for expulsion from the Principal, the Superintendent may make an administrative assignment in lieu of expulsion or a Work Back in Lieu of Expulsion program.
- C. For students in exceptional student education, refer to Exceptional Student Education Policies and Procedures (SP&P), Policy 2460.
- D. All students who are recommended for expulsion shall undergo screening to determine if they qualify for exceptional education programs.
- E. A student who has been suspended or expelled by another district temporarily may be assigned to an alternative school for the same length of time as imposed by the other district.
- F. The informal hearing at the school level shall be conducted by the Principal. If available, the student shall be given an opportunity to be heard at this hearing. At the conclusion of the hearing, the Principal will reaffirm the suspension and recommendation for expulsion, or, based upon consideration of the facts and circumstances explained at the hearing, will advise the parent of the school's intention to withdraw the request for expulsion and take some alternative action.
- G. The parent shall be informed that, prior to any Board action being taken on the expulsion or administrative assignment, they will be given the opportunity to request a hearing before an impartial hearing officer. Prior to a formal hearing, the parent will be offered an appeal conference with a representative from School Operations/Alternative Education.

H. Students with disabilities who are expelled are entitled to a Due Process Hearing with the Florida Division of Administrative Hearings. However, during the course of litigation, the student's placement is at the alternative school. Students with disabilities must continue to receive FAPE while assigned to an alternative school. Refer to the Exceptional Student Education Policies and Procedures (SP&P) Policy 2460.

All disciplinary decisions and appeals related to sexual harassment shall be handled in accordance with Policies 5517, 5517.02 and 5517.03.

A copy of this policy is to be made available to students and parents upon request. Key provisions of the policy should also be included in the CSC.

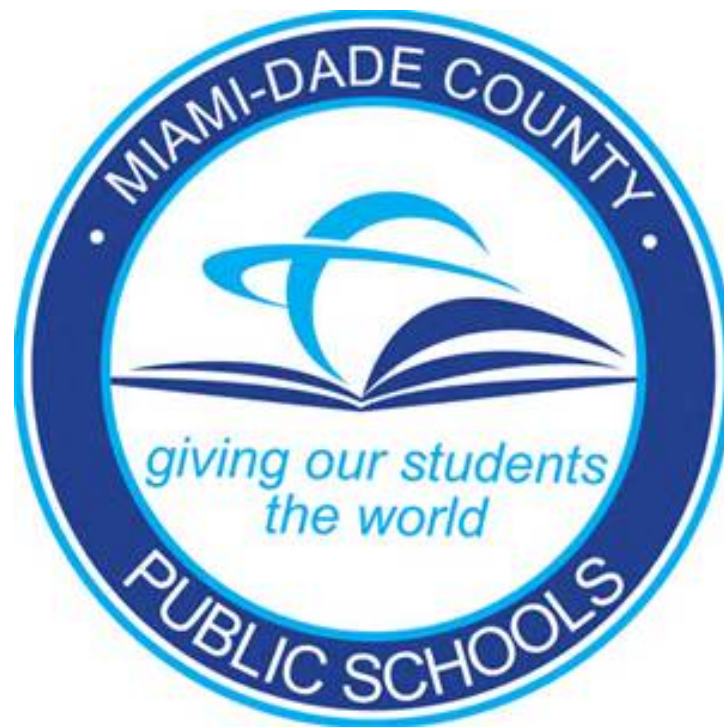
Effective 7/1/11

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 F.S. 120.57
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 F.S. 1003.32
 F.S. 1006.07
 F.S. 1006.08
 F.S. 1006.09
 F.A.C. 6A-6.03312
 F.A.C. Chapter 28-106
 18 U.S.C. Section 921

Office of Civil Rights Compliance
Title IX Sexual Harassment Manual

**Procedures Related to Reports of
Sexual Harassment**



Miami-Dade County Public Schools
The School Board of Miami-Dade County, Florida

Ms. Perla Tabares Hantman, Chair
Dr. Steve Gallon III, Vice Chair
Dr. Dorothy Bendross-Mindingall
Ms. Susie V. Castillo
Dr. Lawrence S. Feldman
Dr. Martin Karp
Dr. Lubby Navarro
Dr. Marta Pérez
Ms. Mari Tere Rojas

Ms. Maria Martinez, Student Advisor

SUPERINTENDENT OF SCHOOLS

Mr. Alberto M. Carvalho

Contact Information

District Title IX Coordinator
Office of Civil Rights Compliance
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I. **Introduction**

A. **Purpose**

The Miami-Dade County Public Schools (M-DCPS) Office of Civil Rights Compliance (CRC) *Title IX Sexual Harassment Manual* is designed to outline the procedures for prompt and equitable resolutions of Complaints alleging sexual harassment or related retaliation. These are all expressly prohibited by Miami-Dade County School Board Policy and Title IX of the Education Amendments of 1972 (Title IX).

B. **M-DCPS Office of Civil Rights Compliance (CRC)**

The District's Title IX Coordinator, located in the CRC, is authorized to coordinate the School Board's response to allegations of sexual harassment and related retaliation.¹ The Title IX Coordinator and Deputy Title IX Coordinators from the CRC Office work with school site Title IX Liaisons to receive reports and Complaints of sexual harassment, provide notice of such Complaints, offer supportive measures and promptly investigate formal Complaints. CRC works with schools and work sites to coordinate the implementation of effective remedies related to sexual harassment. CRC provides connections to counseling and guidance on reporting to law enforcement and the Florida Department of Children and Families. CRC also provides training on recognizing, preventing and responding to all forms of discrimination and harassment including sexual harassment.

CRC strives to ensure that all members of M-DCPS value and respect each other's contributions and opinions without regard to gender, race, social or ethnic background, or any of the protected categories

C. **Title IX**

Title IX of the Education Amendments of 1972 (Title IX) states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

As a school district receiving federal financial assistance, Title IX applies to M-DCPS including its schools, educational program and activities.

¹ As applicable, the procedures contained in this Manual also apply to allegations of retaliation against an individual for activities related to a report of sexual harassment.

D. Title IX Coordinator

The District's Title IX Coordinator is located in the Office of Civil Rights Compliance (CRC) at:

155 N.E. 15th Street, Suite P104E
Miami, FL 33132
(305)995-1580
(305) 995-2047 (facsimile)
crc@dadeschools.net

All applicants for employment, employees of all collective bargaining units, students, and parents or legal guardians of the School Board are notified by School Board Policies and this *Title IX Sexual Harassment Manual* that the School Board does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required not to discriminate in such a manner. Inquiries about the application of Title IX may be referred to the District's Title IX Coordinator, the Assistant Secretary of the United States Department of Education, or both.

E. Training

The District's Title IX Team, including the Title IX Coordinator, along with any School Title IX Liaisons, Investigators, Decision-Makers, District-appointed Advisors, and Informal Resolution Process Facilitators, must receive training on the definition of sexual harassment as used in this procedures manual, the scope of the District's education program or activity, how to conduct an investigation and implement the grievance procedures, appeals, and informal processes (as applicable), and how to serve impartially including by avoiding pre-judgment of the facts at issue, conflicts of interest and bias.

Title IX training materials will be published on CRC's website at <http://hrdadeschools.net/civilrights>.

Additionally, all Board employees will be trained concerning their obligation to report sexual harassment to their Principal, Work Site Supervisor and/or the District's Title IX Coordinator (using the Title IX Coordinator's contact information listed in this Manual).

F. Definitions

1. **Complainant** is defined as an individual (employee, student, applicant, or other third parties attempting to participate in an education program or activity under the substantial control of the School Board) who is alleged to be the victim of conduct that could constitute sexual harassment. Parents and guardians who have a legal right to act on behalf of students may do so, including by filing a formal Complaint. A third party, including a parent or guardian, who makes a report of conduct that could constitute sexual harassment on behalf of another individual does not become a Complainant.
2. **Respondent** is defined as an individual who has been alleged to be the perpetrator of conduct that could constitute sexual harassment.
3. **Recipient** refers to elementary and secondary schools, as well as postsecondary institutions, that are recipients of Federal financial assistance. For purpose of Title IX sexual harassment regulations, the U.S. Department of Education uses the phrase “elementary and secondary schools” interchangeably with “local educational agencies” (or “LEAs” or “K-12”).
4. **Sexual Harassment** is defined as conduct on the basis of sex that satisfies one or more of the following definitions:
 - a) **Quid pro quo** is when an employee of the recipient conditions the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
 - b) **Unwelcome conduct** is conduct determined by reasonable person to be so **severe, pervasive and objectively offensive** that it effectively denies a person equal access to the recipient’s education program or activity; or
 - c) **“Sexual assault”** as defined by 20 U.S.C. 1092(f)(6)(A)(v) (“Clery Act”) is an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation; **“Dating violence,”** as defined by 34 U.S.C. 12291(a)(10) is violence committed by a person who is or who has been in a social relationship of a romantic or intimate nature with the Complainant.

The existence of such a relationship shall be determined based on the Complainant statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship; “Domestic violence,” as defined by 34 U.S.C. 12291(a)(8) is defined as a crime of violence committed by a former or current spouse or intimate partner of the Complainant; by a person with whom the Complainant shares a child in common; by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; by a person literally situated to a spouse of the Complainant under the domestic or family violence laws of Florida, or by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of Florida; or “Stalking” as defined in 34 U.S.C. 122919(a)(30) is defined as engaging in a course of conduct directed at a specific person that will cause a reasonable person to fear for the person safety or the safety of others or suffer substantial emotional distress.

5. **Statutory rape** is sexual intercourse with a person who is under the statutory age of consent as defined by state law. In Florida, the age of consent for sexual activity is 18. ²
6. **Consent** refers to words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent. Under Florida Statutes, Section 794.011, the specific definition of consent in relation to sexual battery is intelligent, knowing and voluntary consent; does not include coerced submission; and shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.
7. **Incapacitated** refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep.

² The age of consent to engage in sexual conduct in Florida is 18. Engaging in sexual conduct with a person under 18 years of age may constitute a crime. Regardless of whether sexual conduct constitutes sexual harassment or a crime, the District’s *Code of Student Conduct* prohibits sexual conduct on school grounds and may prohibit sexual conduct off campus when it causes a substantial disruption to the school environment.

8. **Scope of education program or activity** is defined to include the locations, events or circumstances within the United States, over which the District exercises substantial control. The school must have substantial control over both the Respondent and in the context in which the sexual harassment occurs.
9. **Deliberate Indifference** is defined as a response to sexual harassment that is clearly unreasonable in light of the known circumstances.
10. **Actual Knowledge** is defined as notice of sexual harassment or allegations of sexual harassment to a District's Title IX Coordinator or any official of the district who has the authority to institute corrective measures on behalf of the recipient or to any employee of an elementary or secondary school. Once a school receives notice, it must respond and take action whether a formal Complaint is filed or not.
11. **Supportive Measures** are defined as 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 District's education program or activity without unreasonably burdening the other party, including measures design to protect the safety of all parties or the District's educational environment, or deter sexual harassment. Supportive measures may include counseling, extension 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, increased security and monitoring of certain areas of the campus, or other similar measures deemed appropriate under the circumstances.
12. **Formal Complaint** is defined as a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school district investigate the allegations of sexual harassment. The Title IX Coordinator may sign and therefore initiate a formal Complaint in the event that the Complainant does not, but the Title IX Coordinator will consider the Complainant's wishes and other attending circumstances in exercising that authority.

13. **Relevant Evidence** is defined as evidence that has value in proving or disproving a fact at issue. Evidence of the Complainant's sexual behavior or predisposition may not be deemed relevant unless it is: 1) offered to prove that someone other than the Respondent committed the conduct alleged, or 2) concerns specific incidents of the Complainant's sexual behavior with respect to the Respondent and is offered to prove consent.
14. **Inculpatory Evidence** is evidence that tends to establish a Respondent's responsibility for alleged sexual harassment.
15. **Exculpatory Evidence** is evidence that tends to clear or excuse a Respondent from allegations of sexual harassment.
16. **Days** as used in this manual, means business days (i.e. days that the School Board is open for normal operating hours) unless expressly stated otherwise.
17. **Party** refers to a Complainant or a Respondent.
18. **Preponderance of Evidence** is the greater weight of evidence or evidence which makes an allegation more than likely true.

II. Title IX Team Roles

A. District Title IX Coordinator

The District's Title IX Coordinator is generally responsible for:

- Training Investigators, Decision-Makers and Appellate Decision-Makers
- Receiving reports related to sexual harassment
- Offering supportive measures
- Making initial fact assessments
- Informing Complainants of the process for filing a formal Complaint
- Reviewing formal Complaints to determine whether they meet the definition of sexual harassment
- Providing Notice of Allegations contained in a formal Complaint of sexual harassment
- Helping investigators develop an investigation strategy
- Guiding timeline compliance, recordkeeping
- Acting impartially, by avoiding pre-judgment of the facts at issue, conflicts of interest, and bias
- Monitoring implementation and efficacy of supportive measures and remedies
- Supervising all facets of the grievance process pertaining to any report of sexual harassment

The Title IX Coordinator is authorized to coordinate the School Board's response to allegations of sexual harassment and related retaliation. The Title IX Coordinator delegates tasks to Deputy Title IX Coordinators as appropriate.³ The Title IX Coordinator and Deputy Title IX Coordinators work with school site Title IX Liaisons to receive reports and Complaints of sexual harassment, provide notice of such Complaints, offer supportive measures and promptly investigate Complaints. CRC works with administrators to coordinate the implementation of effective remedies related to sexual harassment.

³ Throughout this Manual, the term "Title IX Coordinator" refers to the District's Title IX Coordinator or any member of the Title IX Team to whom the Title IX Coordinator delegates a task of the Title IX Coordinator under this Manual.

B. **Investigators**

Deputy Title IX Coordinators, CRC Investigators, and Title IX Liaisons cooperate on investigations of Title IX sexual harassment Complaints. Investigators are generally responsible for:

- Investigating formal Complaints of sexual harassment
- Conducting thorough, reliable and prompt investigations
- Acting impartially, by avoiding pre-judgment of the facts at issue, conflicts of interest, and bias
- Reviewing the M-DCPS *Title IX Sexual Harassment Manual* to ensure that all evidence has been gathered for Decision-Makers
- Understanding relevant evidence
- Providing the investigative report to the Title IX Coordinator and Decision-Maker
- Any tasks related to reports and Complaints of sexual harassment as delegated by the Title IX Coordinator or their Principal

1. **Deputy Title IX Coordinators**

More specifically, Deputy Title IX Coordinators assist the District Title IX Coordinator with duties such as:

- Any tasks related to reports and Complaints of sexual harassment as delegated by the Title IX Coordinator

2. **CRC Investigators**

CRC Investigators assist with duties such as:

- Investigating formal Complaints of sexual harassment using the procedures in this Manual
- Providing the parties and their Advisors with all evidence and considering their written responses prior to completion of the investigative report
- Drafting an investigation report that fairly summarizes all relevant evidence

3. **School Title IX Liaisons**

Additionally, School site Title IX Liaisons are Assistant Principals who have been trained and are responsible for:

- Facilitating reporting of allegations of sexual harassment
- Facilitating implementation of supportive measures
- Facilitating the flow of information between the school site and the District's Title IX Office with regard to all grievance procedures
- Any tasks related to reports and Complaints of sexual harassment as delegated by the Title IX Coordinator and/or their Principal

C. **Decision-Makers**

Decision-Makers are responsible for:

- Receiving the investigative report and evidence from the investigator
- Reviewing evidence to determine relevance
- Facilitating a question and answer process for the Complainant and Respondent that consists of relevant evidence only
- Explaining any decision to exclude a question as not relevant
- Basing their determination of responsibility only on statements of parties or witnesses who submitted to the question and answer process, but not drawing inferences about the determination of responsibility based solely on a party's or witness's absence from the question and answer process
- Using the definitions contained within this Manual and applicable School Board Policies to render a decision based on the relevant evidence presented
- Providing the parties with a written determination regarding the Respondent's responsibility or non-responsibility for sexual harassment

D. **Appellate Decision-Makers**

Appellate Decision-Makers are responsible for:

- Understanding the pertinent definitions, procedures, bases for the finding of responsibility or non-responsibility, and grounds for dismissal and appeal
- Responding to the appeal in a timely manner
- Coordinating any follow up procedures necessary to resolve the grounds for appeal
- Providing the parties with a written determination on the appeal

E. Informal Resolution Process Facilitators

Informal Resolution Process Facilitators are responsible for conducting the informal resolution process offered by the Title IX Coordinator and mutually agreed to by the parties after a formal Complaint has been filed. They serve as neutral facilitators between the parties trained on: the definition of sexual harassment as provided in this Manual; how to conduct informal resolution processes; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, or bias; and how to keep the informal resolution process confidential from the rest of the Title IX Team until a formal agreement is reached.

Informal Resolution Process Facilitators are also responsible for drafting agreements mutually agreed to by the parties once a resolution is reached and having both parties voluntarily sign the agreement. Informal resolution is not permissible with regard to Complaints alleging sexual harassment by an employee against a student.

F. Evaluating Bias and Conflicts of Interest

All members of the Title IX Team must ensure the investigation and decision-making processes are free from conflict of interest and bias, as these may be grounds for an appeal on the case. Every member of the Title IX Team should assess for any bias or conflicts of interest before and during the Title IX process. Circumstances that tend to demonstrate bias include:

- **Direct:** an interest directly tied to the parties, their family or career
- **Indirect:** the interest of a group, person or business of one of the parties is or was closely connected (e.g. a friend of a friend, or a previous relationship between those close to a member of the Title IX team or a party)
- **Financial:** monetary gain or loss based on the outcome of the investigation
- **Non-financial:** favoritism or prejudice resulting from friendship, animosity, or other personal involvement with another person or group

A conflict of interest is when a member of the Title IX Team is in a position to derive personal benefit from actions or decisions made in their official capacity.

If a member of the Title IX Team believes they may have a conflict of interest or bias, it should be brought to the attention of the Title IX Coordinator promptly (i.e. before taking any action on a case if possible). If the Title IX Coordinator has a conflict of interest or bias, the Assistant Superintendent of Human Capital Management must be notified for assignment of the matter to a Deputy Title IX Coordinator with direct reporting to the Assistant Superintendent of Human Capital Management, and the Title IX Coordinator must refrain from involvement in the specific matter.

III. Sexual Harassment Reporting Procedures

A. Reporting Sexual Harassment

All persons should report sexual harassment as soon as they become aware of it. Any person may report sexual harassment (whether or not the person reporting is the alleged victim of conduct that constitutes sexual harassment) to any employee of the District. However, persons are strongly encouraged to report allegations of sexual harassment to an employee who has the authority to institute corrective measures, such as the school Principal or the District Title IX Coordinator, in person, by mail, by telephone, or by electronic-mail, or by any other method that results in the verbal or written report being received by those persons.

The District's Title IX Coordinator is located in the Office of Civil Rights Compliance (CRC) at:

155 N.E. 15th Street, Suite P104E
Miami, FL 33132
(305)995-1580
(305) 995-2047 (facsimile)
crc@dadeschools.net

The Complainant's identity must be kept confidential from the Respondent until a formal Complaint is filed or if a particular supportive measure requires the Complainant's identity to be shared with the Respondent (e.g. a no-contact order). If the Respondent is the Principal or Work Site Supervisor, the reporter should contact the Title IX Coordinator directly.

All Principals and Work Site Supervisors (or designees) must promptly notify the District Title IX Coordinator (or designee if the Coordinator is unavailable) and the Title IX Liaison at their work location about a report of sexual harassment reported to them. All employees who make a report to the CRC Office should keep a record of the date, time, method, and person receiving the report.

Please note that all M-DCPS employees are mandatory reporters pursuant to federal Title IX regulations.

A person may pursue criminal charges simultaneously with filing a formal Complaint. A person does not need to wait until the Title IX investigation is complete before contacting law enforcement. Questions or complaints relating to Title IX may also be addressed to the Assistant Secretary of the U.S. Department of Education at any time.

B. Employee Reporting Responsibilities

Any School Board employee who has independent knowledge or receives an allegation or report of conduct that might constitute sexual harassment must **promptly** relay that information to the Principal, Work Site Supervisor, or District Title IX Coordinator or the designees for those individuals. Principals and Work Site Supervisors (or their designees) must **promptly** notify the District Title IX Coordinator (or designee if the Coordinator is unavailable) and the Title IX Liaison at their work location about a report of sexual harassment reported to them. All employees who make a report to the CRC Office should keep a record of the date, time, method, and person receiving the report. A School Board employee who fails to promptly report an incident of sexual harassment of which the employees is aware may be subject to disciplinary action, up to and including termination. All persons should report sexual harassment as soon as they become aware of it.

C. Additional Steps for Employees Who Receive a Report of Sexual Harassment

1. Ensure the safety and well-being of the Complainant.
2. If there is an emergency, call 911.
3. If you suspect child abuse or neglect, immediately call the Florida Department of Children and Families (DCF) Abuse Hotline at 1-800-96-ABUSE (1-800-962-2873) or submit a report online at <https://reportabuse.dcf.state.fl.us/Child/ChildForm.aspx>
4. Notify the Principal and the Title IX Liaison or Work Site Supervisor that a report has been made to the Title IX Coordinator if you have not made the report the report directly to them.
5. If the report involves an allegation of sexual harassment by an adult against a student or indicates allegations of a Level 3 or higher under the Code of Student Conduct, notify Schools Police at 305-995-COPS.
6. **Always call the M-DCPS Office of Civil Rights Compliance and speak to the Title IX Coordinator or a Deputy Title IX Coordinator regarding any allegation of sexual harassment.**

IV. **Initial Grievance Procedures**

M-DCPS is committed to promptly and equitably resolving Complaints alleging sexual harassment. The District will treat both Complainants and Respondents equitably.

At all stages of the grievance process, all members of the Title IX Team as described above, shall assess whether a conflict of interest or bias exists. Should a member of the Title IX Team identify a conflict of interest or bias, they shall notify the Title IX Coordinator promptly (i.e. before taking any action on a case if possible). If the Title IX Coordinator has a conflict of interest or bias, the Title IX Coordinator's immediate supervisor must be notified for assignment of the matter to a Deputy Title IX Coordinator with direct reporting to the Title IX Coordinator's immediate supervisor, and the Title IX Coordinator must refrain from involvement in the specific matter.

The following procedures apply to reports of sexual harassment as defined in this Manual. All steps taken during the application of grievance procedures should be documented. School administrators must call CRC before undertaking any of the following steps.

A. **Initial Steps in Response to Allegations of Sexual Harassment**

1. The Title IX Coordinator and Title IX Liaison must log the date, time and method of the report, as well as the person who received and transmitted the report.⁴
2. The Title IX Coordinator and/or Deputy Title IX Coordinator, in conjunction with the school site Title IX Liaison, will assess the initial facts of the report.
3. The District Title IX Coordinator (or designated Deputy Coordinator or Title IX Liaison) shall explain the process for filing a formal Complaint.
4. The Title IX Coordinator and/or designated Deputy Coordinator, in coordination with the Title IX Liaison, shall provide the Complainant with a copy of the formal Title IX Complaint form or refer the Complainant to the District's website to download a copy of the Complaint form.

⁴ It is also advisable for any individual who makes a report of sexual harassment to log this information in their own records.

B. Supportive Measures Offered to the Complainant and Respondent, As Needed, to Ensure Equal Access to the Educational Program or Activity

Upon receiving a report of sexual harassment, the Title IX Coordinator shall promptly contact the Complainant (including the parent/guardian for students under age 18) to discuss the availability of supportive measures that are designed to ensure equal access the educational program, whether or not the Complainant intends to or actually files a formal Complaint. If supportive measures are not provided to the Complainant, the Title IX Coordinator shall document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Supportive measures should also be offered to the Respondent if they are necessary to ensure equity in access to education programs or activities. While a recipient is not obligated in every situation to offer supportive measures to a Respondent, if refusing to offer supportive measures to a Respondent (for instance, where a required proceeding under this Manual falls on a Respondent's final examination date results in a Respondent needing to reschedule the proceeding) would be clearly unreasonable in light of the known circumstances, such a refusal could also violate Title IX.

Supportive measures must be:

- Non-disciplinary, non-punitive
- Individualized
- Meant to restore or preserve equal access to educational programs and activities
- Implemented without unreasonably burdening the other party
- Designed to protect safety of parties or environment or deter sexual harassment
- Confidential to the extent that maintaining confidentiality would not impair the ability to provide the supportive measures

Supportive measures include, but are not limited to:

- Counseling
- Academic support, such as extensions of time or other course-related adjustments
- School campus escort services
- Safety plan
- Class schedule modifications
- Transportation accommodations
- Restrictions on contact between the parties
- School transfers

- Curriculum lessons that contain information about sexual harassment and bullying
- District Student Advocate
- Referrals to outside support agencies
- Employee job/office reassignments
- Referrals to Employee Assistance Program (EAP)

All supportive measures should be documented on the appropriate Student Case Management Forms and/or in the employee file, as well as in the Title IX case file.

C. **Emergency Removals**

The Principal may institute an emergency removal of a student Respondent after an individualized safety and risk analysis determining that there is an immediate threat to the physical health or safety of any student or other individual. The Principal must contact the Title IX Coordinator after providing notice to the Respondent of the emergency removal. The principal must initiate a Threat Assessment Team (TAT) to review the determination. The TAT process constitutes the Respondent's opportunity to challenge the emergency removal. Principals may contact the Mental Health Services Department at (305) 995-1020 for support as needed. If a student with a disability receives an emergency removal under this section that, independently or combined with prior removals, amounts to a pattern of removals for more than **ten (10) days**, a manifestation determination must be conducted.

Employees may also be removed and placed on alternative assignment by the Office of Professional Standards or a Region Office, with or without a threat to the physical health or safety to a student.

V. **Formal Grievance Process**

A. **Formal Complaints**

A formal Complaint may be filed with the Title IX Coordinator⁵ in person, by mail, or by electronic mail:

155 N.E. 15th Street, Suite P104E,
Miami, FL 33132
(305)995-1580
(305) 995-2047 (facsimile)
crc@dadeschools.net

The formal Complaint must contain verification that the Complainant (or parent/guardian if under 18 years old) is the person filing the formal Complaint, such as a verifiable physical or digital signature.

When the Title IX Coordinator or designee receives a formal Complaint or signs a formal Complaint, she/he must make a substantive determination of whether the conduct alleged meets the definition of sexual harassment (quid pro quo, unwelcome conduct, or sexual assault, in a program or activity over which the School Board had substantial control over both the Respondent *and* the context in which the harassment occurred).

If the alleged conduct meets the definition of Title IX sexual harassment, the Title IX Coordinator will retain jurisdiction and assign it for investigation pursuant to this Manual.

The Title IX Coordinator may consolidate formal Complaints if the allegations of sexual harassment are against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, where the allegations of sexual harassment arise out of the same facts or circumstances.

⁵ If a Title IX Complaint involves allegations of sexual harassment by or involving the Title IX Coordinator, the Complainant should submit the formal Complaint to the Assistant Superintendent of Human Capital Management, who will designate another person to serve in the place of the Title IX Coordinator for the limited purpose of implementing the grievance process with respect to that formal Complaint.

If the conduct does not meet the definition of sexual harassment, the Title IX Coordinator shall return the matter to the Principal or Work Site Supervisor for processing under any other applicable School Board policies as set forth below.

It is a violation of School Board policy for a Complainant, Respondent and/or witnesses to knowingly make false statements or knowingly submit false information, including intentionally making a false report of sexual harassment or submitting a false Complaint form. The School Board will not tolerate such conduct which is a violation of the Code of Student Conduct for students and/or the Code of Ethics and/or Standards of Ethical Conduct for employees.

B. **Notice of Allegations**

Upon receipt of a formal Complaint, the Title IX Coordinator shall provide written notice to all known parties (Complainants and Respondents), which includes:

- Notice of the grievance process, including the right to informal resolution (if agreed to by both parties) and the applicable standard of evidence (preponderance of the evidence)
- Notice of the allegations with sufficient time to prepare a response before any initial interview, at least **two (2)** days prior
- Sufficient details known at the time, including: the identities of the parties (if known), a detailed description of the incident, date and location of the incident (if known)
- A statement that the Respondent is presumed not responsible and that a determination regarding responsibility will be made at the conclusion of the grievance process
- Notice that the parties have the right to an advisor of their choice, who may be an attorney
- The rights of the students to receive interim supportive measures, if needed to ensure equity in access to educational programs or activities
- Notice of the presumption that the Respondent is not responsible until the investigation is concluded
- Applicable School Board Policies and Procedures alleged to have been violated
- Notice that parties may inspect and review evidence prior to the completion of the investigative report.
- A statement from the provision of the District's *Code of Student Conduct* and/or School Board Policy that prohibits knowingly making false statements or knowingly submitting false information (if any)
- Subsequent notice(s) as necessary if new allegations are discovered during the investigation

C. **Advisors**

Parties (Complainants and Respondents) have the right to have an advisor of their choice to assist them throughout the process, including attending meetings and interviews. An Advisor may be an attorney but is not required to be an attorney. An Advisor is someone permitted to accompany a party during the grievance process in addition to a parent/guardian, an employee's union representative, or a support person (i.e. paraprofessional) if needed to support an individual with a disability. The District is not responsible for providing the parties with Advisors, except for students in the District's post-secondary schools who are entitled to a live hearing and do not have an advisor.

D. **Formal Complaint Dismissals**

1. **Mandatory Dismissals**

The Title IX Coordinator **shall** dismiss a formal Complaint, or allegations therein, if the following conditions are not met:

- a. the definition of sexual harassment,
- b. against a person in the United States, and
- c. occurring in one of the School Board's educational programs or activities, over which the School Board has substantial control of the program or activity and the Respondent.

The Title IX Coordinator shall provide written notice of a mandatory dismissal simultaneously to the parties, clearly stating the reasons for the dismissal.

The Title IX Coordinator shall refer allegations, **where a student is the Respondent**, that do not meet the definition of sexual harassment to the Principal. If any of the dismissed allegations meet the definition of discrimination or harassment based on another protected category (other than sexual harassment), the procedures outlined in School Board Policy 5517.02, *Discrimination/Harassment Complaint Procedures for Students* must be applied by the Principal. If the dismissed allegations do not meet the definition of discrimination or harassment under any protected category (sexual harassment or any others), the Principal shall close it or investigate it in accordance with School Board Policies 5540, *Investigations Involving Students* and 5500, *Code of Student Conduct*, as applicable, once the **three (3)** day deadline to appeal the dismissal has passed.

Title IX Complaint allegations, **where an employee is the Respondent**, that do not meet the definition of sexual harassment but do meet the definition of discrimination or harassment under another protected category (other than sexual harassment), will be investigated by CRC pursuant to School Board Policies 1362.02, 3362.02, or 4362.02, *Discrimination and Harassment Complaint Procedures*. Any other Complaint allegations dismissed by the Title IX Coordinator shall be closed and/or referred for investigation pursuant to the *Personnel Investigative Model (PIM) Manual*, as applicable.

2. Discretionary Dismissals

The Title IX Coordinator **may** dismiss a formal Complaint or allegations therein if at any time during the investigation or hearing:

- a. the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal Complaint or allegations therein,
- b. the Respondent is no longer enrolled in or employed by the District, or
- c. specific circumstances prevent the school from gathering sufficient evidence to reach a determination, such as when the Complainant stops cooperating for an unreasonably long period.

The Title IX Coordinator shall provide written notice of a discretionary dismissal simultaneously to the parties, clearly stating the reasons for the dismissal.

*****Under no circumstances should a formal Complaint be dismissed without consulting with the District's Title IX Coordinator.**

E. Informal Resolution Process

Informal Resolution Process Facilitators are available to assist parties who agree in writing to resolve formal Complaints through the informal resolution process. The goal of the informal resolution process is to stop inappropriate behavior and facilitate resolution through informal means, if possible. **This informal resolution process is not required as a prerequisite to the filing of a formal Title IX Complaint, cannot be offered before the filing of a formal Title IX Complaint, and is completely voluntary.** The option of informal resolution, if offered, remains available to the parties until a determination of responsibility or non-responsibility is made.

Both parties must agree in a signed writing to participate in the informal resolution process. The informal resolution process **will not** be made available in cases involving allegations of sexual harassment of a student by an adult or employee.

The Title IX Coordinator will offer an informal resolution process to both parties in cases where informal resolution is deemed appropriate. In doing so, the Title IX Coordinator will provide the parties a written notice⁶ disclosing:

- The requirement that both parties provide voluntary and written consent to the informal resolution process
- That, prior to agreeing to resolution, any party has the right to withdraw from the information resolution process and resume the grievance process with respect to the formal Complaint
- That records that may be maintained or shared
- That the process and outcome must be kept confidential by both parties, except as may be required to effectuate the outcome
- That both parties will be asked to sign an agreement if a resolution is reached
- That the parties are precluded from resuming a formal Complaint arising from the same allegations once a resolution agreement is executed
- Other requirements of the informal resolution process as set forth below

Within **five (5) days** of receiving the signed consent of both parties to participate in the informal resolution process, the Informal Resolution Process Facilitator (“Facilitator”) will contact both parties separately to begin the informal resolution process. If a joint resolution conference is requested and/or deemed appropriate by the Title IX Coordinator, it will be held virtually unless otherwise agreed by the parties and approved by the Title IX Coordinator. Resolution conferences will be scheduled for **one (1) business day** absent extenuating circumstances.

The parties may be accompanied by an Advisor of their choice for the informal resolution conference. However, the Advisor may not participate directly in the discussions with the other party or the Facilitator, and may only communicate directly with the party whom they are accompanying upon a request by the party to take a break and caucus with their Advisor. **A party’s failure to attend a jointly scheduled informal resolution conference will be treated as that party’s decision to withdraw from the process and request that the matter be referred back to the grievance process.** Resolution conferences may be rescheduled however, if the party makes a reasonable request to reschedule that is agreeable to the other party, the Facilitator, and the Title IX Coordinator. Agreements to reschedule must be documented.

At the informal resolution conference, the Facilitator will act as a liaison between the parties, who will not communicate with one another unless specifically agreed otherwise. The goal of the informal resolution conference is to produce a resolution agreement that resolves the formal Title IX Complaint in its entirety. During the

⁶ A Respondent must receive the Notice of Allegations prior to or with the informal resolution process notice.

conference, the parties are expected to participate in discussions in good faith, to consider offers or suggestions with an open mind, to work constructively toward a mutually acceptable resolution, and to implement a resolution agreement in good faith.

The informal resolution process will result in an informal resolution agreement drafted by the Facilitator and signed by both parties. This agreement shall contain a statement that the parties voluntarily agreed to the informal resolution process, the remedies agreed to by the parties and approved by the District, a statement that the parties agree to keep the discussions and agreement confidential, except as may be required to effectuate the outcome, and a statement that the resolution agreement is binding on the parties and fully resolves the formal Complaint. The resolution agreement must be signed by both parties in order to take effect.

Once a resolution agreement is reached, the Facilitator will transmit the agreement to the Title IX Coordinator, who will then notify the parties and applicable members of the Title IX Team that the formal Complaint has been resolved.

Informal Resolution Process Facilitators are to keep all aspects of the informal resolution process confidential during its pendency. This means that any notes taken by the Facilitator and/or any records or other documents offered or provided by either party to the Facilitator during this process will be kept in a separate file and will not be shared with the Title IX Team members assigned to investigate the formal Complaint, make a finding of responsibility or non-responsibility, or decide an appeal.

Appeals from an informal resolution process cannot be taken. If the resolution agreement is breached, corrective action may include, but not be limited to, dissolving the remaining provisions of the agreement, disciplining the breaching party, and/or reviving the grievance process.

There is no set time limit for an informal resolution process to be completed. The informal resolution process is good cause for a delay of the investigation. The grievance process and all related deadlines are suspended while the informal resolution process remains pending.

If one of the parties has requested to withdraw from the informal resolution process, the formal grievance process shall resume.

F. Investigations

1. Timelines

All investigations conducted pursuant to this Manual must be conducted in a reasonably prompt manner. The timeline begins from the date when the Complainant requests an investigation by filing a formal Complaint or the Title IX Coordinator signs a formal Complaint. Any temporary and limited delays in the investigatory process must be documented.

A Title IX investigation may only be delayed for documented good cause. Good cause includes, but is not limited to, the absence of a party, absence of a party's advisor, concurrent law enforcement activity, or accommodations for language barriers and disabilities.

The District will seek to conclude the grievance process, including resolving any appeals, within ninety **(90) calendar days** of receipt of the formal Complaint. The informal resolution process may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility. The Title IX Coordinator will provide the parties with reasonable updates on the status of the grievance process.

2. Law Enforcement Investigations

Allegations of sexual harassment may be investigated by law enforcement officials concurrently to a sexual harassment investigation that is conducted after the filing of a formal Title IX Complaint. Depending on the circumstances, a law enforcement investigation may constitute good cause to delay a CRC investigation. The Investigator/Title IX Liaison must contact law enforcement to determine whether a pending law enforcement investigation should delay the Title IX investigation. The investigator must document the basis for the delay.

3. Notice of Rights

Upon commencement of a formal Title IX investigation, Complainants and Respondents shall be provided with a Notice of Rights. This notice informs parties of the following:

- Right to present witnesses, including fact and expert witnesses
- Right to present inculpatory and exculpatory evidence
- Right to discuss allegations under investigation without restriction
- Right to gather and present relevant evidence without restriction
- Right to be accompanied to any related meeting or proceeding by an advisor of their choice, who may be, but is not required to be, an attorney⁷
- Right to written notice of the date, time, location, participants, and purpose of investigative interviews or other meetings, with sufficient time to prepare, no less than **two (2) days** in advance
- Right to inspect and review evidence and a draft of the investigative report before finalized

4. **Notice of Investigative Interview**

Parties and witnesses should be interviewed as soon as possible but not before the Notice of Allegations and Notice of Interview are sent. At least **two (2) days** prior to the interview or meeting, the parties shall be notified of the date, time and location of their interview pursuant to this manual. The notice must also include who will be present for the interview. This notice must give sufficient time for the parties to prepare for the interviews. Good faith requests to reschedule will be documented and considered by the investigator. Any extensions of the time must be granted to the parties equally.

5. **Interactions with FERPA**

The obligation to comply with Title IX regulations is not obviated or alleviated by the Family Educational Rights and Privacy Act (FERPA). Consequently, information about other students may be shared with the parties and their parents/guardians, as well as Advisors and witnesses involved with a Title IX Complaint, without a FERPA waiver, provided that the information is being shared for a reason mandated by the Title IX regulations, as set forth in this Manual.

⁷ For K-12 students, the participation of the Advisor is limited to accompanying the party to any meeting or interview, but not participating directly in the meeting or interview by asking questions or directing discussions to anyone but the party whom the Advisor is accompanying. The Advisor's role shall be to advise the party privately upon request of the party to break or caucus with his or her Advisor. For adult students, the Advisor's role is limited in the same way, except as set forth in Section G.2. related to live hearings.

6. Interviews and Investigation

Investigators should schedule interviews with parties and witnesses as soon as possible after receiving the Complaint and giving proper notice to all parties. Good cause delays must be documented. A party's continued refusal to cooperate may result in dismissal of the Complaint or in the investigation report being completed without that party's input. The burden of proof and of gathering evidence rests with the District, not on the parties. Investigators must ensure the following:

- a. Investigators should interview the Complainant, Respondent and witnesses by asking questions relevant to the allegations and documenting their responses in writing.
- b. Interviewees shall be provided with a copy of their interview statement (questions and answers) to review and sign. The interview statement documented by the investigator shall be signed by the party or witness it was collected from and dated. Refusals to sign shall be noted by the investigator and dated.
- c. If a party or a witness believes that something has not been properly documented by the investigator, they may append the original interview statement with an additional signed statement clarifying and/or correcting what has been documented by the investigator.
- d. During their interview, parties and witnesses may provide any evidence and/or name other witnesses who may have information relevant to the allegations.
- e. All evidence gathered during a Title IX investigation shall be documented as it is received.
- f. Every effort should be made by the investigator to verify and/or authenticate evidence.
- g. There shall be no prohibition on the parties to discuss the case or on gathering evidence.
- h. The investigator should make note of any information they attempt to but are unable to gather.
- i. Follow-up interviews may be conducted as needed with appropriate notice provided to the parties.
- j. Parties and witnesses shall be allowed to review the written record of their interview.
- k. Records of the interviews conducted, and evidence collected during an investigation, shall be maintained in the case file by the investigator.
- l. The District is not permitted to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in the professional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party provides a district with voluntary, written consent to do so.

- m. Investigators shall provide the parties with regular status updates on their case.

7. Refusals to Participate in Investigations or Cross-Examination

A party or witness may refuse to participate in a Title IX investigation. The investigation may continue, however, and could result in a dismissal or an outcome based on other available evidence. The Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination. However, in reaching a determination regarding responsibility, the Decision-Maker must not rely on any statement of a party or witness who does not submit to cross-examination or the written question and answer process.

8. Investigative Reports

The investigative report is the comprehensive document drafted summarizing the investigation. The investigative report should include:

- A description of the allegations
- A description of all written statements and results of interviews with parties and witnesses
- An assessment of credibility of the parties and witnesses (pointing out corroborating evidence or issues with credibility)
- Summary of the relevant evidence and other information collected (e.g. copies of text messages, emails, social media posts, videos, surveillance, etc.)
- Unsuccessful attempts to gather evidence and interview witnesses
- The investigative report should not include a finding made by the investigator

9. Review of Evidence and Draft Report by Parties

- a. Prior to the finalization of the investigative report, the evidence related to the allegations and a draft of the investigative report must be sent simultaneously to each party and their Advisor, if applicable. The report may be sent in electronic form or hard copy. The information sent should also include all evidence, including all inculpatory and exculpatory evidence, whether or not such evidence will be relied upon by the Decision-Maker.

- b. The parties shall be allowed **10 calendar days** from receipt⁸ of the draft report to provide a signed, written response to the investigator. Neither party is required to submit a response.
- c. Prior to finalizing the report, the investigator shall consider any written responses provided by the parties and amend the report as appropriate.

10. **Transmission to Decision-Maker**

The Title IX Coordinator shall transmit the Final Investigative Report to the Decision-Maker. Parties shall receive a Notice of Appointment of Decision-Maker. The investigator shall not make any recommendations to the Decision-Maker on what the findings should be.

G. **The Decision-Making Process**

District administrators identified by School Operations and the Office of Human Capital Management will serve as Decision-Makers. The Decision-Maker shall issue a Final Determination Report after applying the procedures below. The Decision-Maker shall make a determination of responsibility or non-responsibility and recommend any disciplinary sanctions to be imposed, as well as any other remedies designed to restore or preserve equal access to the education program or activity. The Decision-Maker may delay the issuance of the Final Determination Report for good cause. Any extensions of the timeframes contained herein must be granted to the parties equally.

1. **Written Question and Answer Process for M-DCPS K-12 Programs**

Once the Title IX Coordinator transmits to the Final Investigative Report to the Decision-Maker, the Decision-Maker shall consider the contents of the report in accordance with the applicable standard of preponderance of the evidence. Section G.2., entitled "Determinations in Adult and Career Technical Education Programs," provides specific procedures related to live hearings in the decision-making process applicable to the District's post-secondary programs.

⁸ If the report is provided in electronic mail format or hand-delivery, the date of receipt is considered to be the date sent by electronic mail or hand-delivered. The investigator should request a confirmation or signature of receipt, but failure of the party to confirm receipt will not negate the receipt date being logged as the date provided. If the report is sent by mail, the date of receipt is considered to be the date mailed, plus **three (3) days** added.

Upon receipt of the Final Investigative Report, the parties, their parents/guardians, or their advisors should submit any written, relevant questions that they want asked of any other party or witness to the Decision-Maker within **three (3) days**. Questions submitted and answers to the questions must be posed in a respectful manner (e.g. without using profanity or irrelevant ad hominem attacks). Harassing or abusive questions and answers will not be tolerated. Questions and answers must be presented in numbered format. Duplicative questions are not permitted. The Decision-Maker must review the questions and reserves the right to exclude any question deemed irrelevant pursuant to the definition of “relevance” provided in this Manual. Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are: (1) offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or (2) if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

The Decision-Maker will send the relevant questions to the other party for that party’s written answers to be submitted within **five (5) days**. Each party (or parent/guardian for students under age 18) must sign their answers swearing or affirming that their statements are true and correct.

Upon receipt of both parties written and signed responses, the Decision-Maker will allow **two (2) days** for limited follow-up questions and **two (2) days** for written answers. The other requirements for initial questions and answers outlined above apply to follow-up questions and answers.

Only the relevant questions and answers will be considered by the Decision-Maker in reaching a final determination of responsibility or non-responsibility. The Decision-Maker must provide the parties with a written explanation of excluded evidence (including questions and answers) in the Final Determination Report.

The Decision-Maker shall use the Final Determination Report to render a decision on whether the Respondent is responsible for the conduct alleged in the Complaint. The Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s refusal to answer questions. However, in reaching a determination regarding responsibility, the Decision-Maker must not rely on any statement of a party or witness who does not submit to the written question and answer process.

2. Hearings for M-DCPS Adult and Career Technical Education Programs

Live hearings are required for the decision-making portion of the Title IX process for allegations involving Adult and Career Technical Education Programs. The Title IX Coordinator will contact the parties with the date, time, and location (or format if virtual) of the hearing. Any good cause extensions of the time for the hearing must be granted to the parties equally.

At the hearing, the Decision-Maker shall permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow up questions, including those which challenge credibility. Such cross-examination at the hearing must be conducted directly, orally, and in real time by the party's Advisor and never by a party personally. Questions and answers to the questions must be posed in a respectful manner (e.g. without using profanity or irrelevant ad hominem attacks). Harassing or abusive questions and answers will not be tolerated. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Notwithstanding anything to the contrary in this Manual, the Decision-Maker shall not restrict the extent to which Advisors may participate in the hearings.

If a party does not have an Advisor present at the hearing, the District will provide, without fee or charge to that party, an advisor of the District's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. The Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination. However, in reaching a determination regarding responsibility, the Decision-Maker must not rely on any statement of a party or witness who does not submit to cross-examination or the written question and answer process.

3. Dissemination of Written Determinations

The Decision-Maker will provide the Final Determination Report to the Title IX Coordinator, who will disseminate the written determination to the parties simultaneously, that contains:

- a. The allegations potentially constituting sexual harassment
- b. A description of the grievance process contained herein
- c. Findings of fact supporting the determination
- d. Conclusions regarding the application of School Board policies and/or the *District's Code of Student Conduct* to the facts
- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility based on a preponderance of the evidence
- f. Any disciplinary sanctions imposed on the Respondent
- g. Whether remedies designed to restore or preserve equal access to the School Board's education program or activity will be provided to the Complainant, including continued supportive measures
- h. The School Board's procedures and permissible bases for the Complainant and Respondent to appeal

H. **Appeal Procedures**

Requests for appeals may be made by either party and shall be submitted directly to the Title IX Coordinator within **three (3) days** of the date of the final determination. The request for appeal will be forwarded to an Appellate Decision-Maker. If no appeal is filed, and **three (3) days** have passed, the decision becomes final. **No disciplinary remedies may be imposed until after the appeal has been heard or the time period for appeal has expired.**

Designated District administrators shall serve as Appellate Decision-Makers.

1. **Grounds for Appeal**

A request for appeal of the final determination must include one of the three enumerated grounds for appeal along with a detailed, fact-specific explanation of the basis of the appeal:

- Procedural irregularities that affected the outcome of the matter, including dismissal of a Complaint;
- Newly discovered evidence that could affect the outcome of the matter; and/or
- A conflict of interest or bias which affected the outcome of the matter.

2. **Appellate Decision-Making**

- If the basis for the appeal is newly discovered evidence, the appellate Decision-Maker may delegate to the investigator(s) for authentication or additional investigation as needed
- The non-appealing party must be given written notice of the appeal and a chance to respond to information asserted in an appeal

- The parties' written statements in support of, or challenging, the determination of responsibility must be submitted within **three (3) days** after the Title IX Coordinator provides notice to the non-appealing party of the appeal

3. **Notice of Appeal Outcome**

- The Notice of Appeal Outcome will include:
 - The findings by the Appellate Decision-Maker (whether the Decision-Maker's findings and conclusions remain unchanged or overturned);
 - The rationale for the result; and
 - A brief summary of the evidence on which the decision is based, as appropriate.
- The determination on appeal becomes final on the date the Appellate Decision-Maker provides the parties with the written determination of the results of the appeal

I. **Discipline**

Student discipline shall be issued in accordance with the applicable District *Code of Student Conduct*. Employee discipline shall be issued in accordance with the applicable collective bargaining agreement.

1. **Student Discipline**

If the Decision-Maker determines the student Respondent is responsible for violating this policy, the Final Determination Report will include any disciplinary sanctions the District imposes on the Respondent. The Title IX Coordinator will notify the school site Principal for implementation of the remedies.

A manifestation determination is required by IDEA when considering the exclusion of a student with a disability that constitutes a disciplinary change of placement. The manifestation determination must take place **within 10 school days** of any decision to change the placement of a child with a disability because of a violation of the District's *Code of Student Conduct*.

2. **Employee Discipline**

If the Decision-Maker determines an employee Respondent is responsible for violating this policy, the Final Determination Report will include any disciplinary sanctions the District imposes on the Respondent. The Title IX Coordinator will forward the Final Determination Report to the Office of Professional Standards for implementation of appropriate remedies.

3. **Remedies**

If a determination of responsibility for sexual harassment is made against the Respondent, the District will provide remedies to the Complainant. The remedies will be designed to restore preserve equal access to the District's education program or activity. Potential remedies include, but are not limited to, individualized services including supportive measures. Remedies may also be disciplinary or punitive in nature against the Respondent.

J. **Retaliation**

School Board Policy, federal and state law prohibit retaliation, including but not limited to intimidation, threats, coercion or discrimination against any individual for purposes of interfering with the rights or privileges secured by Title IX or its implementing regulations because an individual has made a report or complaint, testified, assisted, participated, or refused to participate in any discrimination or harassment investigation, proceeding or hearing. Complaints alleging retaliation may be filed using the procedures outlined in this manual.

Retaliation against a person for making a report of sexual harassment, filing a formal Complaint, or participating in an investigation and or hearing is a serious violation of this policy that can result in the imposition of disciplinary sanctions and/other appropriate remedies.

Exercise of rights protected under the First Amendment of the United States Constitution do not constitute retaliation prohibited under this policy.

Charging an individual with a *Code of Student Conduct* violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation.

K. **Recordkeeping**

The District's Title IX Coordinator and all individuals responsible for receiving reports, applying formal Complaint procedures, and/or conducting investigations pursuant to this manual shall be responsible for maintaining records related to all Title IX Complaints received by the District for no less than seven (7) years.

These records include but are not limited to, all information, documents, electronically stored information (ESI), and electronic media created and/or received as part of the report, Complaint, or investigation. The information shall be retained immediately upon receipt of specific information and/or written notice that could lead to an investigation, formal Complaint, or potential litigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).