



## Policy & Procedures: Sexual Misconduct and Sex-Based Discrimination Against Students

### I. Purpose

The purpose of this document is to establish DC Public Schools (DCPS) policy and procedures regarding the reporting and investigation of sex-based discrimination and sexual misconduct against students.

DCPS is committed to preventing sex-based discrimination and sexual misconduct to ensure a safe and welcoming learning environment for all students. Title IX of the Education Amendments Act of 1972 (“Title IX”) is a federal law that prohibits discrimination on the basis of sex in schools, and the D.C. Human Rights Act of 1977 (“D.C. Human Rights Act”) further prohibits discrimination on the basis of sex and gender identity or gender expression. Sex-based discrimination or sexual misconduct is strictly prohibited by DCPS. Any student wishing to bring a grievance related to an incident of sexual misconduct or sex-based discrimination may also do so according to DCPS’s *Grievance Policy and Procedure*.<sup>1</sup> Questions about this policy can be directed to [dcps.care@dc.gov](mailto:dcps.care@dc.gov).

### II. Authority

Source	Citation
Federal Law	Title IX of the Education Amendments Act of 1972 (Title IX), 20 U.S.C. §1681 <i>et seq.</i>
Federal Regulations	Title IX regulations, 34 C.F.R. Part 106
District of Columbia Law	D.C. Human Rights Act of 1977, DC Code § 2-1401 <i>et seq.</i>
District of Columbia Municipal Regulations	5-B DCMR §2500 <i>et seq.</i> (Student Discipline) 5-B DCMR §2405 (Student Grievance Procedure)

### III. Requirements

DCPS is committed to responding to all reports of sex-based discrimination and incidents of sexual misconduct of which it knows or reasonably should have known. DCPS will protect the confidentiality and well-being of any student who reports such incidents. DCPS will provide support to students while the incidents are being investigated to mitigate harm and ensure that they feel safe in school.

DCPS is also committed to addressing sex-based discrimination and sexual misconduct through proactive measures, including fostering a school climate that will eliminate sex-based discrimination and sexual misconduct and encourage the reporting of all instances of this behavior.

<sup>1</sup> *Grievance Policy and Procedure* (Sept. 2016), available at <https://dcps.dc.gov/page/dcps-policies>. DCPS employees with questions or complaints regarding sexual harassment related to employment and employees should refer to the *Employment Rights & Responsibilities Policy* (Aug. 2017), available at <https://dcps.dc.gov/page/dcps-policies>, or contact DCPS Labor Management and Employee Relations (LMER) at [dcps.lmer@dc.gov](mailto:dcps.lmer@dc.gov).

**A. Prohibited Behavior: Sexual Misconduct**

Sexual misconduct is any wrongful, improper or unlawful act or behavior that is intentional and sexual in nature. Sexual misconduct includes any unwelcome or uninvited verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with a student, including: (A) A sexual invitation; (B) Dating or soliciting a date; (C) Engaging in sexual dialogue; (D) Making sexually suggestive comments; (E) Describing prior sexual encounters; or (F) Physical exposure of a sexual or erotic nature. Anyone can experience sexual misconduct. Sexual misconduct at school and at school-related activities is strictly prohibited. This prohibition extends to incidents of misconduct that have a significant impact on the school environment, even if they did not occur on school grounds or at a school-sanctioned activity. This policy addresses all the following types of sexual misconduct:

**1. Sexual Harassment**

Sexual harassment is any unwelcome or uninvited sexual advance, request for sexual favors, sexually motivated physical conduct, stalking, or other verbal or physical conduct of a sexual nature that can be reasonably predicted to:

- Place the aggrieved in reasonable fear of physical harm to their person;
- Cause a substantial detrimental effect to the aggrieved's physical or mental health;
- Interfere with the aggrieved's academic performance or attendance at school; or
- Interfere with the aggrieved's ability to participate in or benefit from the services, activities, or privileges provided by a school.

Sexual harassment can include requests for sexual favors, sexual advances, or verbal, non-verbal, physical or written statements which make someone feel uncomfortable, intimidated or threatened. Sexual harassment can be communicated verbally, in writing, online, or through physical behavior. Sexual harassment is not always sexual; it can be aimed at a student's gender identity, gender expression, or gender-nonconformity/gender variance in a way that damages the student's ability to learn or participate in school activities. There are two types of sexual harassment:

- a. *Quid Pro Quo Harassment*: The term quid pro quo means "this for that." It occurs when someone conditions submission to an unwanted sexual activity in exchange for receiving a benefit, including benefits associated with any educational program (e.g., improving a grade). Quid pro quo harassment can be implicit or explicit. It often occurs when unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature is made by a person having power, authority or advantage over another.
- b. *Hostile Environment*: A hostile environment is created when sexual harassment is so severe, persistent or pervasive as to deny or limit a person's ability to participate in or benefit from the school's programs or activities.

**2. Sexual Assault**

Sexual assault is unwanted sexual contact or intercourse that may involve force or the threat of force. Two types of sexual assault are:

- a. *Non-Consensual Sexual Contact*: Sexual contact is any intentional sexual touching with any object initiated by one person toward another person. Non-consensual sexual contact exists if it occurs without consent or by force. Non-consensual sexual contact includes, but is not limited to:
  - Physical assault of a sexual nature, including rape, sexual battery, molestation, and unwelcome intentional physical contact which is sexual in nature;
  - Intentional contact with breasts, buttocks, groin or genitals, or touching of others with any of these body parts, or making others touch you or themselves with or on any of these body parts;
  - Any intentional bodily contact of a sexual manner;
  - Incapacitation through drugs, alcohol, or other means to make them vulnerable to non-consensual sexual contact.
- b. *Non-Consensual Sexual Intercourse*: Non-consensual sexual intercourse is any sexual intercourse, however slight, with any body part or object without consent or by force.

### 3. Sexual Exploitation

Sexual exploitation is an act whereby an individual takes advantage of someone's sexuality or sexual privacy for their own gain without that individual's knowledge or consent. This gain might be for sexual gratification, financial gain, or other personal benefit. Examples of sexual exploitation include:

- Allowing or encouraging a child to engage in prostitution or to be depicted in a sexual act;
- Observing someone's nudity or sexual activity without their knowledge or consent;
- Streaming and sharing of images, video, or audio of a person's nudity or sexual activity without their knowledge or consent;
- Coercing someone to have sexual intercourse using threats or blackmail, or coercing someone to have sexual intercourse with a third-party for personal gain;
- Abusing a power differential (e.g., gender, age, authority, status) for sexual purposes;
- Going beyond the boundaries of consent (e.g., one-party letting others observe a consensual sex intercourse act which the other party believes to be private); or
- Exposing intimate body parts to an individual without their consent.

### 4. Other Types of Offenses that May Constitute Sexual Misconduct

- a. *Intimate Partner/Dating Violence*: Abusive or coercive behavior wherein a dating partner uses threats of harm, or actual acts of physical, emotional, economic, technological, or sexual harm to exert power or control over a current or former dating partner.<sup>2</sup>
- b. *Bullying/Cyberbullying*: repeated or severe, aggressive behavior, intended to intentionally hurt, control, or diminish another person physically or mentally on the basis of their actual or perceived sex or gender.

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<sup>2</sup> For more detailed definitions of abusive relationships, see The National Domestic Violence Hotline at <http://www.thehotline.org/is-this-abuse/abuse-defined/>.

- c. *Stalking*: a course of conduct directed at specific person(s) that is unwelcome and would cause a reasonable person to feel fear, where the conduct is based on the victim’s actual or perceived sex or gender. It is often repetitive and menacing and includes following, pursuit, harassing and/or interfering with the pace and/or safety of another.
- d. *Hazing*: acts likely to cause physical or psychological harm or social ostracism to any person within the school community as it relates to the admission into any social group.
- e. *Intimidation*: implied threats or acts that cause an unreasonable fear of harm in another person.
- f. *Threat of harm or actual physical harm*: conduct that threatens or endangers the health or safety of any person based on sex and gender identity or gender expression.

**B. Prohibited Behavior: Sex-Based Discrimination**

In addition to protecting students from sexual misconduct, Title IX and the D.C. Human Rights Act provide additional protections against sex-based discrimination including those outlined in this section. Discrimination occurs when individuals partake in actions that deprive other members of the community of educational access, benefits or opportunities based on the victim’s actual or perceived sex or gender.<sup>3</sup>

**C. Prevention and Education**

All DCPS schools will, in a developmentally appropriate manner:

- Teach the full range of behaviors that are considered sex-based discrimination and sexual misconduct, and clearly communicate that discriminatory behavior is not acceptable;
- Communicate to students that there are safe and confidential ways to report sex-based discrimination and sexual misconduct, and receive supports to deal with harassing behavior against them;
- Increase student understanding of bystander intervention;
- Conduct ongoing internal assessments of the school’s social and physical climate to create a safe and supportive educational environment for all students;
- Implement measures from DCPS’s *Bullying Prevention Policy*,<sup>4</sup> including consistent and frequent monitoring of school culture indicators from surveys and student data systems, schoolwide positive behavioral supports, and bullying prevention campaigns, assemblies, programs, rallies, monthly celebrations, etc.;

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<sup>3</sup> Throughout this document all references to sex-based discrimination and sexual misconduct are to be read broadly to include sex-discrimination and sexual misconduct against any student, regardless of sexual orientation, gender identity, or gender expression. For more information, please refer to DCPS’s *Transgender and Gender-Nonconforming Policy Guidance* (June 2015), available at <https://dcps.dc.gov/bullying>.

<sup>4</sup> Available at <https://dcps.dc.gov/bullying>.

- Disrupt gender bias through education and programming;<sup>5</sup>
- Ensure that students and staff know that they will face a range of disciplinary consequences for committing prohibited behaviors;
- Ensure that students who experience sex-based discrimination or sexual misconduct will be supported by school staff and other available resources;
- Ensure that students who make reports are not retaliated against; and
- Ensure that all members of the school community have access to this policy.

#### **D. Reporting Procedures and Protections**

##### **1. Filing by Reporter**

DCPS strongly encourages any student who has experienced or has witnessed sex-based discrimination or sexual misconduct to follow the reporting procedure outlined below. While there is no time limit for when a report can be filed, DCPS encourages students to file reports as soon as possible. Students can have an advisor for support throughout the resolution process. An advisor can be anyone selected by the aggrieved to provide support.

Parents, guardians, or any other third party may also file a sex-based discrimination or sexual misconduct report with DCPS. There may be warning signs that can help parents/guardians, relatives or third parties know when a student is experiencing sexual misconduct.<sup>6</sup>

A reporter may file a report in any of the following ways:

- a. Tell any DCPS Employee: A student or other interested party may report verbally or in writing to any member of school staff.
- b. Contact DCPS' Title IX Coordinator using one of the resources below:
  - Online: <https://dcforms.dc.gov/webform/grievance-referral-online-form>,
  - Telephone: 202.442.5405,
  - Email at [dcps.care@dc.gov](mailto:dcps.care@dc.gov), or
  - in person at 1200 First Street, NE Washington, D.C. 20002.

##### **2. DCPS Staff Responsibility to Report and to Receive Reports**

A responsible employee is any person who has the duty to report sex-based discrimination and sexual misconduct. All DCPS staff members may receive reports of sexual misconduct or sex-based discrimination from students, parents or other concerned parties and must immediately follow the mandated reporting guidelines and contact the DCPS Title IX Coordinator.

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<sup>5</sup> Additional policy and guidance on ensuring an inclusive curriculum for students of all gender identities may be found in the DCPS *Transgender and Gender-Nonconforming Policy Guidance* (June 2015), available at <https://dcps.dc.gov/publication/dcps-transgender-and-gender-non-conforming-policy-guidance>.

<sup>6</sup> For more information on warning signs, see resources at RAINN (Rape, Abuse & Incest National Network) at <https://www.rainn.org/warning-signs> or Safe Shores - The DC Children's Advocacy Center at <https://www.safeshores.org/get-support/recognizing-abuse>.

If a DCPS staff member knows, has reason to know or suspects that a student is in danger of being exposed to sexual misconduct or discrimination, reporting is required.<sup>7</sup> Immediate reporting is required if an employee receives information from someone directly involved in an incident or if the information is received from a third party. If a student communicates to a DCPS staff member that they have experienced or witnessed sexual misconduct or discrimination, the staff member must take the following steps:

- a. Ensure that the student is safe and not in any immediate danger;
- b. Communicate the information to the Title IX Coordinator immediately; and
- c. Provide the student with a copy of this policy and resources on supports and services.

### 3. Determination of Interim Measures

The DCPS Title IX Coordinator and/or DCPS Deputy Title IX Coordinator is responsible for immediately assessing and addressing the extent of the harm alleged and any danger that a student or students may experience. While an incident of sex-based discrimination or sexual misconduct is being investigated, schools may be required to support students who have been subject to mistreatment or otherwise associated with a report. When deciding whether to implement interim measures, the Title IX Coordinator and school will apply a reasonable cause standard that looks at whether a reasonable person would think these measures would be necessary to protect a student from harm in the given circumstances.

A determination and implementation of appropriate interim measures will be delivered with the support of the appropriate staff and oversight from the Title IX Coordinator. Interim measures to be taken by school staff may include:

- a. Creating and implementing a safety plan;
- b. Teaching the student strategies to use if they are feeling anxious, upset, or overwhelmed;
- c. Holding regular check-ins with student(s) to ensure that their needs are being met;
- d. Providing access to mental health counseling to help the student recover from any trauma;
- e. Modifying class schedule(s) to minimize/eliminate contact with the responder;
- f. Supporting plans for any attendance or behavioral issues that might result from the trauma;
- g. Providing points of contact and resources, including school staff, hotlines, or other places that a student may go to for support; or
- h. Administering any appropriate discipline procedures.<sup>8</sup>

### 4. Reporting Protections

#### a. *Anonymous Reporting*

A report may be filed anonymously. However, even if a report is made anonymously or if a student requests that no action take place, DCPS is obligated to conduct an investigation to stop, prevent, and

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<sup>7</sup> All members of the DCPS community (students, families, and employees) have a role to play in the creation of an atmosphere where everyone feels safe and welcome. Even those who are not directly involved in an incident are encouraged to speak-up, file reports and reach out to any DCPS employee for support if they have seen or heard something. All members of the school community, including students, parents and staff, are vital components to preventing sex-based discrimination and sexual misconduct in DCPS.

<sup>8</sup> Behaviors associated with sexual misconduct are violations of the student code of conduct as written in the DC Municipal regulations, and are generally considered Tier 3 or 4 behaviors, although acts of sexual assault or aggression are considered Tier 5 behaviors, 5-E DCMR §§ 2502.3, 2502.4, and 2502.5.

remedy any sex-based discrimination/sexual misconduct. Students may report sexual misconduct or discrimination and receive support even if they do not want to disclose the name of the other individuals involved.

**b. Confidentiality**

DCPS staff are expected to protect the confidentiality of all persons and facts related to a sex-based discrimination or sexual misconduct report. Any person (i.e. students, parents, third parties) with knowledge of a sex-based discrimination or sexual misconduct report shall only discuss the incident with persons who have a material need to know about the incident. Student interviews will not be conducted without parent/guardian consent for any student under the age of 18.

**c. Retaliation**

DCPS will not tolerate retaliation against any person who has made a report of sexual discrimination or misconduct or who has participated in the investigation of a report. Retaliation is any adverse action taken against a person for participating in a protected activity. Retaliation is unlawful and prohibited. Retaliation may include witness intimidation/ interference, arbitrary discipline, bullying and threats, physical assault, unwanted change in class schedule, or barring a student from classroom and schoolwide activities. Retaliation is considered a form of harassment and may be reported and investigated. DCPS will take measures to protect students who report sexual discrimination or misconduct from retaliation. The following individuals are protected from retaliation:

- i. Anyone who has filed a report;
- ii. Anyone who assisted someone in the filing of a report;
- iii. Anyone who has participated in an investigation; or
- iv. Anyone protesting sex-based discrimination or misconduct.

A reporting party or witness should immediately report any acts of retaliation. DCPS will respond promptly to address alleged retaliation.

**5. False Reporting**

DCPS takes all reports of sex-based discrimination and sexual misconduct very seriously. Anyone who knowingly makes a false report or intentionally provides false information in connection with a sex-based discrimination or sexual misconduct claim may be held liable for providing false information to District government.

**E. Investigation Procedures**

DCPS investigates and resolves reports of sexual misconduct and sex-based discrimination through a prompt and equitable ten school days grievance process.<sup>9</sup> DCPS is obligated to identify potential witnesses, seek evidence, and ask questions of the parties and witnesses when resolving reports. Upon receipt of a report of sexual misconduct or sex-based discrimination, the following steps will occur:

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<sup>9</sup> This ten-day process may be extended if necessary. For more information on DCPS policy in response to discrimination and harassment see DCPS's *Grievance Policy and Procedure* (Sept. 2016), available at <https://dcps.dc.gov/page/dcps-policies>. Grievances may be filed at any time on the DCPS website: <https://dcps.dc.gov/page/studentparentvisitor-grievance-process>.

1. The Title IX Coordinator or designee receive, investigate and resolve all sexual misconduct reports. All parties shall be treated with fairness and given an equal opportunity to review evidence and to present witnesses and additional evidence. The introduction of evidence of a party's past sexual relationship with individuals other than the respondent is prohibited, as such information would be irrelevant and potentially prejudicial to the present misconduct allegations.
2. Deputy Coordinators addressing reports of sexual misconduct or discrimination will do so with the oversight of the Title IX Coordinator
3. Both the aggrieved and responder will be provided written notice of outcomes, or a Letter of Resolution. The Principal and Instructional Superintendent will also receive a copy of the Letter of Resolution. When determining if sexual misconduct or sex-based discrimination occurred, DCPS will use a preponderance of the evidence standard. Under a preponderance of evidence standard, an investigator looks at the evidence to conclude whether allegations are more likely to be true than untrue. More than 50% of the evidence must point to the allegations being true to conclude that the standard was met.
4. Both the aggrieved and responder have a right to file an appeal if they do not agree with the outcome of an investigation.

#### **F. Appeals**

Letters of resolution may be appealed. Appeals follow an initial appeal and secondary appeal process as described below:

1. *Initial Appeal:* Any party to the complaint (aggrieved or responder) can submit an appeal within ten (10) calendar days of receipt of the Letter of Resolution.
  - Appeals must be submitted in writing via U.S. Postal Mail to 1200 First Street, NE, 11th Floor, Washington, DC 20002 Attn: DCPS Office of Integrity or via email [dcps.cio@dc.gov](mailto:dcps.cio@dc.gov).
  - DCPS will issue a Letter of Resolution-Appeal Level 1 to the aggrieved, the responder, the Principal and the Instructional Superintendent, within ten (10) school days of receipt of the appeal.
2. *Secondary Appeal:* If either party is dissatisfied with the outcome of the initial appeal, they can file a Secondary Appeal. Secondary appeals are heard by a Grievance Review Panel.<sup>10</sup>
  - The secondary appeal must be submitted in writing via U.S. Postal Mail to 1200 First Street, NE, 9th Floor, Washington, DC 20002 Attn: Office of Integrity or via e-mail to [dcps.cio@dc.gov](mailto:dcps.cio@dc.gov).
  - The final agency decision will be issued by the Chancellor's designee within 15 calendar days of receipt of the written appeal.

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<sup>10</sup> Pursuant to 5-B DCMR § 2405.04 (m), the grievance review panel consists of two DCPS members of leadership and one representative from the Office of General Counsel.



The Title IX Coordinator will collaborate with the Labor Management and Employee Relations team to investigate any incidents that name DCPS staff members as responders.

**G. Possible Sanctions and Remedies**

The imposition of remedies and sanctions is relative to the incident and the needs of the students involved. The non-exhaustive lists below enumerate *possible* remedies and sanctions. Possible sanctions against students determined to have committed sex-based discrimination or sexual misconduct include:

1. Warning
2. Administration of applicable DCPS discipline policy
3. Class changes
4. Involuntary school transfer

Possible sanctions against staff determined to have committed sex-based discrimination or sexual misconduct include:

1. Provision of training
2. Warning
3. Official reprimand
4. Suspension without pay
5. Termination
6. Referral to law enforcement for criminal prosecution

Possible remedies/student support for those who experience sex-based discrimination or sexual misconduct:

1. Therapy/Counseling
2. Safety plan development
3. School/group training
4. Addition of DCPS staff to provide support
5. Academic support/tutoring
6. Referral to outside support and advocacy organizations
7. Provision of resources

**H. Additional Complaint Options**

Individuals who have experienced sex-based discrimination or sexual misconduct also have the right to file a complaint with the U.S. Department of Education, the District of Columbia Office of Human Rights, or DCPS Labor Management and Employee Relations. For more information about how to file complaints with these outside agencies, please see Appendix A.

**IV. Special Considerations (Non-Discrimination)**

**A. Pregnant & Parenting Students**

DCPS does not tolerate discrimination against pregnant or parenting students. DCPS works to ensure that pregnant and parenting students are fully supported in preparation for graduation. DCPS

does not discriminate against any student or exclude any student from any education program or activity, including any class or extracurricular activity, on the basis of a student’s pregnancy, childbirth, termination of or recovery from a pregnancy, unless the student requests to participate in a separate portion of the program or activity.<sup>11</sup>

**B. Gender-Based Activities**

Arbitrary gender-based assignments should be avoided. Schools should not assign students to gender-based groups or refer to students in gender-based terms, such as “boys and girls,” when addressing the class.

**C. Intramural/Interscholastic Athletics**

DCPS athletics are managed and operated by the DC Interscholastic Athletics Association (DCIAA); athletics activities at the District level are managed and operated by the District of Columbia State Athletic Association (DCSAA). Both the DCIAA and the DCSAA support the participation of transgender and gender-nonconforming students in all athletics activities in alignment with the D.C. Human Rights Act, Title IX, and other laws and regulations prohibiting discrimination or promoting participation in interscholastic programs and activities. All students should have the opportunity to participate in DCIAA and DCSAA activities in a manner that is consistent with their gender identity, irrespective of the gender listed on a student’s records or identification documents. DCPS may operate single sex sports teams provided that members of the excluded sex are allowed to try out for the team if the sport is not offered for both sexes. Selection for the team shall take into consideration appropriate skill level, safety and other standards for participation on such teams.<sup>12</sup>

**D. Physical Education**

All students must be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity.

**E. Bathrooms**

Students who identify as transgender and gender non-conforming are entitled to use the bathroom that matches their gender identity. Any student, transgender or otherwise, who has a need or desire for increased privacy, regardless of underlying reasons, also has the right to access a single-user restroom, such as a staff bathroom or the bathroom in the nurse’s office. Single-user bathrooms may not be given as the only option for transgender or gender-nonconforming students.

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<sup>11</sup> For more information on how DCPS supports expectant and parenting students, visit <https://dcps.dc.gov/page/expectant-and-parenting-students>.

<sup>12</sup> For more information see the *District of Columbia State Athletic Association Policies, Rules, and Regulations Governing Athletics: A Handbook for Members*, available at <https://www.dcsaasports.org/page/show/3453966-dcsaa-handbook>.

#### **F. Locker Rooms**

Schools may maintain separate locker room facilities for male and female students. However, all students must have access to the locker room facility that corresponds to their gender identity. If there is a request for increased privacy, any student should be offered access to a reasonable accommodation.

Ultimately, if a student expresses discomfort to any member of the school staff, that staff member should review options with the student and ask the student permission to contact the Office of Health and Wellness at (202) 442-5103 or [dcps.lgbtq@dc.gov](mailto:dcps.lgbtq@dc.gov) for support.<sup>13</sup> Facilities that are currently designed for single users must be designated as gender-neutral.

#### **G. Dress Code**

Schools may enforce dress codes, but all dress codes must be gender-neutral. Students have the right to dress in accordance with their gender identity, within the constraints of the dress codes adopted by the school. School staff must not enforce a school's dress code more strictly with any student based on gender, including transgender and gender-nonconforming students. Gender-neutral dress code guidelines apply to regular school days and special events, such as graduation ceremonies and prom. Under no circumstance shall students who commit dress code violations be given in-school or out-of-school suspensions or otherwise be removed from the classroom or be barred from entering school or participating in extra-curricular activities/programs.

#### **H. Sexual Orientation**

DCPS does not discriminate or tolerate discrimination on the basis of sexual orientation.<sup>14</sup>

### **V. Key Terms and Definitions**

**Aggrieved:** The individual or group of individuals alleged to have experienced improper treatment. The aggrieved and the reporter may be the same person.

**Consent:** Consent is a knowing and voluntary agreement to engage in specific sexual activity at the time of the activity. A person gives consent when they freely and expressly agree, give permission,

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<sup>13</sup> For more information please refer to DCPS *Transgender and Gender-Nonconforming Policy Guidance* (June 2015), available at <https://dcps.dc.gov/publication/dcps-transgender-and-gender-non-conforming-policy-guidance>.

<sup>14</sup> In accordance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act of 1990 and the DC Human Rights Act of 1977, DCPS does not discriminate (including employment therein or admission thereto) on the basis of actual or perceived race, color, disability, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an interfamily offense, or place of residence. Sexual harassment, sexual violence and gender identity are all forms of sex discrimination, which is prohibited by the Act. In addition, harassment based on any of the above-protected categories is prohibited.

or say “yes” to a sexual activity. Whether or not consent has been given can never be assumed. A prior or existing relationship does not guarantee consent. Consent is clear and is outwardly expressed through mutually understood words or actions and can be withdrawn at any point before or during sexual activity. Consent must be voluntarily given and is not valid if obtained by force, threat of force, or coercion. If a person is incapacitated due to alcohol, drugs or a similar substance/intoxicant they cannot give consent. A person who is incapable of declining or communicating unwillingness to engage in a sexual act is unable to consent. This applies even if a person voluntarily became intoxicated.

**Force:** The use of physical violence to gain sexual access. It includes intimidation and coercion that overcomes free will, resistance or produces consent.

**Grievance:** A complaint that is filed to report any improper treatment.

**Letter of Resolution:** Case closure document issued by agency to the aggrieved and responder that includes investigation outcome

**Reporter or Reporting Party:** An individual who brings forth a report of sex-based discrimination or sexual misconduct. This individual may be the individual who is alleged to have experienced sexual misconduct (aggrieved). However, the reporter can be anyone who has knowledge of or information about sexual misconduct, including other students, parents, guardians, friends or relatives. A report may be filed anonymously or on another person’s behalf as a third party.

**Responder:** A party accused of sexual misconduct in a grievance filing.

**Responsible employee:** Any DCPS employee; these individuals have the authority to act and have the duty to report harassment or other types of misconduct to the Title IX Coordinator within 24 hours of the misconduct.

## VI. Requirements for Policy Implementation

All DCPS employees are required to comply with the requirements set forth in this policy. In order to support its implementation, principals are expected to make staff aware of required activities and timelines on annual basis. Implementation of this policy will be reinforced through a central oversight process which includes regular data reviews, record sampling, reviews of underlying documentation, and site visits (as needed). This framework will ensure that together we build a system of continuous improvement and prevent noncompliance. For key guidance and support with questions, training, or implementation, please visit <https://dcps.dc.gov>.

DCPS is committed to serving every student with equity, excellence, transparency, and accountability. For any concerns about or violations of this directive, contact the Chief Integrity Officer by completing the Online Referral Form, available at <https://dcforms.dc.gov/webform/online-referral-form>, or sending an email to [dcps.cio@dc.gov](mailto:dcps.cio@dc.gov).

## Appendix A: Additional Complaint Options

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### **U.S. Department of Education, Office for Civil Rights**

A student may file a complaint directly with the U.S. Department of Education, Office for Civil Rights (OCR) with or without following the DCPS procedure described above. If a complaint is filed with OCR, it must be filed in writing no later than 180 days after the incident of harassment occurred. For more information, see <http://www.ed.gov/ocr/complaintprocess.html>.

Assistant Secretary for Civil Rights  
US Department of Education  
Office for Civil Rights  
400 Maryland Avenue SW  
Washington, DC 20202  
Telephone: 1-800-421-3481  
TDD: 877-521-2172  
Fax: (202) 245-6840  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

### **District of Columbia Office of Human Rights (OHR)**

A student may file a complaint directly with OHR with or without following the DCPS procedure described above. The complaint must be filed within one year of the incident of harassment. For more information, see <http://www.ohr.dc.gov>.

D.C. Office of Human Rights  
441 4th Street NW, Suite 570N  
Washington, DC 20001  
(202) 727-4559

### **DCPS Labor Management and Employee Relations (LMER)**

DCPS employees and applicants with inquiries and/or complaints regarding sexual harassment related to employment and employees should contact:

Labor Management and Employee Relations (LMER)  
District of Columbia Public Schools  
1200 First Street NE, 9th Floor  
Washington, DC 20002  
(202) 442-5424  
[dcps.lmer@dc.gov](mailto:dcps.lmer@dc.gov)

