

Preventing and Addressing Student-on-Student Sexual Harassment, Sexual Assault, and Dating Violence

I. PURPOSE AND SCOPE

The District of Columbia Public Schools is committed to preventing 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 harassment, sexual assault, and dating violence. 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 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 participating in a protected activity.

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; orIncapable 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: A person who employs, authorizes, or induces a person under 18 years of age to engage in a sexual performance or being the parent, legal guardian, or custodian of a minor, they consent to the participation by a minor in a sexual performance. 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 attend, transmit, or possess a sexual performance by a minor. (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.⁴ (see D.C. Code § 2-1401.02(29A) and § 22-3133)

Supportive measures means actions taken on a student's behalf to mitigate issues related to the grievance (e.g., 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 harassment, sexual assault, and dating violence. 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 harassment, sexual assault, or dating violence, 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, each case will undergo evaluation to determine if supportive measures are necessary. Supportive measures include any actions taken by DCPS on a student's behalf to mitigate issues related to the grievance, e.g., 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. Supportive measures may include appropriate counseling and intervention strategies for students alleged to have committed student-on-student acts of sexual harassment, sexual assault, or dating violence. Moreover, all DCPS employees receive training on reporting such incidents to the Child and Family Services Agency 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 harassment, sexual assault, or dating violence will be investigated and resolved by the DCPS CARE Team according to the procedures detailed in the *DC Public Schools 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.

Consequences will be administered in accordance with that policy and all applicable local and federal law and regulations. The DCPS CARE Team seeks to make the aggrieved whole and systemic failure rectified; this may result in policy change, service provision and/or disciplinary action against the respondent. Disciplinary action will be administered in accordance with the *DCPS K-12 Discipline Policy Guidance* for instances of student-on-student sexual harassment, sexual assault, or dating violence.

Additionally, claims may fall under Title IX. Title IX grievances will follow the investigation procedures detailed in current DCPS grievance policies.² For more information regarding Title IX, see the *Anti-Discrimination Policy: Students*.³

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

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.⁴ 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 harassment, sexual assault and dating violence 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 harassment, sexual assault, and dating violence, 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; and
- Enforces a district-wide protocol for responding to incidents no matter the intent;
- 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.⁵ Through a partnership with the Mayor's Office of Victim Services and Justice Grants (OVSJG) and the National Center for Victims of

² [Link to be added to final version].

³ [Link to be added to final version].

⁴ 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>.

⁵ DC Victim Hotline: <https://ovsjg.dc.gov/page/dc-victim-hotline-now-available>.

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, dial 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 harassment, sexual assault, and dating violence:

- [Department of Behavioral Health's \(DBH\) Behavioral Resource Directory](#);
- [MPD's Sexual Assault Resources List](#);
- [MPD's Victim Specialists Unit](#); and
- [OSSE's Supporting Mental Health in Schools Resources List](#).⁶

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 trainings⁷ 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 Form⁸ or sending an email to dcps.cio@k12.dc.gov.

VI. ADDITIONAL RESOURCES

There are outside agencies that can provide additional support and/or receive reports of discrimination.

A. State Board of Education - Office of the Ombudsman for Public Education

The Office of Ombudsman for Public Education is a central venue for parents/guardians to register concerns and resolve disputes. The Office of the Ombudsman may also 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:

⁶ Please note, this is not an exhaustive list. Additional resources may be available.

⁷ Trainings will be provided at time of hiring and, at minimum, every two years thereafter.

⁸ Available at <https://dcps.dc.gov/page/office-integrity>.

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

B. U.S. Department of Education, Office for Civil Rights (OCR)

A student may file a complaint directly with OCR with or without following the DCPS procedure described above. If a complaint is filed with OCR, it must be filed in writing no later than 180 days after the incident of harassment occurred. For additional information, see <http://www.ed.gov/ocr/complaintprocess.html> or contact:

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

C. District of Columbia Office of Human Rights (OHR)

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

D.C. Office of Human Rights
441 4th Street NW, Suite 570N
Washington, DC 20001
Phone: (202) 727-4559
Fax: (202) 727-9589
Email: ohr@dc.gov

D. Office of the State Superintendent of Education (OSSE)

For more information regarding your student's individual education program (IEP) and the Individuals with Disabilities Education Amendment Act (IDEA), you may contact the DCPS Monitoring and School Support Team at dcps.spedconcerns@k12.dc.gov.

Written complaints regarding IEPs and the IDEA can be filed by contacting:

Office of the State Superintendent of Education
1050 First Street NE, Third Floor
Washington, DC 20002
Phone: (202) 698-3819

Email: hearing.office@dc.gov

You may also file a complaint with:

Office of the State Superintendent of Education
State Complaint Office
1050 First Street NE, Fifth Floor
Washington, DC 20002
Phone: (202) 727-6436
Email: osse.IDEAstatecomplaints@dc.gov

E. DCPS Labor Management and Employee Relations (LMER)

For inquiries or complaints regarding harassment related to DCPS employees, contact:

Labor Management and Employee Relations (LMER)
District of Columbia Public Schools
1200 First Street NE, 9th Floor
Washington, DC 20002
Phone: (202) 442-5424
Email: dcps.lmer@k12.dc.gov

F. Office of Special Education and Rehabilitative Services (OSERS)

OSERS is committed to improving results and outcomes for people with disabilities. They may be contacted at:

Office of Special Education and Rehabilitative Services
Office of Special Education Programs
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202-7100
Phone: (202) 245-7468