

**\*ORANGE TEXT REFLECTS FEEDBACK SINCE THE 6/3/21 WORK SESSION.**

**PROCEDURES FOR INVESTIGATING STUDENT COMPLAINTS OF DISCRIMINATION, HARASSMENT AND BULLYING AND HOSTILE WORK ENVIRONMENT**

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

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

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

**I. Student Complaint Procedures for Discrimination, Bullying or Harassment Other than Sexual Harassment**

The following procedures apply to reports of discrimination, harassment or bullying of a student that **do not** constitute sexual harassment prohibited by Title IX. (Section II of this regulation outlines the Title IX grievance process.)

**A. Report**

Any student who believes ~~he or she~~he/she/they has (have) been the victim of prohibited discrimination, harassment or bullying should report the alleged ~~discrimination behavior or incident~~ as soon as possible to the Title IX Coordinator, to one of the Compliance Officers [the Director of Equity] designated in this regulation or to any other school personnel. (If a report is made to another staff member, that staff member notifies the Title IX Coordinator.) The alleged ~~discrimination behavior or incident~~ should be reported as soon as possible, and the report generally should be made within fifteen (15) school days of the occurrence. Further, any student who has knowledge of conduct which may constitute prohibited discrimination, harassment or bullying should report ~~such the~~ conduct to one of the Compliance Officers or to any school personnel. Any employee who has knowledge of conduct which may

constitute prohibited discrimination, harassment or bullying shall immediately report such conduct to one of the Compliance Officers.

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

~~The complaint, and identity of the complainant and of the person or persons allegedly responsible for the discrimination, will not be disclosed except as required by law or policy, as necessary to investigate fully the complaint or as authorized by the complainant. A complainant who wishes to remain anonymous will be advised that such confidentiality may limit the school division's ability to respond fully to the complaint.~~

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

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

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

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

#### B. Investigation ~~by Compliance Officer~~

## 1. Generally

### The Compliance Officer

- receives complaints of discrimination, harassment or bullying referred by the Title IX Coordinator;
- conducts or oversees the investigation of any alleged discrimination, harassment or bullying referred by the Title IX Coordinator;
- assesses the training needs of the school division in connection with complaints referred by the Title IX Coordinator;
- arranges necessary training; and
- ensures that any discrimination, harassment or bullying investigation is conducted by an impartial investigator who is trained in the requirements of equal employment/education opportunity and has the authority to protect the alleged victim and others during the investigation.

## 2. Compliance Officer Formal Procedure

Upon ~~receipt of a report~~receiving a complaint of alleged prohibited discrimination, harassment or bullying from the Title IX Coordinator, the Compliance Officer ~~shall~~ immediately authorizes or undertakes an investigation. The investigation may be conducted by school personnel or a third party designated by the school division. The investigation shall be completed as soon as practicable, which should generally be not later than 14 school days after ~~receipt of the report~~referral of the complaint by to the Compliance Officer. Upon receiving the complaint, the Compliance Officer ~~shall~~ acknowledges receipt of the complaint, by giving written notice that the complaint has been received, to both the person complaining of ~~discrimination~~the prohibited conduct and the person or persons allegedly responsible for ~~the discrimination~~it. ~~Also upon~~ Upon receiving the complaint, the Compliance Officer ~~shall also~~ determines whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, e.g., separating the alleged harasser and the person allegedly harassed. If the Compliance Officer determines that more than 14 school days will be required to investigate the complaint, the complainant and the person or persons allegedly responsible for the ~~discrimination~~prohibited conduct will be notified of the reason for the extended investigation and of the date by which the investigation will be concluded.

The investigation may consist of personal interviews with the ~~complainant~~person allegedly discriminated against, harassed or bullied, the person or persons allegedly responsible for the ~~discrimination~~prohibited conduct, and any others who may have knowledge of ~~the alleged discrimination~~it or the circumstances giving rise to the complaint. The investigation will consider witnesses and evidence from both the ~~person allegedly discriminated against, harassed or bullied~~complainant and the person or persons responsible for the alleged ~~discrimination~~conduct. The investigation may also include the inspection of any

documents or information deemed relevant by the investigator. ~~The school division~~ ACPS shall take necessary steps to protect the person allegedly discriminated against, harassed or bullied complainant and others pending the completion of the investigation.

In determining whether alleged conduct constitutes a violation of this policy, ACPS considers, at a minimum: (1) the surrounding circumstances; (2) the nature of the behavior; (3) past incidents or past or continuing patterns of behavior; (4) the relationship between the parties; (5) how often the conduct occurred; (6) the identity of the alleged perpetrator in relation to the alleged victim (i.e. whether the alleged perpetrator was in a position of power over the alleged victim); (7) the location of the alleged conduct; (8) the ages of the parties and (9) the context in which the alleged incident(s) occurred. Whether a particular action or incident constitutes a violation of ~~this policy~~ Policies JB or JFHA/GBA requires a case by case determination based on all of the facts and circumstances revealed by a complete and thorough investigation.

### 3. Compliance Officer's Report

The Compliance Officer ~~shall~~ issues a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, then the report ~~shall be~~ sent to the School Board. The report ~~shall~~ includes a determination of whether the allegations are substantiated, whether ~~this policy~~ Policies JB or GBA/JFHA ~~was~~ were violated and recommendations for corrective action, if any.

All employees ~~shall~~ must cooperate with any investigation of alleged discrimination, harassment or bullying conducted under this ~~policy~~ regulation or by an appropriate state or federal agency.

### C. Action by Superintendent

Within five (5) school days of receiving the Compliance Officer's report, the Superintendent or designee ~~shall~~ issues a decision regarding (1) whether ~~this policy~~ Policies JB or JFHA/GBA ~~was~~ were violated, ~~and (2) what action, if any, should be taken.~~ (Circumstances may support the Superintendent's reasonable extension beyond five school days for good cause.) This decision must be provided in writing to the person allegedly discriminated against, harassed or bullied and the person allegedly responsible for the prohibited conduct ~~complainant~~. If the Superintendent or designee determines that it is more likely than not that prohibited discrimination conduct occurred, ACPS ~~shall~~ will take prompt, appropriate action to address and remedy the violation as well as prevent any recurrence. Such action may include discipline up to and including expulsion or discharge. Whether or not the Superintendent or designee determines the prohibited conduct occurred, the Superintendent or designee may determine that schoolwide or divisionwide training

be conducted or that the person allegedly discriminated against, harassed or bullied receives counseling.

~~D.~~ D. Appeal

If the Superintendent or designee determines that no prohibited ~~discrimination conduct~~ occurred, the student who was allegedly subjected to ~~discrimination—the conduct~~ may appeal this finding to the School Board within five (5) school days of receiving the decision. Notice of appeal must be filed with the Superintendent who shall forward the record to the School Board. The School Board shall make a decision within 30 calendar days of receiving the record. The School Board may ask for oral or written argument from the aggrieved party, ~~and~~ the Superintendent and any other individual the School Board deems relevant. Written notice of the School Board's decision will be given to both the person allegedly discriminated against, harassed or bullied complainant and the person or persons responsible for the alleged ~~discrimination~~conduct.

If the ~~superintendent—~~Superintendent or designee determines that prohibited ~~discrimination conduct~~ occurred and discipline is imposed, the disciplined person may appeal the ~~disciplinary~~ sanction in the same manner as any other such sanction would be appealed.

~~E. B.~~ Compliance Officer Alternative Informal Procedure

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

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

~~F. C.~~ Contact Information for Reporting Complaints of Discrimination, Harassment and Bullying Compliance Officers and Alternate Compliance Officer

The Title IX Coordinator, the staff member designated by ACPS to coordinate its efforts to comply with its responsibilities under this regulation and Title IX, may be contacted at:

Title IX Coordinator

Executive Director of Equity & Alternative Programs

Alexandria City Public Schools

1340 Braddock Place

Alexandria, VA 22314

703-619-8165

titleixcoordinator@acps.k12.va.us

The Compliance Officer may be contacted at::

Executive Director of Student Services

Alexandria City Public Schools

1340 Braddock Place, Alexandria, VA 22314

703-619-8160

marcia.jackson@acps.k12.va.us

student.compofficer@acps.k12.va.us

The Alternate Compliance Officer may be contacted at::

Chief of Student Services and Equity

Executive Director of Student Support Teams

Alexandria City Public Schools

1340 Braddock Place, Alexandria, VA 22314

703-619-8034

julie.crawford@acps.k12.va.us

student.compofficer@acps.k12.va.us

~~The Superintendent shall issue regulations~~This regulation providing designates for  
~~the appointment of~~The Compliance Officers and Alternative Compliance Officer  
~~are responsible for identifying, preventing and remedying discrimination, harassment~~  
~~and bullying, as well as receiving, investigating, and acting upon complaints of~~  
~~discrimination conduct prohibited by this policy~~Policies JB and JFHA. The names  
~~and contact information for the Compliance Officers are also posted on the~~  
~~Division's website at all times.~~

~~The Compliance Officers shall~~

- ~~work closely with the Title IX Coordinator to receive reports or complaints of~~  
~~discrimination, harassment and bullying;~~
- ~~conduct or oversee the investigation of any alleged, prohibited conduct~~  
~~discrimination;~~
- ~~collaborate with the Title IX Coordinator to assess the training needs of the school~~  
~~division in connection with this policy~~Policies JB and JFHA;
- ~~assist the Title IX Coordinator in arranging necessary training to achieve compliance~~  
~~with~~Policies JB and JFHA~~this policy; and~~

- a. ensure that any discrimination investigation is conducted by an impartial investigator who is trained in the requirements of equal education opportunity and has the authority to protect the alleged victim and others during the investigation.

The Alexandria City Public Schools designates the following staff members as the Compliance Officers responsible for identifying, preventing, and remedying prohibited discrimination, harassment and bullying:

Dr. Marcia Jackson  
Executive Director of Student Services  
Alexandria City Public Schools  
1340 Braddock Place, Alexandria, VA 22314  
703-619-8160  
marcia.jackson@acps.k12.va.us

Kennetra N. Wood  
Executive Director of Equity and Alternative Programs  
Alexandria City Public Schools  
1340 Braddock Place, Alexandria, VA 22314  
703-619-8165  
kennetra.wood@acps.k12.va.us

Complaints of discrimination may also be made to the Alternate Compliance Officer:

Dr. Julie A. Crawford  
Chief of Student Services and Equity  
Alexandria City Public Schools  
1340 Braddock Place, Alexandria, VA 22314  
703-619-8034  
julie.crawford@acps.k12.va.us

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

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

ACPS provides educational, preventative and training programs regarding sexual or gender-based harassment and discrimination, encourages reporting incidents, prevents incidents of sexual and gender-based harassment and discrimination from denying or limiting an individual's ability to participate in or benefit from the school division

programs, makes timely services available for those who have been affected by discrimination or harassment, and provides prompt and equitable methods of investigation and resolution to stop discrimination and harassment, remedy any harm, and prevent its recurrence.

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

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

Title IX Coordinator  
Alexandria City Public Schools  
1340 Braddock Place  
Alexandria, VA 22314  
Telephone: 703-619-8165  
Email: [titleixcoordinator@acps.k12.va.us](mailto:titleixcoordinator@acps.k12.va.us)

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

U.S. Department of Education  
Assistant Secretary for Civil Rights  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1328  
Telephone: 800-421-3481  
TDD: 800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

#### A. Title IX Definitions

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

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

“**Formal complaint**” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment prohibited by Title IX against a respondent and requesting that the allegation be investigated. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. When the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party. The allegations in a formal complaint must be



investigated. In response to a formal complaint, the Title IX Grievance Process below is followed.

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

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

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

## B. Title IX Grievance Process

### 1. Generally

Any person may report sex discrimination prohibited by Title IX, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. (If a report is made to another staff member, that staff member then notifies the Title IX Coordinator.) The reporting party may use the form, *Report of Harassment*, JB-FGBA-F/JFHA-F, to make a complaint. Such a report may be made at any time, including non-business hours, by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

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

measures against a respondent.

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

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

- of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator; and
- that the School Board does not discriminate on the basis of sex in its education program or activity and that it is required by Title IX not to discriminate in such a manner. The notification states that the requirement not to discriminate extends to admission and employment and that inquiries about the application of Title IX may be referred to the Title IX Coordinator, the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

The School Board prominently displays the contact information for the Title IX Coordinator and Policies JB, GBA/JFHA and this regulation on its website and in each handbook or catalog it makes available to persons listed above who are entitled to notifications.

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

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

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

The respondent is presumed not responsible for the alleged conduct until a

determination regarding responsibility is made at the conclusion of the grievance process.

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

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

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

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

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

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

## 2. Notice of allegations

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

- notice of the grievance process, including any informal resolution process, and
- notice of the allegations of sexual harassment potentially constituting sexual harassment prohibited by Title IX, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment prohibited by Title IX, and the date and location of the alleged incident, if known.

The written notice

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

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

### 3. Dismissal of formal complaints

A formal complaint or any allegations therein must be dismissed if the conduct alleged in the complaint:

- would not constitute sexual harassment prohibited by Title IX even if proved,
- did not occur in the School Board's education program or activity, or
- did not occur against a person in the United States.

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

A formal complaint or any allegations therein may be dismissed if at any time during the investigation:

- a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- the respondent is no longer enrolled or employed by the School Board; or
- specific circumstances prevent the School Board from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

### 4. Investigation of Formal Complaint

When investigating a formal complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the School Board and not on the parties, provided that a party's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that

capacity, and which are made and maintained in connection with the provision of treatment to the party are not accessed, considered, disclosed or otherwise used without the voluntary, written consent of the party's parent/guardian, or the party if the party is an eligible student, to do so for this grievance procedure.

The parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other evidence.

The ability of the parties to discuss the allegations under investigation or to gather and present relevant evidence is not restricted.

The parties have the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The choice or presence of advisor for either the complainant for respondent is not limited in any meeting or grievance proceeding.

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

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

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

After the investigator has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. 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. The decision-maker(s) must explain to the party proposing the question any decision to exclude a question as not relevant.

#### 5. Determination Regarding Responsibility

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

The written determination must include

- identification of the allegations potentially constituting sexual harassment prohibited by Title IX;
- a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- findings of fact supporting the determination;
- conclusions regarding the application of the Student Code of Conduct or the Employee Standards of Conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the School Board imposes on the respondent, and whether remedies designed to restore or preserve equal access to the School Board's education program or activity will be provided to the complainant; and
- the procedures and permissible bases for the complainant and respondent to appeal.

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

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

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

#### 6. Appeals

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

- procedural irregularity that affected the outcome of the matter;

- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

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

As to all appeals, the Title IX Coordinator

- notifies the other party in writing when an appeal is filed and implements appeal procedures equally for both parties;
- ensures that the decision-maker for the appeal is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator; and
- ensures that the decision-maker for the appeal complies with the standards set forth in Title IX and this regulation.

The appeal decision-maker (Superintendent)

- gives both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- reviews the evidence gathered by the investigator, the investigator's report, and the decision-maker's written decision;
- issues a written decision describing the result of the appeal and the rationale for the result; and
- provides the written decision simultaneously to both parties and the Title IX Coordinator.

## 7. Timelines

The investigative report will be provided to the parties within 35 days from the date the formal complaint is filed.

A decision will be issued within 10 working days from the date the investigative report is submitted to the decision-maker.

Either party may appeal within 5 working days from the date the written determination regarding responsibility is given to the parties.

Any appeal will be resolved with 15 calendar days from the filing of the appeal.

If the parties agree to an informal resolution process, these deadlines are paused from the time one party requests an informal resolution process until either the time the other party responds, if that party does not agree to the informal resolution process, or until either party withdraws from the informal resolution process.

Temporary delays of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action are permitted. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; disciplinary processes required by law or School Board policy; or the need for language assistance or accommodation of disabilities.

## 8. Informal Resolution Process

At any time during the formal complaint process and prior to reaching a determination regarding responsibility, the parties may participate in an informal resolution process, such as mediation, that does not involve a full investigation and determination of responsibility. When one party requests an informal resolution process, the other party must respond to the request within 3 days. The informal resolution process must be completed within 10 days of the agreement to participate in the process.

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

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

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

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

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

## 9. Recordkeeping



The School Board will maintain for a period of seven years records of:

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

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

### **III. Retaliation**

~~Retaliation against students, parents/guardians or employees school personnel who report discrimination or participate in the related proceedings is prohibited. ACPSThe school division takes appropriate action against any student or employee who retaliates against another student or employee who reports alleged discrimination or participates in related proceedings. The Compliance Officer will inform persons who make complaints, who are the subject of complaints, and who participate in investigations of complaints how to report any subsequent problems. The Compliance Officer or Title IX Coordinator will inform persons:~~

- ~~— who make complaints;~~
- ~~— who are the subject of complaints; and~~
- ~~— those who participate in investigations~~

~~of the complaint and how to report any subsequent problems.~~

### **IV. Right to Alternative Complaint Procedure**

~~Nothing in Policies JB, JFHA or this policy regulation shall deny denies the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited discrimination, including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law.~~

**V. Prevention and Notice of Policy**

~~Training to prevent discrimination, harassment and bullying should be included in employee and student orientations as well as employee in-service training.~~

~~This policy~~Policies JB, JFHA and this regulation shall be are (1) displayed in prominent areas of each division building in a location accessible to students, parents, and school personnel, ; (2) included in the student and employee handbooks; and (3) sent to parents of all students within 30 calendar days of the start of school. All students and their parents/guardians shall be notified annually of the names and contact information of the Title IX Coordinator and the Compliance Officers.

**VI. False Charges**

~~Students or school personnel who knowingly make false charges of discrimination, harassment or bullying shall be subject to disciplinary action, as well as any civil or criminal legal proceedings.~~

Adopted: December 3, 1996  
Amended: July 6, 2000  
Amended: June 21, 2001  
Amended: December 18, 2014  
Amended:

Legal Refs: ~~Americans with Disabilities Act of 1990.~~  
~~Title VII of the Civil Rights Act of 1964.~~  
~~Title IX of the Education Amendments of 1972.~~  
~~Section 504 of the Rehabilitation Act of 1973.~~  
20 U.S.C. §§ 1681-1688.  
29 U.S.C. §§ 794.  
42 U.S.C. §§ 2000d through 2000d-7.  
  
34 CFR 106.9.  
  
Code of Virginia, 1950 as amended, §§ 2.2-3900, 2.2-3901, 2.2-3902.  
~~22.1-212.6:1.~~

Cross Refs: AC                      Nondiscrimination  
                  AD                      Educational Philosophy  
                  GB                      Equal Employment Opportunity/Nondiscrimination  
   in Employment

[GB-R/GBA-R](#)      [Procedures For Investigating Staff Complaints Of  
Discrimination, Harassment, Bullying, Hostile  
Work Environment And Unethical Conduct](#)

[JB](#)      [Nondiscrimination in Education](#)  
[JB-F/JFHA-F](#)      [Report of Discrimination/\[Harassment\]\(#\)](#)  
JBA      [Section 504 Nondiscrimination Policy and](#)  
[Grievance-Hearings](#) Procedures  
JFHA/GBA      [Prohibition Against Harassment, \[Bullying, Hostile\]\(#\)](#)  
[Work Environment](#) and Retaliation

DRAFT

(\*This form has been revised and merged into a single reporting form GB-F/GBA-F/JB-F/JFHA-F.)

**REPORT OF DISCRIMINATION**

Name of Complainant: \_\_\_\_\_

Student's School and Class: \_\_\_\_\_

Address, Phone Number \_\_\_\_\_ and

Email Address: \_\_\_\_\_

Date(s) of Alleged Discrimination: \_\_\_\_\_

Name(s) of person(s) you believe discriminated against you or others: \_\_\_\_\_  
\_\_\_\_\_

~~Please describe in detail the incident(s) of alleged discrimination, including where and when the incident(s) occurred. Please name any witnesses that may have information regarding the situation. Please include a description of any past incidents that may be related to this complaint. Attach additional pages if necessary.~~

~~I certify that the information provided in this report is true, correct and complete to the best of my knowledge.~~