



Preventing and Addressing Student-on-Student Sexual Misconduct

This *Preventing and Addressing Student-on-Student Sexual Misconduct* Policy rescinds and supersedes all previous policy, memoranda, and/or guidance promulgated by DCPS on this subject matter.

Chancellor Approval: *Lewis D. Finkle*
 Effective: October 1, 2021

I. PURPOSE AND SCOPE

The District of Columbia Public Schools is committed to preventing sexual misconduct, including sexual harassment, sexual assault, and dating violence to ensure a safe and welcoming learning environment for all students. DCPS strictly prohibits student-on-student acts of sexual misconduct. This policy conveys DCPS requirements regarding the prevention of student-on-student sexual harassment, sexual assault, and dating violence as informed by applicable law, including the School Safety Omnibus Amendment Act of 2018 (School Safety Act). Questions about this policy can be directed to the Comprehensive Alternative Resolution and Equity (CARE) Team at dcps.care@k12.dc.gov.

This policy rescinds and supersedes all previous policy, memoranda, and guidance promulgated by DCPS on this subject matter.

II. AUTHORITY AND APPLICABLE LAW¹

Source	Citation
Federal Law	<ul style="list-style-type: none"> - Title IX of the Education Amendments Act of 1972 (Title IX), 20 U.S.C. § 1681 - Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 <i>et seq.</i> - Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 <i>et seq.</i> - Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d <i>et seq.</i>
Federal Regulations	<ul style="list-style-type: none"> - Title IX implementing regulations, 34 C.F.R. Part 106
District of Columbia Law	<ul style="list-style-type: none"> - D.C. Human Rights Act of 1977, D.C. Code § 2-1401 <i>et seq.</i> - Language Access Act of 2004, D.C. Code § 2-1931 <i>et seq.</i> - School Safety Omnibus Amendment Act of 2018, D.C. Code § 38-951 <i>et seq.</i> and D.C. Code § 38-952 <i>et seq.</i> - Mandated Reporter Requirements, D.C. Code § 4-1501 <i>et seq.</i>
District of Columbia Municipal Regulations	<ul style="list-style-type: none"> - Student Grievance Procedures, 5-B DCMR § 2405 - Grievance Procedures for Parents, Guardians, and Visitors, 5-E DCMR § 405

¹ Nothing in this policy will supersede federal, state, or local law.

III. KEY TERMS AND DEFINITIONS

Aggrieved means an individual or group of individuals who has experienced improper treatment including sexual harassment, sexual assault or dating violence.

Consent means words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the aggrieved, resulting from the use of force, threats, or coercion by the respondent, shall not constitute consent. (D.C. Code § 22-3001(4))

Dating partner or intimate partner means any person who is involved in a relationship with another person that is primarily characterized by social interaction of a sexual, romantic, or intimate nature, whether casual, serious, or long-term. (D.C. Code § 38-952.01(1))

Dating violence means abusive or coercive behavior where a dating partner uses threats of, or actually uses, physical, emotional, economic, technological, or sexual abuse to exert power or control over a current or former dating partner. (D.C. Code § 38-952.01)

Domestic violence means an intrafamily offense that results in physical injury, including physical pain or illness that caused or was intended to cause reasonable fear of imminent serious physical injury or death.

Hostile environment means conduct that is sufficiently severe, persistent, or pervasive that it denies or limits a person's ability to participate in or benefit from a school's programs or activities.

Non-consensual pornography means a person who knowingly discloses one or more sexual images of another identified or identifiable person when:

- The person depicted did not consent to the disclosure of the sexual image;
- There was an agreement or understanding between the person depicted and the person disclosing that the sexual image would not be disclosed; and
- The person disclosed the sexual image with the intent to harm the person depicted or to receive financial gain. (D.C. Code § 22-3052)

Quid pro quo harassment means conditioning the provision of an aid, benefit, or service on the individual's participation in unwelcome sexual conduct.

Retaliation means any adverse action taken against a person for reporting sexual misconduct, participating in a sexual misconduct investigation or opposing discriminatory activity (for example, signing a petition).

Sexual assault (or sexual violence) means any of the following: first degree sexual abuse (D.C. Code § 22-3002); second degree sexual abuse (D.C. Code § 22-3003); third degree sexual abuse (D.C. Code § 22-3004); fourth degree sexual abuse (D.C. Code § 22-3005); misdemeanor sexual abuse (D.C. Code § 22-3006); or attempts to commit sexual offenses (D.C. Code § 22-3018).

First degree sexual abuse means a person who engages in or causes another person to engage in or submit to a sexual act in the following manner:

- By using force against that other person;

- By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;
- After rendering that other person unconscious; or
- After administering to that other person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that other person to appraise or control their conduct.

Second degree sexual abuse means a person who engages in or causes another person to engage in or submit to a sexual act in the following manner:

- By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or
- Where the person knows or has reason to know that the other person is:
 - Incapable of appraising the nature of the conduct;
 - Incapable of declining participation in that sexual act; or
 - Incapable of communicating unwillingness to engage in that sexual act.

Third degree sexual abuse means a person who engages in or causes sexual contact with or by another person in the following manner:

- By using force against that other person;
- By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;
- After rendering that person unconscious; or
- After administering to that person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or similar substance that substantially impairs the ability of that other person to appraise or control their conduct.

Fourth degree sexual abuse means a person who engages in or causes sexual contact with or by another person in the following manner:

- By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or
- Where the person knows or has reason to know that the other person is:
 - Incapable of appraising the nature of the conduct;
 - Incapable of declining participation in that sexual contact; or
 - Incapable of communicating unwillingness to engage in that sexual contact.

Sexual harassment means any unwelcome or uninvited sexual advances, requests 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;
- Substantially interfere with the aggrieved's academic performance or attendance at school; or
- Substantially interfere with the aggrieved's ability to participate in, or benefit from, the services, activities, or privileges provided by a school. (D.C. Code § 38-952.01(5))

Sexual misconduct means any 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 sexual invitation, dating or soliciting a date, engaging in sexual dialogue, making sexually suggestive comments, describing prior sexual encounters, or physical exposure of a sexual or erotic nature. (D.C. Code § 38-951.01(4))

Sexual performance using minors means the employment, authorization, or inducement of a person under 18 years of age to engage in a sexual performance by a person, which can include a parent, legal guardian, or custodian of a minor. This includes when a person:

- Knowing the character and content thereof, produces, directs, or promotes any performance which includes sexual conduct by a person under 18 years of age.
- Knowing the character and content thereof, to attends, transmits, or possesses a sexual performance by a minor. (see D.C. Code § 22-3102)

Staff means an employee or volunteer of a school, an employee of an entity with whom the school contracts, or an employee or volunteer of an entity with whom the school partners who acts as an agent of the school at the school or activities sponsored by the school. (D.C. Code § 38-951.01(5))

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. (see D.C. Code § 2-1401.02(29A) and § 22-3133)

Supportive measures are actions taken on a student's behalf to mitigate issues related to the grievance (for example, creation of a safety plan, modification of class schedule, counseling).

Title IX of the Education Amendments Act of 1972 ("Title IX") refers to a federal civil rights law holding that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. Title IX discrimination includes dating violence, domestic violence, quid pro quo harassment, sexual assault, stalking, and unwelcome conduct.

Unwelcome conduct means 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.

IV. REQUIREMENTS

A. Prohibition and Requirement to Report

DCPS strictly prohibits student-on-student acts of sexual misconduct, including dating violence, domestic violence, non-consensual pornography, quid pro quo harassment, retaliation, sexual assault, sexual harassment, sexual performance using minors, stalking and unwelcome conduct. When any member of school staff knows or reasonably should know that such an act has occurred, then the school shall take immediate and appropriate action to respond, including reporting the allegation to the DCPS CARE

Team. This applies to all actions that occur at school; during school events and activities regardless of their location; and during travel to and from school, school events, and activities. It may also include contact over social media or contact away from school property that has an impact on student safety or performance in school. Additional examples of related sexual misconduct prohibited by this policy include, but are not limited to:

- Transmitting sexually explicit images, photos, videos or any other media without the consent of the recipient and all involved parties;
- Knowingly disclosing non-consensual pornography; and
- Soliciting or promoting sexual performance using minors.

Upon becoming aware of any allegation of student-on-student acts of sexual misconduct, the school shall take immediate actions to interrupt or stop the occurrence, prevent its recurrence, and address its effects.

After the filing of a grievance, supportive measures will be offered depending on the needs of the involved students. Supportive measures include any actions taken by DCPS on a student's behalf to mitigate issues related to the grievance, for example, creation of a safety plan, modification of class schedule, counseling. If deemed necessary, the DCPS CARE Team will work with the local school to ensure implementation. Moreover, all DCPS employees receive training on reporting such incidents to the Child and Family Services Agency (CFSA) and the Metropolitan Police Department (MPD) if the student's behavior indicates that he or she may have experienced child sexual abuse or child abuse. The procedures outlined in this policy shall be completed regardless of whether or not the impacted student files a complaint or otherwise asks the school to take action.

B. Investigations and Consequences for Prohibited Behaviors

Complaints alleging student-on-student acts of sexual misconduct will be investigated and resolved by the DCPS CARE Team according to the procedures detailed in the DCPS *Response to Grievances Filed by Students and the General Public Policy*. The grievance investigation policy details the investigatory process, including protecting the confidentiality of complainants.

Corrective measures will be administered in accordance with that policy and all applicable local and federal law and regulations. The DCPS CARE Team seeks to repair harm and rectify any systemic failure identified; this may include policy change, provision of services to the students, and/or disciplinary action against the respondent. Disciplinary action will be administered in accordance with the DCPS *K-12 Discipline Policy* for instances of student-on-student sexual misconduct.²

Additionally, claims may fall under Title IX. Title IX grievances will follow the investigation procedures detailed in current DCPS grievance policies.³ For more information regarding Title IX, see the *Anti-Discrimination Policy: Students*.⁴

DCPS personnel who conduct investigations will receive or attend annual training on issues related to student-on-student acts of sexual misconduct and how to conduct an investigation that protects the safety of complainants and promotes accountability.

² Available at <https://dcps.dc.gov/page/dcps-policies>.

³ Available at <https://dcps.dc.gov/page/dcps-policies>.

⁴ Available at <https://dcps.dc.gov/page/dcps-policies>.

C. Public Awareness and Prevention

At least once per school year, schools will provide students, families, and school personnel with this policy and information about where complaints may be filed. In order to ensure that students and families are adequately informed about the policy and procedures, schools will make this policy available in the following locations: on the school's website, in the main office, in the school health suite, in the office of the school counselor and school social worker, and in the parent and student handbooks.⁵ Schools will inform students about this policy in a developmentally appropriate manner. Schools are encouraged to use health curricula as a means to open conversations related to sexual harassment, sexual assault, and dating violence.

Given the importance of preventing and proactively addressing student-on-student acts of sexual misconduct in our schools, DCPS:

- Creates an environment where all students feel loved, challenged, and prepared;
- Provides social-emotional professional development for DCPS staff;
- Provides professional development around culturally responsive pedagogy and practices for staff;
- Incorporates anti-discrimination and harassment programs and activities in schools and other DCPS locations;
- Provides information for parents on recognizing the warning signs of student-on-student acts of sexual misconduct, as well as effective, age-appropriate methods for discussing such topics with students;
- Encourages students, caregivers, and school visitors to report discrimination and harassment;
- Requires school staff to report discrimination and harassment;
- Enforces a district-wide protocol for responding to incidents no matter the intent; and
- Conducts climate assessments to determine if discriminatory environments exist and addresses them when appropriate.

D. Resources for Affected Students and Families

The [DC Victim Hotline](#) is available 24/7 by telephone, text, or online chat.⁶ Through a partnership with the Mayor's Office of Victim Services and Justice Grants (OVSJG) and the National Center for Victims of Crime, the hotline provides comprehensive information, resources, and referrals in the District of Columbia. The DC Victim Hotline represents a collaboration of service providers in the District who are working to seamlessly connect victims of crime to free resources and to help them navigate the physical, financial, legal, and emotional repercussions of crime. To contact the Hotline, call or text 1-844-4HELPDC (1-844-443-5732) or access the online chat at www.DCvictim.org/Chat.

Please consult the following for lists of external resources, services, and information for students and families affected by student-on-student acts of sexual misconduct:

- [Department of Behavioral Health's \(DBH\) Behavioral Resource Directory](#);
- [MPD's Sexual Assault Resources List](#);

⁵ Adapted from: US Department of Education Office for Civil Rights (January 2001). *Revised Sexual Harassment Guidance: Harassment of Students by Schools Employees, Other Students, or Third Parties: Title IX*, 20. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>.

⁶ DC Victim Hotline: <https://ovsjg.dc.gov/page/dc-victim-hotline-now-available>.

- [MPD's Victim Specialists Unit](#); and
- [Office of the State Superintendent of Education \(OSSE\)'s Supporting Mental Health in Schools Resources List](#).⁷

V. POLICY IMPLEMENTATION REQUIREMENTS

DCPS is available to support and respond to claims of discrimination. Each school has a social worker and/or a mental health team that can provide support to students experiencing discriminatory treatment and identify community resources, including advocacy organizations and community-based services. The Equity Strategy and Programming Team works to create an environment in which DCPS eliminates opportunity gaps, interrupts institutional bias, and removes barriers to academic and social success. Academic support following instances of discrimination is also available.

DCPS is committed to serving every student with equity, excellence, transparency, and accountability and creating an environment for students that is free of discrimination and harassment. All DCPS employees are required to comply with the requirements set forth in this policy. Implementation of this policy will be reinforced by discrimination, Title IX, and mandated reporter trainings⁸ provided to staff as well as ongoing monitoring and oversight by the DCPS Care Team. Questions or concerns regarding this policy and its implementation should be directed to the DCPS CARE Team at dcps.care@k12.dc.gov. For additional concerns about or violations of this directive, contact the Chief Integrity Officer by completing the Online Referral Form⁹ or sending an email to dcps.cio@k12.dc.gov.

The Office of the Ombudsman may serve as an advisor to students involved in grievances. For additional information, see <https://sboe.dc.gov/page/office-of-the-ombudsman-for-public-education> or contact:

State Board of Education
Office of the Ombudsman for Public Education
One Judiciary Square
441 4th Street, NW, 530S
Washington, DC 20001
Phone: (202) 741-0886
Email: education.ombudsman@dc.gov

⁷ Please note, this is not an exhaustive list. Additional resources may be available.

⁸ Trainings will be provided at time of hiring and, at minimum, every two years thereafter.

⁹ Available at <https://dcps.dc.gov/page/office-integrity>.