

PROCEDURE TITLE: PROCEDURES RELATING TO TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 AND ITS IMPLEMENTING REGULATIONS		
ADOPTION/EFFECTIVE DATE: October 12, 2015	MOST RECENTLY AMENDED: March 24, 2022	MOST RECENTLY REAFFIRMED: January 13, 2023
POLICY/PROCEDURE MANUAL SUMMARY CATEGORY: Equity and Non-Discrimination		

I. Purpose

Harford County Public Schools (HCPS) is committed to providing a safe, secure, and orderly teaching, learning, and working environment free of sex-based discrimination, including sexual harassment, for both HCPS students and staff. The purpose of this document is to outline the processes, including the Title IX Formal Complaint Procedure, for a HCPS student or staff member to address an allegation of sexual harassment occurring within HCPS educational programs and activities and as defined by Title IX of the Education Amendments of 1972.

While all forms of sex-based discrimination, including sexual harassment, are prohibited in HCPS and under Title IX regulations, the purpose of the Title IX Procedure is to address sexual harassment by providing a process for investigating and reaching a final determination of responsibility. While HCPS must respond to all “reports” it receives of sexual harassment, the Title IX process is initiated only by filing a formal complaint. If the Title IX process is not initiated, the matter will be managed pursuant to HCPS policies and procedures and in accordance with applicable law.

II. Definitions

The definitions below shall be updated from time to time pursuant to changes in law or practice.

- A. **Advisor** is a parent, guardian, or any person chosen by the Complainant or the Respondent to represent them and their interests throughout the grievance procedures. An advisor does not need to be an attorney.
- B. **Complainant** is an individual, either student (K-12) employee, or other members of the HCPS school community who is alleged to be the victim of conduct that could constitute sexual harassment.
- C. **Consent** means a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior mutually. It must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually

understandable permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one's mental or physical helplessness or incapacity. Consent cannot be implied based upon the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with another.

- D. **Days** means business days unless specified otherwise.
- E. **Decision-Maker** means the school official responsible for making a determination of responsibility in response to an investigation of sexual harassment triggered by a formal complaint.
- F. **Disciplinary Sanctions** mean consequences imposed on a Respondent when the Respondent is found responsible for sexual harassment.
- G. **Educational Program or Educational Activity** means locations, events, or circumstances over which the HCPS exercises substantial control over the Respondent and the context in which the sexual harassment occurs.
- H. **Evidentiary Standard** - The "Preponderance of the Evidence Standard" is the evidentiary standard to be used during the investigation and final determination of a formal complaint. The Preponderance of the Evidence means that the evidence shows that the alleged action is more likely to have occurred than not.
- I. **Formal Complaint** is a document filed and signed by a Complainant or the Title IX Coordinator alleging sexual harassment against a Respondent and requests that HCPS investigate the allegations of sexual harassment.
- J. **Formal Process** means the process of formal resolution pursued in response to filing a formal complaint alleging sex-based discrimination or sexual harassment under Title IX.
- K. **HCPS** means Harford County Public Schools.
- L. **Informal Resolution Process** is offered to the Complainant and the Respondent after a formal complaint has been filed as a mechanism to resolve a formal complaint prior to its final adjudication. For students, the informal resolution process is governed by the Student Conduct Policy. Both the Complainant and the Respondent must consent to participate in the Informal Resolution Process. Informal resolution of a formal complaint is prohibited when the formal complaint involves allegations of an HCPS employee sexually harassing a student.

- M. **Investigative Report** means a written account of the investigation's findings in response to a formal complaint.
- N. **Investigator** means the school official responsible for investigating and responding to a formal complaint.
- O. **Member Of School Community** means:
1. Board of Education member.
 2. Any employee of Harford County Public Schools ("HCPS").
 3. Any HCPS volunteer.
 4. A student.
 5. Any other person who participates in activities of HCPS or is present on HCPS grounds or premises and is under the authority or control of HCPS.
- P. **Remedies** means individualized measures provided to a Complainant designed to restore or preserve the Complainant's equal access to the education program and school system activities when a Respondent is found responsible for sexual harassment.
- Q. **Removal** means requiring a Respondent to relocate or discontinue their attendance or participation in an HCPS education program or activity on an emergency basis.
- R. **Report** means verbal or written communication in which any person notifies the Title IX Coordinator of sexual harassment.
- S. **Reporter** means a person who submits a report.
- T. **Respondent** means a person who is alleged in a report or formal complaint to have committed sexual harassment.
- U. **Retaliation** means:
1. Unfavorable differential treatment of a person because that person has opposed any act or practice which is unlawful under Title IX or has made a charge, testified, assisted, or participated in an investigation, proceeding, or other matter pursuant to Title IX; or,
 2. Threatening, coercing, intimidating, or interfering with any person because that person has opposed any act or practice which is unlawful

under Title IX or has made a charge, testified, assisted, or participated in an investigation, proceeding, or other matter pursuant to the Title IX.

V. **Sex-based Discrimination** occurs when, within a HCPS education program or activity, a HCPS student or staff member is denied or limited in the ability to participate in or benefit from HCPS services, activities, or opportunities on the basis of sex, to include gender, sexual orientation, and gender identity.

W. **Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:

1. "Quid Pro Quo" – An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct; or,
2. Unwelcome conduct determined by a 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,
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

X. **Supportive Measures** mean 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 filing a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the school system's education program and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the school system's educational environment or deter sexual harassment.

Supportive measures available to the parties include, but are not limited to, counseling, mental health services referral, extensions of deadlines, escort services, mutual restrictions on contact between the parties, and other similar measures determined by school officials to be necessary to protect the safety or educational or employment activities of a party. For students, supportive measures may also include other course-related adjustments and work or class schedule modifications. For staff, supportive measures may also include changes in work locations, leaves of absence, and increased security and monitoring.

Y. **Title IX** means Title IX of the Education Amendments of 1972, codified at 20 U.S. Code Section 1681, et seq. and its implementing regulations codified at 34 Code of Federal Regulations (CFR) Part 106.1, et seq. which, in pertinent part,

prohibit discrimination on the basis of sex in employment and education with respect to access to facilities, programs, or activities and prohibit sexual harassment.

- Z. **Witness** means a person who may have knowledge of the allegations and who may be interviewed by investigative staff.

III. Procedures

General Rules

- A. Sexual harassment is prohibited in HCPS, its properties, activities, programs, and employment, whether occurring on HCPS premises, HCPS-controlled properties, or at activities or functions supervised and sanctioned by HCPS.
- B. Conduct is not sexual harassment for purposes of this policy if the conduct occurred
1. Outside the United States; or,
 2. Under circumstances in which the school system did not have substantial control over both the harasser and the context in which the harassment occurred.
- C. Conduct determined not to meet the definition above may violate other board policies or established standards of conduct and will be treated accordingly. For example, conduct that does not meet the definition of Title IX sexual harassment above may violate other board policies. Nothing in this procedure is intended to limit discipline for violating other board policies/procedures when appropriate and consistent with the law.
- D. The relationship between students and staff is to be of a professional nature. Because school personnel have the responsibility for the supervision of children, interactions with students should remain clearly within the appropriate confines of a professional staff/student relationship. Therefore, asking for a date, dating, or exploiting the student relationship by soliciting or engaging in sexual relations is not to occur between HCPS employees and students. Such action may be grounds for discipline up to and including termination, suspension, or revocation of a professional certificate in accordance with Maryland law, and criminal sanctions.
- E. The Title IX Coordinators and Decision-Makers have undergone appropriate training in the law and this procedure.

- F. Title IX investigations are subject to confidentiality and privacy laws to protect the rights of all parties.

Making a Report

A. Title IX Coordinators

The Title IX Coordinator is tasked with coordinating HCPS' response to all allegations of sexual harassment. The Title IX Coordinator's responsibilities are critical to developing, implementing, and monitoring meaningful efforts to comply with HCPS and Federal Title IX regulations. Contact information for the Title IX Coordinators is below.

To file a report involving **students**:

Ken Miller
102 South Hickory Ave
Bel Air, MD 21014
(410)375-0408
Kenneth.Miller@hcps.org

To file a report involving **all other members of the school community**:

Renee McGlothlin
102 South Hickory Ave
Bel Air, MD 21014
(410)809-6087
Renee.McGlothlin@hcps.org

The Title IX Coordinator's duties include:

- a. Understanding the HCPS's policies and procedures;
- b. Training of students and staff on the Title IX grievance procedures, reporting suspected sexual harassment, and any other procedures used for investigating reports of sexual violence;
- c. Identifying and addressing any patterns or systemic problems;
- d. Cooperating with law enforcement and crisis centers;
- e. Coordinating responses to all allegations of sex discrimination, including:
 - Implementing supportive measures
 - Monitoring outcomes
 - Identifying and addressing any patterns
 - Assessing effects on the HCPS climate
- f. Being mindful of school culture and climate and collecting and analyzing data on the school climate as appropriate;
- g. Being available to meet with students, parents and legal guardians, and employees as needed; and
- h. Avoiding and identifying conflicts of interest.

B. Reporting Complaints

1. Any HCPS employee or school community member with actual knowledge of sex discrimination, including sexual harassment in an education program or activity as defined in the Title IX Policy, must report the sex discrimination to the Title IX Coordinator in person, by telephone, or by electronic mail. Reports may be made at any time, including during non-business hours. Failure to report may result in disciplinary action, up to and including termination, being taken against the employee.
2. Any student who believes they are a victim of sexual harassment occurring in the school system's education programs or activities is encouraged to report the matter to the student's principal or the Title IX Coordinator. Reports may also be made to a teacher, counselor, assistant principal, teacher assistant, or any other school employee.
3. A delay in reporting may result in the loss of relevant evidence, impacting HCPS staff's ability to respond and take appropriate action.
4. Complainants may file anonymously; however, an anonymous complaint may or may not be processed as determined in the sole discretion of the Title IX Coordinator and pursuant to applicable law.
5. Although HCPS encourages all HCPS students, parents, and community members and requires staff to report conduct that is perceived to violate a HCPS policy or Title IX, the Title IX Coordinator will determine if the allegation falls within Title IX regulations. Only incidents falling within the Final Rule's definition of sexual harassment will be brought forth through the Title IX Formal Process. Should reports not fall under the Title IX Final Rule, these will be addressed through other means, to include HCPS Board policies, Superintendent's rules, and system procedures.

C. Title IX Coordinator's Response to Report of Sexual Harassment

1. Upon receiving a report of alleged sexual harassment, the Title IX Coordinator will promptly contact the Complainant (and, if the Complainant is under the age of 18, the Complainant's parent or guardian) to:
 - a. Discuss the process of filing a formal complaint;
 - b. Discuss the school and/or office's responsibility to provide supportive measures, which are available whether a formal complaint is filed or not, to ensure the Complainant feels safe and secure, maintaining access to the educational or working environment; and,
 - c. Discuss the next steps in the investigation.

2. If the Respondent is an employee, the Human Resources Department shall determine if the Respondent shall be placed on administrative leave or reassigned to another position during the investigation of the allegation(s).
3. The Complainant's parents or guardian will be informed of the availability to file a formal complaint if the Complainant is under the age of 18.
4. If the Complainant does not elect to initiate a formal complaint, the Title IX Coordinator will conduct a preliminary review of the report.
 - a. If the Title IX Coordinator considers the nature of the allegation and has the authority to initiate a formal complaint, the Title IX Coordinator will follow the formal process.
 - b. If the Title IX Coordinator determines the allegation may violate a different Board policy, superintendent's rule, or student behavioral code, the Complaint will be directed to the appropriate HCPS staff and/or office.
5. Should the Title IX Coordinator suspect the alleged conduct constitutes sexual assault, the Title IX Coordinator will notify the appropriate authorities to include law enforcement and all other appropriate authorities.
 - a. Upon notification to these authorities, the Title IX Coordinator will suspend the investigation as appropriate until the authorities have completed their fact-finding.
 - b. In the interim, supportive measures will be provided to both the Complainant and Respondent.
6. The Title IX Coordinator shall also contact the Respondent and inform them of the availability of supportive measures available to them.
7. No HCPS employee, student, or school community member shall retaliate in any way against a person for making a complaint, testifying, assisting, participating, or declining to participate in any manner in an investigation or complaint proceeding. Individuals who engage in retaliatory actions will be subject to the appropriate and applicable disciplinary process.

Procedures for Title IX Process

A. Filing of a Formal Complaint

1. Based upon the allegation and information received from the Complainant, the Title IX Coordinator will determine if there was a possible likelihood of sexual harassment, at which point, the Complainant and/or the

Complainant's parent(s) or guardian(s) may decide to file a formal complaint.

2. The filing of a formal complaint does not preclude HCPS from responding to the complaint by applying other HCPS policy violations, such as Student Code of Conduct or Employee Handbook, or allegations that are not related to sexual harassment. Nonsexual harassment allegations and/or findings shall be promptly reported to the principal of the student and/or the supervisor of the Respondent to process pursuant to the HCPS applicable policies, including its disciplinary policies.
3. At the outset of filing the formal complaint, the Title IX Coordinator shall contact the Complainant, and if the Complainant is under the age of 18, the Complainant's parent or guardian, and inform them of the complaint. The Complainant/ parent will be notified that they have an option to contact an advisor throughout the process. If the Complainant is over the age of 18, the parent and guardian contact will be at the option of the Complainant, provided the Complainant has the capacity to make such a determination.
4. If a student complainant and/or the complainant's parent(s) or guardian(s) elect not to file a formal complaint, the Title IX Coordinator will notify the school, and the incident will be handled at the school level. The Title IX Coordinator may file a formal complaint based on the nature of the incident or a possible pattern of behavior. If the allegations and information received involve sexual harassment of a student by an employee, the Title IX Coordinator must submit a signed, written formal complaint to initiate a formal investigation, regardless of the Complainant and/or the Complainant's parent's or guardian's consent.
5. Offer supportive measures to the Complainant and Respondent, as defined in the Definition Section X. Supportive Measures.
6. Once a formal complaint has been filed, the Title IX Coordinator will promptly provide the Complainant with a copy of the Policy and Procedure.
7. Immediately following the filing of a Formal Complaint, the Title IX Coordinator will initiate the investigation of the allegations by a trained investigator/ school administrator.

B. Investigation of a Formal Complaint

1. Written Notification - Upon receipt of a formal complaint, the Title IX Coordinator must provide written notice to the Complainant and Respondent, if known, informing them that a formal complaint has been filed. The Notice of Allegation shall include, but is not limited to, the

following information:

- a. Notice of HCPS Title IX Procedure.
- b. 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.
- c. A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- d. A statement that the parties have a right under this Policy to inspect and review evidence gathered during the investigation process.
- e. If, in the course of an investigation, HCPS learns of or decides to investigate additional allegations about the Complainant or Respondent that are not included in a prior Notice of Allegation provided to the parties, HCPS shall provide notice of the additional allegations to the parties whose identities are known.

2. Investigator will interview:

- a. Both the Complainant and Respondent
- b. Any individuals identified in the Title IX Coordinator's written notice and/or identified during interviews with the Complainant and Respondent.

3. Following the investigation, the Title IX Coordinator will provide both parties:

- a. An equal opportunity to inspect and review any evidence obtained as part of the investigation; and,
- b. At least ten (10) days from the provision of such evidence, the opportunity to submit a written response to such evidence.

4. The Investigator may take additional investigative steps, if warranted, to include posing additional questions to witnesses. Additional investigative steps will be completed in a reasonable time frame.

5. Upon conclusion of the investigation and the complainant/ respondent's review of the evidence, a report that summarizes relevant evidence is prepared.

- a. Parties are given ten (10) days to review the investigative report.

- b. Complainant and Respondent may submit written questions to the other party.

C. Emergency Removal

1. Any respondent is subject to removal from the school system's education program and activities, or any part of the program or activities, on an emergency basis if a school-based threat assessment team conducts an individualized safety and risk analysis and determines that removal is justified because the person poses an immediate health or safety threat to any person arising from the allegations of sexual harassment. This includes placing an employee on administrative leave during the course of the investigation.
 - a. Removing a student from an extracurricular activity is also considered a removal under this subsection where such action would not otherwise constitute a supportive measure.
 - b. Any such removal shall not violate the rights of any person under Section 504 and the Individuals with Disabilities Education Act ("IDEA").
 - c. The respondent shall receive notice of the removal.
 - d. The superintendent or designee shall document all emergency removal decisions under this subsection, including the immediate threat to health or safety that justified the removal.

D. Dismissal of a Formal Complaint

1. Mandatory dismissal: A formal complaint must be dismissed if the Title IX Coordinator determines the conduct alleged in the formal complaint does not constitute sexual harassment as defined in the Title IX regulations, and/or did not occur in a HCPS education program or activity or against a person not in the United States of America, the formal complaint must be dismissed. The Title IX Coordinator will refer the matter to the appropriate HCPS staff or external agency.
2. Permissive dismissal: A formal complaint may also be dismissed at any time during the investigation if
 - a. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint. The Title IX Coordinator has the authority to continue the formal complaint process should the allegation be deemed appropriate for

further investigation.

- b. The Respondent is no longer employed by or a student in HCPS. HCPS will proceed with investigative procedures as to the extent it can without the Respondent present, and with the understanding that no disciplinary procedures will be attached to the determination of responsibility. The investigative report for both parties will be maintained.
- c. Specific circumstances prevent the Investigator from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint.

E. Informal Resolutions for Employees

1. After the filing of a formal complaint, but before a final determination regarding responsibility has been made, HCPS may facilitate an informal resolution process that does not involve a full investigation provided that:
 - a. Both parties have been provided written notice disclosing the allegations, the requirements of the informal resolution process, including any party's rights to withdraw from the informal resolution process and resume the formal grievance process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and,
 - b. Both Respondent and Complainant provide their voluntary, written consent to the informal resolution process.
2. The Title IX Coordinator has the authority to determine if an informal resolution process is appropriate given the allegations. Should the Title IX Coordinator determine an informal resolution is inappropriate based on the allegations presented, the informal resolution process will be denied, and the formal complaint process will be resumed.
3. The informal process is intended to be flexible while providing a full range of possible outcomes. A facilitator will supervise the informal resolution process and will provide both parties independently, in writing, the proposed terms. Should either party not agree with the proposed terms or is uninterested in engaging in the process, the formal complaint process will be initiated.
4. The informal resolution will not require either party to be present in the same room. Parties are allowed to consult their advisors or have their advisors present during the process.

5. Should the facilitator feel that either party is not acting in good faith, the facilitator may terminate the informal resolution, and the grievance process will be resumed.
6. Both parties and the facilitator will have the opportunity to offer terms as part of the final agreement. The facilitator will draft a final agreement for both parties to review. The facilitator and both parties must agree to all outcomes of the informal resolution. Should there be disagreement or either party refuses to sign, the final agreement is considered failed, and the grievance process will be resumed.
7. The signed final agreement of the informal resolution is binding for both parties and concludes the formal complaint process for HCPS.

F. Written Determination

1. A written determination regarding responsibility is prepared by a Decision-Maker.
2. The Decision-Maker will consider all materials when making a decision regarding the responsibility of the Respondent and apply the preponderance of the evidence standard. The Decision-Maker may ask questions of the Title IX Coordinator during the consideration of the evidence. *Note: Sexual predisposition or prior sexual behavior of the Complainant is not relevant unless 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.*
3. The written determination must include:
 - a. Identification of the allegations potentially constituting sexual harassment;
 - b. Description of the procedural steps taken from receipt of the formal complaint through the determination;
 - c. Finding of facts supporting the determination;
 - d. Conclusions regarding the application of HCPS policies, rules, and procedures to the facts;
 - e. A statement of, and rationale for, the result as to each allegation;
 - f. HCPS procedures and permissible bases for the Complainant and

to challenge on the enumerated grounds of the decision by the Title IX Decision-Maker. The disciplinary appeal shall be governed by the appropriate procedures in the Education Article of the Maryland Annotated Code and applicable policies and rules.

- b. Nothing in this procedure shall preclude the school system from taking disciplinary action against an employee when the evidence does not establish sexual harassment as defined by Title IX, but the conduct violates other Board policies, superintendent's rules, or expected standards of employee behavior outlined in the Employee Handbook. Any disciplinary action will be imposed consistent with the employee's rights under the appropriate negotiated agreement.

Procedures for Filing an Appeal

- A. Either party may file an appeal regarding the determination of responsibility or a dismissal of the formal complaint on the following bases:
 1. Procedural irregularity;
 2. New evidence that was not presented or available prior for consideration. The submission must support a written request for reconsideration, and the written request must include a compelling reason why the documentation or evidence was not made available during the investigation; or,
 3. The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents.
- B. The appeal must be made in writing to the Decision-Maker presiding over the appeal as identified in the written determination and the Title IX Coordinator within ten (10) days of the determination of responsibility. The appeal must provide in detail the grounds supporting the appeal.
- C. Upon receipt of the appeal, the Decision-Maker will review the appeal to determine if it satisfies the grounds for filing an appeal. Should it satisfy, the Decision-Maker presiding over the appeal will notify the other party in writing when the appeal is filed and simultaneously provide a copy of the appeal materials to each party.
- D. The Decision-Maker presiding over the appeal shall issue a written decision simultaneously to each party and the Title IX Coordinator describing the result of the appeal and the rationale for the result.
- E. The written decision concludes the appellate and formal process of the Title IX

PROCEDURE

formal complaint for HCPS.

Approved By:



Sean W. Bulson, Ed.D.
Superintendent of Schools

02-13-2023

Date

PROCEDURE

Procedure Action Dates		
ACTION DATE	ACTION DATE	ACTION DATE

Responsibility for Procedure Maintenance & References	
LAST EDITOR/DRAFTER NAME:	JOB POSITION OF LAST EDITOR/DRAFTER:
PERSON RESPONSIBLE:	JOB POSITION OF PERSON RESPONSIBLE:
DESIGNEE NAME:	DESIGNEE POSITION:
PROCEDURE NUMBER PRIOR TO NOVEMBER 1, 2005:	

LEGAL REFERENCES¹

References are set forth in the Procedure.

¹ All references are to specific federal or Maryland statutes or regulations. References are provided for convenience and informational purposes only and are not to be considered as exhaustive or as precluding Harford County Public Schools from relying upon any other statutes or regulations in support of a policy.