



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

August 2017

Employee Rights & Responsibilities Policy

Version 01

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Chancellor's Signature

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I. Executive Summary

Originating Office: Office of Talent and Culture	Number: #687
Subject: Employee Conduct Policy Authority: 5-E DCMR 1012.1, 5-E DCMR § 1028, 5-E DCMR § 1300, 5-E DCMR § 1300.3, 6-B DCMR § 1800.2—6-B DCMR § 1811.9, D.C. CODE § 1-1171.02, D.C. CODE § 1-1171.03, 5 U.S.C. §§ 7321-7326, DCMR 6-B1605, D.C. Code § 4-1321.02, US Constitution First Amendment, DC Code s. 1-615, 6-B DCMR § 1601, 6-B DCMR § 1800-6-B DCMR § 1808, 5-E DCMR § 1300.3, 6-B DCMR § 1811	Date: August 2017 Rescinds: Please see Appendix A for list of directives that this policy rescinds.

A. Introduction

The District of Columbia Public Schools (DCPS) prides itself on recruiting and retaining highly qualified employees. DCPS employees are the backbone to promoting the best possible future for students. To uphold DCPS' mission, employees must always adhere to ethical and professional conduct guidelines. Employees that engage in inappropriate or unprofessional conduct may create barriers to students' academic success and impede DCPS and the DC government from achieving its goals.

B. Purpose

This directive provides guidance to DCPS employees on how they should conduct themselves within, and outside of, the workplace. This directive applies to all individuals who work at DCPS, including interns and contractors fulfilling duties assigned by the agency. Employees should use their best judgement when faced with circumstances not directly covered within this policy and consult their manager, Office of the General Counsel, or Labor Management & Employee Relations if they have questions about workplace expectations. Questions about this policy shall be directed to dcps.policy@dc.gov.

C. Roadmap

This policy begins by discussing employees' right to union representation in contract and other workplace matters. It then outlines employee protections including prohibitions on discrimination, providing accommodations, and whistleblower protections. This policy then discusses ethical responsibilities applicable to all DCPS employees, including appropriate boundaries between employees and students. The next section describes general employee misconduct and disciplinary action procedures. This policy has a separate section on the prohibition against harassment and sexual harassment, and provides guidance on how to report a claim. Finally, this policy contains some forms applicable to the guidance provided in this policy, including the DC Government Employee Ethics Pledge.

II. Overview of Labor Unions

A. Employee Unions

1. Employee Labor Unions

Labor unions represent their members in matters related to union contract negotiation, concerns regarding the implementation of their union contract, claims that provisions of their contract are being violated, and adjustments to the terms and conditions of a union member's employment. In addition to representing employees in workplace matters, union membership has additional benefits:

- a) Some union members have the right to union representation in investigatory meetings upon request. An investigatory meeting refers to any discussion that could lead to disciplinary action against that union member. Please know that this right to union representation does not extend to all meetings – only discussions that could lead to disciplinary action against that union member.
- b) Unions have the right to access their members in accordance with the applicable collective bargaining unit. Union officials can meet with their members at reasonable times during the workday (e.g., lunch) or survey their members for their opinions.
- c) Union representatives can file grievances on behalf of employees.
- d) Employees must be assigned duties consistent with their job descriptions.

Specific terms and conditions regarding union rights and representation can be found for each employee in his or her union's applicable collective bargaining agreement negotiated between the union and DC government.

2. DCPS Employee Labor Union Compilation

- a) **AFSCME Local 2921** represents most school-based educational and clerical aides at DCPS, including Dedicated, Pre-Kindergarten/Kindergarten, Special Education, General Education, and Library Aides, Data Entry Clerks, Administrative Aides, Registrars, Behavior Technicians, In-School Suspension Coordinators, and Parent and Technology Coordinators. AFSCME Local 2921 is part of the larger AFSCME District Council 20. Employees can find out more information about District Council 20 by visiting <http://www.districtcouncil20.org/>.
- b) **AFSCME Local 2401** represents Contract Specialists in the Office of Contracts and Acquisitions. AFSCME Local 2401 is part of the larger AFSCME District Council 20. Employees can find out more information about District Council 20 by visiting <http://www.districtcouncil20.org/>.
- c) **Council of School Officers** represents school administrators, including Principals, Assistant Principals, Deans, and Business Managers and certain Related Service Providers. Employees can find out more information about CSO by visiting <http://councilofschoolofficers.org/>.
- d) **Teamsters Local 639** represents Custodial Workers and Attendance Counselors. Employees can find out more information about Teamsters Local 639 by visiting www.teamsters639.com.
- e) **Washington Teachers' Union** represents Teachers, Library Media Specialists, Counselors, and certain Related Service Providers. Employees can find out more information about the WTU by visiting <http://www.wtulocal6.org/>.
- f) **American Federation of Government Employees Local 1403** represents lawyers and support staff in the Office of the General Counsel. Employees can find out more information about Local 1403 by visiting <http://www.oagunion.org/>.

III. Employee Protections

A. Work Environment

All DCPS employees have the right to work in a safe, professional, and welcoming environment. This means that staff are entitled to the following conditions:

1. Be free from discrimination, including harassment, retaliation, bullying;
2. A clean/sanitary work space;
3. Be free from hostility and/or violence; and
4. Be treated with respect and professionalism.

B. Prohibition on Discrimination

Federal and District laws mandate that DCPS shall not discriminate against any employee or job applicant based on actual or perceived race, disability, religion, sexual orientation, gender identity or expression, age, marital status, personal appearance, family status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an interfamily offense, or place of residence or business. These laws include Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act, the District of Columbia Human Rights Act of 1977, and the Genetic Information Nondiscrimination Act of 2008. Entities or individuals within DCPS that discriminate against employees due to their affiliation with these categories will be subject to disciplinary action. To report discrimination, contact LMER at dcps.lmer@dc.gov or (202) 442-5424. Individuals may also reach out to the DC Office of Human Rights at ohr@dc.gov or (202) 727-4559 or the United States Equal Employment Opportunity Commission at info@eeoc.gov or 1 (800) 669-4000.

1. Harassment

DCPS is committed to providing every student, employee, and job applicant with a safe environment conducive to learning and working. Harassment undermines those goals, is unlawful, and will not be tolerated. **Harassment** is conduct, either physical or verbal, which creates an intimidating, threatening, or abusive environment for students and employees that can interfere with their overall performance, duties, and responsibilities. This applies to all employees, volunteers, and agents of the employer and it applies to all phases of employment.

Although the law does not prohibit simple teasing, offhand comments, or isolated incidents, harassment is illegal when it is so frequent or severe that it becomes a continued condition of the workplace, creates a hostile or offensive work environment, or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client, customer or parent.

Employees are expected to report harassment of students and employees. After a report of harassment is received, an investigation will be conducted and corrective action will be taken, if appropriate. The identity of the individual making the report shall be held confidential to the full extent permitted by law.

Retaliation against the employee providing the information shall not be tolerated. Retaliation may include, but is not limited to:

1. An unwarranted lowering of a score in performance evaluations;
2. Transferring the employee to a different position;
3. Verbal/Physical abuse;
4. An increase in scrutiny or criticism;
5. Any other kind of unwarranted negative treatment.

C. Prohibition on Sexual Harassment

DCPS considers sexual harassment as any unwelcome sexual conduct that denies, limits, or interferes with a student's or employee's rights or welfare. This may include verbal, non-verbal, or physical forms of conduct which may appear in the two different ways depicted below. Any employee, regardless of his or her position, may be either a victim or the harasser. Additionally, both victim and harasser can be either a woman or a man, and the victim and harasser can be the same sex.

1. Hostile Work Environment: Occurs when unwanted sexual behavior creates an environment in which people feel unsafe or uncomfortable. This hostile work environment often impedes employees from being able to fully perform their assigned job functions or other work activities.

2. Quid Pro Quo: Occurs when

- a) Job benefits (such as promotions or increases in salary) are contingent on providing sexual favors or performing sexual acts; or
- b) Rejecting sexual conduct or requests results in decreases of current job responsibilities, salary, or other job-related benefits.

DCPS strictly prohibits any and all forms of sexual harassment. All employees must conduct themselves appropriately and be mindful not to sexually harass any other individual including, but not limited to, staff, students, and visitors. Any sexual harassment, either experienced by an employee or witnessed by another individual, must immediately be reported to LMER and any other applicable supervisors or managers. Please see Appendix C for a chart of different forms of sexual harassment.

D. Reporting & Responding to Sexual Harassment

If an employee experiences or witnesses sexual harassment, they should immediately report it to their supervisor or an LMER representative. LMER can be reached by email (dcps.lmer@dc.gov) or phone (202) 442-5373. Employees may also reach the Equal Employment Opportunity Commission (EEOC) at info@eeoc.gov or the Office of Human Rights (OHR) at ohr@dc.gov. No individual within DCPS shall retaliate against an employee for reporting sexual harassment. Individuals reporting sexual harassment are protected by the Whistleblower Protection Act. For more information on the Whistleblower Protection Act, please see the **Employee Protections** section of this policy. Please see **Appendix B** for a copy of the Pre-Complaint Questionnaire employees should complete prior to reporting a claim.

LMER will investigate all claims of harassment. When an investigation concludes that an allegation of harassment is substantiated, DCPS will take appropriate disciplinary action against the perpetrator up to

and including termination. A supervisor who fails to report incidents of sexual harassment will experience discipline. Questions should be directed to LMER.

3. Equal Employment Opportunity Training

In an effort to foster and maintain an inclusive and discrimination-free workplace, DCPS provides basic training on principles of nondiscrimination.

- a) **Training for New Hires** – During onboarding, all new hires receive information on non-discrimination and the process for filing a complaint.
- b) **Training Opportunities** – Employees may be required to undergo additional training on equal employment opportunity as mandated by law, DCPS policy, or as needed to address a workplace problem.

For directions on how to access equal employment opportunity training or to request training, please contact LMER at 202-442-5373 or dcps.lmer@dc.gov.

E. Work Accommodations

1. Disability Accommodations

All DCPS employees with one or more disabilities shall receive the same benefits and/or opportunities as employees without disabilities. Disabilities include physical or mental impairments that substantially limit an individual's ability to participate or engage in major life activities. This includes injuries, illnesses, and psychiatric conditions.

Employees shall not be subject to any form of discrimination, harassment, or retaliation due to their disability.

In addition, DCPS shall provide reasonable accommodations for employees and students with disabilities.

Reasonable accommodations include providing modifications/adjustments to:

- a) The work environment to enable employees with disabilities to perform their job functions safely and comfortably;
- b) Job application procedures to allow qualified applicants with disabilities full and fair consideration for the position;
- c) Allow employees with disabilities to equally enjoy job benefits/privileges as non-disabled employees.

Examples of reasonable accommodations for disabilities include, but are not limited to:

- a) Leave;
- b) Having and maintaining readily accessible facilities for disabled individuals (e.g. wheelchair ramps, disabled parking spots);
- c) Position restructuring or reassignment to a vacant position;
- d) Modified work schedules;
- e) Acquiring or modifying equipment/devices (e.g. desks);
- f) Adjustment/modification of testing and training materials or policies; and
- g) Providing readers or interpreters.

Please note that although DCPS provides reasonable accommodations to employees with disabilities, DCPS is not required to provide accommodations if they would cause undue hardship on the agency. **Undue hardships** are fact-specific and may include modifications/adjustments that are too expensive, compromise the safety of the work environment, decrease efficiency within the workplace, infringe on other employees' rights, or require other employees to perform extra potentially dangerous or burdensome work. DCPS may not refuse to provide accommodations solely on the basis that those accommodations involve a cost; however, DCPS retains discretion to determine what accommodations are reasonable. DCPS may choose the type or amount of accommodation it will provide, and the provided accommodation may not exactly match the employee's requested accommodation.

DCPS does not provide reasonable accommodations (as discussed above) for employees without disabilities that care for disabled family members. DCPS employees that care for disabled family members should consult the DCPS Employee Leave Policy for more information about how they can take necessary time through other means, including the District of Columbia **Family Medical Leave Act of 1993 (DCFMLA)**.

An employee with a disability who would like a reasonable accommodation should contact his/her supervisor or LMER to make a request for accommodation. A supervisor seeking assistance in responding to a request for accommodation may also contact LMER.

In evaluating an employee's request for accommodation, DCPS may require the employee and/or his medical provider to submit documentation or respond to specific questions to determine:

- a) Whether the employee has a disability within the meaning of the **Americans with Disabilities Act (ADA)**; and
- b) What, if any, accommodation is necessary.

After receiving the requested documentation, DCPS will respond to the request for accommodation within a reasonable time frame.

2. Religious Accommodations

DCPS respects all employees regardless of their religious affiliation. DCPS shall not discriminate against any employee because of their religious affiliation. In addition, DCPS shall provide employees with religious accommodations if those accommodations do not cause an undue hardship for the agency. Examples of reasonable religious accommodation include, but are not limited to:

- a) Leave for religious observance;
- b) Flexible scheduling for religious observances;
- c) Voluntary shift substitutions or swaps;
- d) Job reassignments;
- e) Permission to dress in appropriate religious clothing or practice certain grooming techniques; and
- f) Modifications to workplace policies or practices.

If an employee would like to receive a religious accommodation, they should consult with their supervisor or an LMER representative. DCPS shall not force, coerce, or require any employee to participate or refrain from participating in religious activities as a condition of employment.

F. Speech and Reporting Protections

DCPS adopts the non-retaliation provisions of all applicable DC and Federal laws, including Title VII of the Civil Rights Act of 1964 and the DC Human Rights Act of 1977. Individuals who violate this policy will be subject to disciplinary action. Applicants or employees who believe they have been retaliated against for engaging in protected activity should contact LMER, the DC Office of Human Resources, or the US Equal Employment Opportunity Commission. Please also see the DCPS Non-Retaliation Policy located at <https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/Download%20DCPS%E2%80%99%20Non-Retaliation%20Policy.pdf>.

1. Freedom of Expression

DCPS employees have the right to freely express their opinions on public issues, including issues that are related to their duties as a DCPS employee, without facing disciplinary action. However, this freedom of expression on public issues is subject to the requirement that such expression refrain from commenting on the merits of specific DCPS policies.¹ DCPS employees may face disciplinary action for speech unrelated to a public issue which is detrimental to the operations of the agency or DC government.

2. Whistleblowing Protections

DCPS employees are free to make complaints, reports, or other similar disclosures about potential agency wrongdoings. Disclosures may relate to, but are not limited to, the following:

- a) Complying with the law;
- b) Reporting a potential violation of law;
- c) Opposing any unlawful practice;
- d) Filing a charge of discrimination;
- e) Testifying in a proceeding against DCPS; or
- f) Assisting or participating in any manner in an investigation, proceeding, or hearing against DCPS.

Employees making these disclosures are protected by the **Whistleblower Protection Amendment Act of 2009** which mandates that agencies or agency representatives (such as supervisors) may not retaliate² against employees for disclosing employee/agency wrongdoing. Retaliatory actions include actions that cause an investigation of an employee or applicant for employment because of the protected disclosure,³ as well as other punitive measures, which may include, but are not limited to:

- a) Unwarranted reprimanding or disciplining of the employee;
- b) Unwarranted lowering of performance evaluation scores;
- c) Transfer or reassigning employees to less desirable positions;
- d) Verbal, mental, or physical abuse or violence;
- e) Threats or actions to report the employee to authorities (e.g. reporting immigration status);
- f) Increased scrutiny or criticism of the employee;
- g) Creating a hostile work environment for the employee (e.g. spreading rumors);
- h) Increasing the difficulty of the employee's job functions/schedule.

¹ D.C. Official Code § 1-615.58(1)

² D.C. Official Code s. 1-615.53(a)

³ D.C. Official Code § 1-615.52(a)(5)(B)(ii)

An aggrieved employee who has experienced retaliatory action may bring a civil action in the Superior Court of the District of Columbia for relief and damages.⁴ If an employee makes a complaint to DCPS, a formal investigation shall be initiated by the Board of Ethics and Government Accountability (BEGA).⁵

Employees may also freely report any concerns related to their agency duties to the Council of the District of Columbia.⁶

⁴ D.C. Official Code § 1-615.54; 1-615.56

⁵ <http://www.bega-dc.gov/sites/default/files/documents/Ethics%20Manual%20-%202011.1.14.pdf>, page 80

⁶ DC Code s. 1-615.51

IV. Ethical Responsibilities

A. Overview

DCPS employees are expected to conduct themselves fairly, honestly, and with the highest integrity within and outside of the workplace. DCPS employees must follow all DCPS, DC government, and Federal ethics standards. This includes the responsibility to report any and all known, credible violations of the ethical standards stated in Section IV by other DC government employees to a supervisor, HR official, or other appropriate party.⁷ Employees that do not follow established ethics standards may face disciplinary action.⁸ DCPS employees are expected to complete Ethics Training and sign the District of Columbia Employee Ethics Pledge (see Appendix D) within 30 days of hire.⁹

Pursuant to the ethics standards, DCPS employees **may not**:

1. Use their public office or position for personal financial gain;
2. Participate in any matter that constitutes a financial or representational conflict of interest;
3. Accept gifts or outside payment for government work.

Pursuant to the ethics standards, DCPS employees **must always**:

1. Act impartially and not give preferential treatment;
2. Safeguard government resources and information;
3. Disclose waste or credible violations of law to appropriate authorities; and
4. Adhere to all federal, state, and local laws and regulations.

B. Ethical Mandates

1. Introduction

DCPS employees may not abuse the power they have been given by public office or their position. A DCPS employee should never use her or his position to personally benefit themselves, their friends, or their family. This includes accepting compensation from an outside party in exchange for the performance of official government duties, as well as the acceptance of outside employment or compensation made available to the employee by virtue of his or her position with DCPS. If an employee misuses his or her office or position, that employee may face disciplinary action.

2. Examples of Conflicts of Interest

DCPS employees must avoid conflicts of interest. Conflicts of interest occur when an employee uses their authority or position for monetary benefit of them or their friends/family. No official actions performed by an employee may adversely affect the confidence of the public in DCPS.

⁷ 6-B DCMR § 1801.1

⁸ 6-B DCMR § 1802

⁹ The Ethics training may be accessed <http://www.bega-dc.gov/sites/default/files/documents/Ethics%20Training%206.25.14%20%28Final%29.pdf>

a) Financial Interest Conflicts¹⁰

No DCPS employee or any member of his or her immediate household may knowingly acquire any assets, whether held individually or in concert with others, the possession of which could unduly influence or give the appearance of unduly influencing the employee in his or her official duties and responsibilities as a DCPS employee. Similarly, no DCPS employee or any member of his or her immediate household may acquire an interest in or operate any business that is in any way related to or otherwise involved in that employee's official DCPS duties. If an employee is asked to act on behalf of DCPS in a matter involving that employee's or that employee's immediate family member's financial or commercial interest, that employee must immediately make it known to his or her immediate supervisor through writing.

Each May, all DCPS employees engaged in policy making, purchasing, and contracting functions must accurately fill out and submit a DC Form 35 Confidential Statement of Employment and Financial Interests to the Chancellor or his or her designee.¹¹

b) Outside and Contemporaneous Employment

Employees may not engage in outside employment or private business activity that conflicts, or appears to conflict, with the performance of their assigned duties.¹² A DCPS employee may hold a second job provided that position does not conflict with their official duties with DCPS. This includes a prohibition on engaging in other forms of employment during the hours of duty for which she or he is compensated by DCPS, except when the employee is in an authorized leave status.¹³ This exception does not apply in circumstances where an employee is placed on administrative leave with pay. An employee may not divulge any official DC government information prior to its intended disclosure or rely on knowledge gained from his or her government employment while engaged in otherwise allowable outside employment activities.¹⁴

c) Post-Employment Conflicts of Interest¹⁵

i. Permanent Prohibitions

- A former DCPS employee is permanently prohibited from knowingly acting as a representative in any formal or informal appearance before the DC government regarding a particular matter on which the employee personally and substantially participated as a DCPS employee.¹⁶
- A former DCPS employee is permanently prohibited from communicating (either orally or in written form) with the DC government with the intention of influencing any decision on a particular government matter on behalf of another individual where the employee personally and substantially participated in that matter as a DCPS employee.¹⁷

¹⁰ 6-B DCMR § 1805

¹¹ D.C. Official Code § 1162.25(a)

¹² 6-B DCMR § 1807.1(a).

¹³ 5-E DCMR § 1300.3.

¹⁴ 6-B DCMR § 1807.1(f).

¹⁵ 6-B DCMR § 1811.

¹⁶ 6-B DCMR § 1811.3.

¹⁷ 6-B DCMR § 1811.4.

ii. Two (2) Year Prohibitions

- A former DCPS employee who previously had official responsibility for a matter are prohibited for two years from knowingly acting as a representative before the DC government regarding that matter.¹⁸
- A former DCPS employee is prohibited for two years from engaging in behind-the-scenes assistance in representing another person before an agency with respect to a matter on which the employee personally and substantially participated as a DCPS employee.¹⁹
- The two-year restriction period is measured from the date of termination of employment.

One (1) Year Prohibition (cooling off period)

- A former DCPS employee may not have any transactions with DCPS intended to influence DCPS in connection with any pending matter for one year following the date of termination of employment. This one-year prohibition applies to the intended influence of any matter, regardless of whether the former employee had participated in the matter or whether the matter began after the employee's termination.²⁰
- The above prohibition does not apply to purely personal matters, such as renewing one's driver's license or filing taxes.²¹

3. Political Activities

DCPS recognizes and encourages employees to exercise their rights as citizens and to participate in political processes, to the extent not prohibited by law.²² School property and school time may not be used for political purposes. DCPS employees are subject to the local Hatch Act.²³ The local Hatch Act defines "political activity" as any activity directed toward the success or failure of a political party, candidate for District office, partisan political group, ballot initiative, or referendum. Engaging in political activities may be grounds for disciplinary action if the activities are performed while:

- a) On school grounds or while in any other District government building or room;
- b) Dressed in government uniforms or wearing government insignia;
- c) On one's tour of duty; or
- d) Using any DCPS or DC government vehicle.

DCPS employees are prohibited from engaging in any of the following activities, regardless of where and when they take place:

- a) Using official authority/influence to interfere with/affect the result of an election;
- b) Knowingly soliciting, accepting, or receiving a political contribution. This does not include when the employee has filed as a candidate for political office;
- c) Filing as a candidate for election to a partisan political office in the District government;
- d) Knowingly directing/authorizing other individuals to direct subordinate employees to participate in an election campaign or make a political contribution;

¹⁸ 6-B DCMR § 1811.5.

¹⁹ 6-B DCMR § 1811.8.

²⁰ 6-B DCMR § 1811.10-11.

²¹ 6-B DCMR § 1811.16.

²² 5-E DCMR 1012.1

²³ D.C. OFFICIAL CODE § 1-1171.01 *et. seq.* .

- e) Directly engaging students in political activities such as, but not limited to, having students distribute political materials or using students to write or address political material.

DCPS employees may:

- a) Register and vote for the candidate(s) or political parties they choose;
- b) Participate in voter registration activities, political events/meetings or campaigns;
- c) Express opinions about candidates/political issues;
- d) Contribute money to political organizations or engage in political fundraisers;
- e) Sign and circulate nominating petitions.

4. Impartiality

Any DCPS employee with authority to make or influence hiring or promotion decisions must strive to select the candidate whose job-related competency and character most closely align with the needs of DCPS. The candidate will be chosen after his or her qualifications, experience, work history, and performance in the official hiring process are evaluated. Hiring officials are strictly prohibited from engaging in hiring decisions regarding DCPS positions with respect to their relatives.²⁴ Employees of the district that are related to the applicant must file a written recusal, and that recusal will be included in the employee's official personnel file. Employees may not advocate in any way for the hire of a relative to work in DCPS.²⁵

5. Use of Government Resources & Information

Employees have a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes.²⁶

Government property²⁷ includes:

- a) Employee and contractor services;
- b) Office supplies, telephone, and other telecommunications equipment and services;
- c) Printing and reproduction facilities, government records, and government vehicles; and
- d) Any other real or personal property purchased or otherwise owned by DCPS or any other government entity.

Authorized uses²⁸ of government property include:

- a) Those purposes for which government property is made available to members of the public; or
- b) Those purposes authorized by an agency head in accordance with law or regulation.

The misuse of DCPS or other DC government property is grounds for disciplinary action.

6. Waste and Violations of Law

DCPS employees must not engage in criminal and/or corrupt conduct, and must report such conduct by other employees if it is witnessed. DCPS employees must also report, if known, any of the conflicts of interest mentioned in this Section IV or any other prohibited conduct by both District employees and non-

²⁴ 6-B DCMR § 1806.3.

²⁵ 5-E DCMR § 1028.1

²⁶ 6-B DCMR § 1808.1

²⁷ 6-B DCMR § 1808.2(a)

²⁸ 6-B DCMR § 1808.2(b)

employees working with District government (including contractors). Failure to report this conduct may result in disciplinary action against the individual who failed to make the report, including possible termination. For additional questions, or to report an instance of waste or a violation of law, employees may contact LMER at dcps.lmer@dc.gov or the Board of Government Ethics and Accountability at bega@dc.gov.

7. Gifts

DCPS employees must prevent even the appearance that any decision they make is influenced or rewarded by gifts or outside payment. A gift is defined as anything of value including any gratuity, favor, discount, loan, or entertainment to the extent that payment of equal or greater value is not received in return.²⁹ Some limited exceptions to this definition for small items of little intrinsic value can be found in the DCMR.³⁰

a) A DCPS employee shall not, directly or indirectly, accept a gift:

- From a **prohibited source**;
- Given because of the employee's official position or duties; or
- From the same or different sources on so frequent a basis that a reasonable person would believe the employee is using his or her public office for private gain.³¹

DCPS employees are prohibited from soliciting or coercing the offering of a gift in all circumstances.

b) A gift which is accepted indirectly includes a gift:

- Given with the employee's knowledge and acquiescence to his/her parent, sibling, spouse, child, or dependent relative because of that person's relationship to the employee, or
- Given to any other person or entity, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee.³²

c) Supervisor/Employee Gift-Giving³³:

- A DCPS employee may not
 - Give a gift or make a donation toward a gift for an **official superior**; or
 - Solicit a contribution from another employee for a gift to their official superior.
- An official superior shall not coerce a subordinate to make or contribute to a gift.

e) Higher/Lower Salary Employee Gift-Giving³⁴:

- A DCPS employee may not, directly or indirectly:
 - Accept a gift from another DCPS employee receiving less pay than themselves unless:
 - The two employees are not in a subordinate-official superior relationship;
 - There is a personal relationship between the two employees that would justify the gift; and

²⁹ 6-B DCMR § 1803.4(a)

³⁰ Id.

³¹ 6-B DCMR § 1803.2 and .3

³² 6-B DCMR § 1803.4(d)

³³ 6-B DCMR § 1804.2

³⁴ 6-B DCMR § 1804.3

- The gift was not given or solicited to gain or induce any professional advantage.

f) Exceptions to Restrictions on Supervisor/Employee and Higher/Lower Salary Employee Gift-Giving³⁵

On special occasions (such as holidays, birthdays, baby showers, marriage, or retirement), a supervisor or higher salaried employee may accept:

- Items, other than cash, with an aggregate market value of \$10 or less per occasion;
- Items such as food and refreshments to be shared in the office among several employees;
- Items of customary hospitality at the giving employee's personal residence.

g) Any DCPS employee who receives a prohibited gift shall do one of the following:

- Return the gift to the donor or reimburse the donor the market value of the gift.
- If the gift is perishable and it would not be practical to return it to the donor, donate the gift to charity, share it with the office staff in a communal space, or destroy it.³⁶

h) Fundraising and Solicitation in Central Office and Schools³⁷:

- Donation boxes, sign-up sheets, and other fundraising materials are permissible. They must be posted or placed in a common area or public place in the office, so as to avoid the appearance of employees giving the items or funds as gifts to a specific employee.
 - The initiator of the fundraising cannot be in a management position.
 - An employee cannot solicit donations to a fundraiser or purchases from a fundraising catalog of items from each individual employee. The sign-up sheets and boxes must be placed in a common area to avoid the possibility of a superior soliciting a subordinate for donations or purchases.
 - Also, the employee may not solicit funds or other support from a subordinate, or a prohibited source.

Please refer to the discussion of the Hatch Act above for additional information regarding fundraising for political purposes. Additionally, DCPS participates in the Donor's Choose program which offers support to schools and classrooms all over the country. More information regarding Donor's Choose can be found at <https://www.donorschoose.org/about>. To discuss the rules and procedures regarding fundraising and solicitation within the DC government further, please reach out to the DC Office of Partnerships and Grants at opgs.eom@dc.gov.

³⁵ 6-B DCMR § 1804.6

³⁶ 6-B DCMR 1803.7.

³⁷ 6-B DCMR 1805

V. Boundaries Between Staff and Students

A. Importance of Staff and Student Boundaries

Employees are strictly prohibited from engaging in, encouraging, or entertaining sexual or romantic relationships with students, regardless of the employee's or student's age. Employees are prohibited from transporting students in their personal vehicles or meeting with students off school grounds and outside of school hours without the knowledge and consent of the student's parent or guardian. Any employee who engages in such prohibited conduct will be subject to discipline. When an employee must contact a student outside of school hours, employees are encouraged to use their DCPS email account or a DCPS telephone to do so. Employees should refer to the DCPS Social Media Policy for more information regarding contacting students on social media platforms. The DCPS Social Media Policy can be found at <https://dcps.dc.gov/page/dcps-policies>. Additionally, employees are strongly discouraged from engaging in sexual or romantic relationships with employees whom they supervise or the family members of students. Schools must engage with OGC if they encounter a parent/community member that requests that the schools engage in outside employment or business transactions with that individual or organization.

VI. Mandated Reporting

Every employee at DCPS has an affirmative duty to take appropriate action to safeguard students from physical or emotional harm and to refrain from actions that place students at risk of harm. As such, among other things, employees must ensure students are properly supervised at all times, report and remove students from potential hazards, and abide by their obligations as mandated reporters of abuse and neglect. Willful nonperformance, and the inexcusable neglect, of the duty to protect student well-being are grounds for disciplinary action and possible civil and criminal penalty.

1. Examples of nonperformance/neglect of the duty to protect students include, but not limited to:

- a) Allowing a student to leave school during school hours without appropriate adult supervision
- b) Failing to report suspected abuse or neglect
- c) Failing to report a weapon on or near school grounds
- d) Allowing students to fight without intervening in any way
- e) Releasing a student to an individual not on a list of individuals approved to perform pick-up

2. Duty to report suspected or known instances of child abuse or neglect

Pursuant to District law, DCPS employees are required to report instances of reasonably suspected or known child physical, mental, or sexual abuse and neglect.³⁸ Any employee who believes that a student attending a DCPS school or program is a victim of child abuse or neglect should immediately report this concern to the Child and Family Services Agency (CFSA) and the Metropolitan Police Department of the District of Columbia (MPD). If requested by either agency, or in all cases if the abuse involves drug-related activity, the mandated reporter must make a written report of the case.³⁹ The written report should include, if known, the names, age, sex, and address of the child who is the subject of the report and any immediate family or other persons responsible for the child's care, the nature and extent of the abuse or neglect, and any other information the reporter believes may be helpful to determine the cause of the abuse or neglect or the identity of the person responsible.⁴⁰ Reporters are strongly discouraged from including unnecessary facts or opinions in the report.

To report suspected child abuse or neglect, immediately call: The Child and Family Services Agency at (202) 671-SAFE (7233) and the DC Metropolitan Police Department at 911. After making your report to CFSA and MPD, immediately notify your supervisor and school security that you have made a report.

Provided the report is filed in good faith, any DCPS employee filing a report of reasonably suspected or known child abuse or neglect is not subject to any civil or criminal penalty in the event the suspicion of abuse or neglect is investigated and determined to be false.⁴¹

³⁸ D.C. OFFICIAL CODE § 4-1321.02(a).

³⁹ D.C. Official Code § 4-1321.03(a)(2).

⁴⁰ D.C. Official Code § 4-1321.03(b).

⁴¹ D.C. Official Code § 4-1321.04.

You must make a report of abuse or neglect whenever you suspect or know that a student:⁴²

- a) Has been injured by a bullet;
- b) Has been injured by a knife or other sharp object;
- c) Has 10 or more unexcused absences in a school year and is 5 through 13 years of age.

3. Definitions of Child Abuse and Neglect

- a) Mental injury: Harm to a child's psychological or intellectual functioning due to the acts or omissions of a parent or caregiver.
- b) Physical abuse: Physical harm or threatened harm to a child other than by accident.
- c) Physical assault: Any physical contact with another person without their consent.
- d) Neglect: Harm or threatened harm to a child's health or welfare due to a parent or caregiver's failure to provide adequate food, shelter, clothing, medical care, or access to education.
- e) Sexual abuse: Sexual contact or sexual penetration with a child.
- f) Sexual exploitation: Allowing, permitting, or encouraging a child to engage in prostitution or to be depicted in a sexual act.
- g) Sexual assault: Illegal sexual contact that usually involves force or that is inflicted upon a person who is incapable of giving consent (because of age or physical or mental incapacity).
- h) Drug exposure: Ingestion of a controlled substance as a consequence of the act or omission of the child's parent or regular exposure to illegal drug-related activity in the home;
- i) Domestic violence exposure

4. Penalties for Failing to Report

A DCPS employee's failure to abide by his or her affirmative duty to report may result in disciplinary action for willful nonperformance or inexcusable neglect of duty. In addition, in accordance with DC law, failure to make a report may result in legal action, including the assessment of a fine and prosecution.⁴³

5. Annual Training Requirement

All DCPS employees are required to become certified Mandated Reporters of Child Abuse and Neglect within 31 days of employment. Free training is available online at dc.mandatedreporter.org. This training provides useful information concerning the types and signs of child abuse and neglect and reporting obligations. The Mandated Reporter Training must be re-taken each year. Additional information regarding employee's responsibilities as mandated reporters can be found at <https://dc.mandatedreporter.org/pages/Welcome.action>.

⁴² D.C. Official Code § 4-1321.02(e)

⁴³ D.C. Official Code § 4-1321.07.

VII. Employee Misconduct and Disciplinary Actions

A. Employee Misconduct

If a DCPS employee engages in misconduct, they may be subject to internal discipline. Please refer to the DCPS Employee Handbook for additional information regarding what actions constitute grounds for disciplinary action.

B. Progressive Discipline

1. Discipline for Union Members

Employees who are covered by a collective bargaining agreement (i.e., a labor union contract) may be entitled to progressive discipline (please refer to your applicable Union contract for information regarding disciplinary procedures not discussed below). **Progressive Discipline** is a process that uses increasingly severe measures or consequences to address job-related behavior that does not meet expectations. The process is intended to assist an employee in overcoming behavioral problems and satisfying job expectations. Progressive discipline usually includes relaying agency conduct standards and expectations, and explaining how the employee has failed to meet them. The following chart illustrates each step in progressive disciplinary process.

Type of Action	Process	Documentation Kept In:
Verbal/Oral Warning	A conversation between supervisor and employee in which employee's unacceptable behavior is addressed.	School File Official Personnel File
Written Warning	Supervisor documents the unacceptable behavior in a memorandum and delivers the memo to employee.	School File LMER File Official Personnel File
Written Reprimand	Supervisor documents the unacceptable behavior in a memorandum and delivers the memo to employee.	School File LMER File Official Personnel File
Suspension	Request for suspension sent to Instructional Superintendent, who will forward a final recommendation to LMER. Only LMER can suspend an employee.	School File LMER File Official Personnel File
Termination/Dismissal/Discharge	Request for termination sent to Instructional Superintendent, who will forward a final recommendation to LMER. Only LMER can terminate an employee.	School File LMER File Official Personnel File

If prior efforts at improving employee outcomes fail, progressive discipline enables DCPS to terminate employees whose behavior and/or performance does not improve to acceptable levels.

Each union contract has a unique progressive discipline process. Therefore, employees should consult their union contract for detailed information on the disciplinary process. DCPS reserves the right not to adhere to progressive discipline in cases of egregious misconduct, or where the infraction is committed by an employee in his or her probationary period or an at-will employee.

2. Discipline for Non-Union Members

DCPS has no obligation to carry out a full system of progressive discipline when addressing issues of employee discipline that may arise among employees who do not belong to a union.

Appendices

Appendix A: Rescinded Directives

This Employee Rights and Responsibilities Policy rescinds the directives listed below:

- Directive 650.15: "Employee Conduct";
- Directive 314.3: Mayors Memorandum No79-96 (Sexual Harassment);
- Directive 662.8: Sex Offense Involving Students;
- Directive 311.15: Accommodation of Employees' Religious Practices;
- Directive 200.30 – The Age Discrimination Amendments of 1986;
- Directive 702.2: Harassment & Sexual Harassment of Employees;
- Directive 204 – Policies Affecting Labor Relations;
- Directive 507.3 – Mandatory Employee Testimony at Student Attendance Hearings;
- Directive 650.3 – Delegation of Authority to Effect Discipline & Adverse Actions;
- Directive 650.4 – Adverse Action Procedures;
- Directive 650.5 – Chapter X Adverse Personnel Actions of the Rules of BOE;
- Directive 651.4 – Specific Implications of Title IX (1972 Education Amendments);
- Directive 651.6 – Employment Policy;
- Directive 652 – Inquiries Regarding Employee Indebtedness;
- Directive 654.4 – Finality of Hearing Officer Decisions;
- Directive 702.1 – EEO Notice;
- Directive 680.01 – Exit Interview;
- Directive 630.3: When Actually Employed Appointments;
- Directive 653.10: Requirements for Disability Retirement;
- Directive 653.1: Performance Evaluation of ET-15 Personnel;
- Directive 315.3 – In-Services Teacher Credit Public Law 43-407;
- Directive 315.5 – General Eligibility Requirements, Examinations, & Licenses for Teachers and Others;
- Directive 450: Staff Development Services;
- Directive 650.13: Procedures for Requesting Fitness-For-Duty;
- Directive 650.17: Values-Character Education Training;
- Directive 651.12: Combining DCPS Training Request & Authorization Forms;
- Directive 653: Performance Ratings for Classified GS & Wage Schedule WG, WS, WL Employees;
- Directive 630.4: Position Control Procedures;
- Directive 650.1: Reduction in Force Procedures;
- Directive 651.17: Incentive Awards for Perfect Attendance;
- Directive 652.1: Certification of Services Rendered by Substitute Teachers;
- Directive 652.2: Employment of Relatives;
- Directive 652.3: Hiring New Employees;
- Directive 652.6: Background Checks;
- Directive 652.7: Teacher Testing;

- Directive 652.8 Praxis Series Professional Assessments for Beginning Teachers;
- Directive 653.11 – Performance Ratings for Wage Schedule Supervisory Employees;
- Directive 653.1.1 – Teacher Appraisal Process;
- Directive 653.2 – Performance Evaluation of School Officer;
- Directive 653.3 – Performance Evaluation of Teacher Salary Act Personnel Class;
- Directive 653.4 – School Officer Hiring & Promotion Qualifications;
- Directive 653.5 – Procedures for Election of Community Representatives on Principals Selection Panels;
- Directive 653.6 – Selection Procedures for Regional Superintendents;
- Directive 653.7 – Procedures for Selection of Community Members on Regional Superintendents Panel;
- Directive 653.8 – Residency Requirement for DCPS Employees;
- Directive 654 – Duties & Responsibilities of Assistants Superintendents, Regions;
- Directive 654.2: Establishment of the BOE Educational Service for the Comprehensive Merit Personnel Action;
- Directive 654.3: Assistant Principal Roster;
- Directive 655 – Hiring Procedures;
- Directive 655.1 – Position Management & Position Control;
- Directive 650 – Procedures for Filling a Vacant Position;
- Directive 315.7 – Administrative Services Credential;
- Directive 315.4 – Regulations Governing the Issuance and Renewal of 5 Year Teaching Certificates*.

Appendix B: Glossary

Americans with Disabilities Act: A federal anti-discrimination law that prohibits agencies from discriminating against people with disabilities.

Gift: Anything of value including any gratuity, favor, discount, loan, or entertainment to the extent that payment of equal or greater value is not received in return.

Grievance: A formal complaint against an agency or company.

Harassment: Conduct, either physical or verbal, which creates an intimidating, threatening, or abusive environment for students and employees that can interfere with their overall performance, duties, and responsibilities.

District of Columbia Family Medical Leave Act (DCFMLA): provides employees with 16 weeks of unpaid family leave and 16 weeks of unpaid medical leave.

Undue Hardship: Modifications/adjustments to workplace conditions that are too expensive, compromise the safety of the work environment, decrease efficiency within the workplace, infringe on other employee's rights, or require other employees to perform extra potentially dangerous or burdensome work.

Official Superior: Any employee, such as an immediate supervisor, whose official responsibilities include directing or evaluating the performance of another employee's official duties or those of any other official superior of the other employee.

Progressive Discipline: A process that uses increasingly severe measures or consequences to address job-related behavior that does not meet expectations.

Prohibited Source: Any person or entity who currently conducts or seeks to conduct business with DCPS, such that a DCPS employee is prohibited from receiving or soliciting a gift from that person or entity.

Reasonable Accommodation: Changes in the workplace that help to provide equality to employees with disabilities or to allow employees to participate in religious observances.

Whistleblower Protection Act: A District of Columbia law that prohibits agencies or their representatives from retaliation against employees for disclosing employee/agency wrongdoing.

Appendix C: Pre-Complaint Questionnaire



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Pre-Complaint Questionnaire

(For information only: This information does not constitute a basis for filing a formal complaint)

Name _____
Last First MI Other Names Used

Address: _____

Street _____ Social Security _____

City _____ State _____ Zip Code _____

Telephone () _____ () _____

Work _____ Home _____

Present Position: _____ Location: _____

I prefer to be contacted by telephone [] at work [] at home

Time: _____ Day(s) of the week _____

I wish to file a complaint against

Name/Title _____ Telephone: _____

Address _____
Street City State Zip

1. On what basis were you discriminated against? (Check Boxes)

- | | | |
|--|--|--|
| <input type="checkbox"/> Race | <input type="checkbox"/> National Origin | <input type="checkbox"/> Marital Status |
| <input type="checkbox"/> Color | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Personal Appearance |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Matriculation | <input type="checkbox"/> Political Affiliation |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Family Responsibility | <input type="checkbox"/> Age |
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Gender Identity or Expression |
| <input type="checkbox"/> Genetic Information | <input type="checkbox"/> Disability | |

Employee Rights and Responsibilities Policy

2. In what ways were you discriminated against (e.g. – terminated, differential treatment, denied promotion, etc.)?: _____

3. Date(s) of alleged discrimination: _____

4. List the reason (s) given by your employer for the action taken against you. What information do you have to indicate that you were treated differently because of discrimination? (Attach additional pages if necessary.)

4. What remedy are you seeking through DCPS? _____

5. Did you file a Union Grievance [] Yes [] No If yes, what happened?

6. Give the name of your Union: _____

7. List any "witnesses" who you feel can provide evidence in your support:

Employee Rights and Responsibilities Policy

8. Have you attempted to resolve your problem by discussing the matter with a representative of management? Yes No If yes, list name of the person(s) contacted?

9. Did you file a complaint with the Equal Employment Opportunity Commission (EEOC)?
 Yes No

10. Did you file a complaint with the D. C. Office of Human Rights? Yes No

11. Do you have an attorney? Yes (If so, please give the name.) No

Signature: _____ Date: _____

For official use only

_____ _____ _____ _____ _____

Equal Employment Opportunity Unit, June 2016

Appendix D: Sexual Harassment Chart

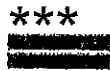
Category of Sexual Harassment	Sexual Harassment
Non-Verbal	Sexual looks and lewd gestures, such as leering or ogling with suggestive overtones. Sexually suggestive signals.
	Touching oneself sexually or persistent and unwelcome flirting
	Displaying sexually suggestive pictures, calendars, or posters
	Stalking / following a person
	Licking lips or teeth, winking or throwing kisses;
	Holding or eating food provocatively;
	Lewd gestures, such as hand or sign language to denote sexual activity;
	Staring at an individual or looking a person up and down (elevator eyes);
	Whistling or staring in a sexually suggestive or offensive manner (cat calling)
	Exposing genitalia;
	Exposing buttocks;
	Masturbation;
	Consensual sex;
	Group sex;
	Filming and/or re-broadcast of any sexual activity;
	Groping/touching, fondling;
	Sexting (unwanted viewing, exposure or targeting).
	Sexting/sending unwanted suggestive images including <ul style="list-style-type: none"> o Naked pictures; o Pictures of genitalia; o Pictures or video of a sexual nature; and o Sexually provocative meme's.
	Offensive gestures or facial expressions of a sexual nature
Verbal	Referring to an adult as a girl, hunk, doll, babe, or honey
	Unwanted letters, telephone calls, or materials of a sexual nature.
	Telling lies or spreading rumors about a person's personal sex life.
	Kissing sounds, howling, and smacking lips. Making kissing sounds, howling, and smacking lips.
	Sexual comments about a person's clothing, anatomy, or looks.
	Personal questions about social or sexual life.
	Asking about sexual fantasies, preferences, or history.
	Sexual comments. Making sexual comments about a person's body
	Sexual innuendos or stories.
	Unwanted sexual teasing, jokes, remarks, or questions.
	Unwanted pressure for dates.
	Telling lies or spreading rumors about a person's personal sex life

	Repeatedly asking out a person who is not interested
	Making sexual comments about a person's clothing, anatomy, or looks
	Asking personal questions about social or sexual life
	Telling sexual jokes or stories
	Asking about sexual fantasies, preferences, or history
	Turning work discussions to sexual topics
Physical	Neck massage.
	Giving personal gifts.
	Unwanted deliberate touching, leaning over, cornering, or pinching.
	Actual or attempted rape or sexual assault.
	Touching an employee's clothing, hair, or body.
	Hanging around a person.
	Hugging, kissing, patting, or stroking.
	Touching or rubbing oneself sexually around another person.
	Standing close or brushing up against a person.

Appendix E: DCPS Ethics Pledge

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Human Resources

D.C. GOVERNMENT EMPLOYEE ETHICS PLEDGE



As an employee of the Government of the District of Columbia, I understand that I am a public servant and, thereby, am entrusted with working for the common good of our city and its residents.

As a public servant, I have been given access to governmental power and resources for one purpose: To serve the government of the District of Columbia and the people whom that government represents.

Therefore, I solemnly pledge to honor the public trust and responsibility with which I have been entrusted by:

- 1. Refraining from misuse of my position or office** for personal financial benefit or for the financial benefit of my relatives, friends or organizations with which I am affiliated;
- 2. Avoiding financial conflicts of interest** by declining to participate in government actions that could affect my own financial interests or those of my relatives, friends or organizations with which I am affiliated; I
- 3. Avoiding representational conflicts of interest** by declining to represent a non-governmental party in a matter before the government or involving the government; 2
- 4. Avoiding gifts and payments from interested parties** by refraining from soliciting or accepting anything of value from those who are regulated by or are doing business with the government; 3
- 5. Avoiding outside payment for government work** by refraining from soliciting or accepting anything of value from outside sources for doing government work; 4
- 6. Acting impartially** by avoiding giving preferential treatment to anyone; s
- 7. Safeguarding government resources** by declining to use government letterhead, personnel, equipment, supplies, or other resources for a non-government purpose or engaging in personal or private activities during times when I am required to perform work for the government; 6

