

# **ARTICLE III: CONDITIONS OF EMPLOYMENT - GENERALLY**

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### **POLICY 5-3.1 DRUG-FREE WORKPLACE**

The Poquoson City School Board is committed to maintaining a drug-free work place. To that end, all School Board work places, including offices, annexes, playgrounds, parking lots, vehicles, and off-campus locations, shall be maintained as drug-free workplaces. Failure of employees to adhere to this standard will result in appropriate disciplinary action, up to and including dismissal.

#### **Violations**

While on school property or at school activities and events, School Board employees shall not possess, use, distribute, sell, manufacture, dispense, or be under the influence of any narcotic, hallucinogenic, amphetamine, barbiturate, marijuana, alcoholic beverage, stimulant or intoxicant of any kind or other controlled drug as defined by state or federal law. The use of a drug authorized by a medical prescription shall not be considered a violation of this policy when used as prescribed by the person for whom it was prescribed. Violation of this policy may result in appropriate disciplinary action up to and including dismissal. Any employee convicted of any drug-related crime occurring under the circumstances described in this paragraph shall notify the Division Superintendent or his designee within five (5) days after such conviction. Compliance with this provision is a condition of employment.

Conduct prohibited by the Omnibus Transportation Employee Testing Act of 1991 and U.S. Department of Transportation Regulations shall constitute a violation of this policy and may result in appropriate disciplinary action up to and including dismissal.

#### **Off-Campus Use**

The use of alcohol, narcotics, hallucinogens, depressants, stimulants, or marijuana off School Board property which affects an employee's ability to perform his or her duties, or which generates publicity or circumstances which adversely affects the school division or its employees, may result in discipline, including possible suspension or termination.

#### **Disciplinary Action**

The Division Superintendent and School Board will take appropriate personnel action up to and including dismissal of any employee found to be in violation of this policy. Such actions of the Division Superintendent and School Board shall begin immediately on notification of a violation.

#### **Distribution of Policy**

All employees shall be given a copy of the "Alcohol and Drug-Free Work Place Acknowledgement Form" which shall constitute notice that they agree to abide by this policy as a condition of employment. See **SUPERINTENDENT'S REGULATION 5-3.1 DRUG-FREE WORKPLACE.**

**LEGAL REFERENCE:** Code of Virginia, 1950, as amended, §§ 4.1-309, 18.2-255.2, 22.1-78, 22.1-279.3:1, 22.1-280.1; Regulations Governing Reporting Acts of Violence and Substance Abuse in Schools, 8 VAC 20-560-10; 41 U.S.C. § 702.

*Adopted: November 2002*

*Revised: August 2011*

## **POLICY 5-3.2 TOBACCO-FREE SCHOOLS**

The use and distribution of any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2 of the Code of Virginia shall be prohibited on Poquoson City Public School property as defined in this policy and at on-site or off-site school-sponsored activities.

### **Definitions**

For purposes of this policy, the following definitions shall apply:

1. "School property" shall mean all property owned, leased, rented or otherwise used by the Poquoson City School Board, including but not limited to the following:
  - a. all interior portions of any building or other structure used for instruction, administration, support services, maintenance or storage; and
  - b. all vehicles used by the division for transporting students, staff, visitors or other persons.
2. "Tobacco" shall include cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, nicotine vapor products and all other kinds and forms of tobacco prepared in such manner as to be suitable for chewing, smoking or both. "Tobacco" shall include cloves or any other product packaged for smoking.
3. "Use" shall mean lighting, chewing, inhaling or smoking any tobacco product.

This policy shall be posted on bulletin boards and announced in meetings. Staff found to be in violation of this policy shall be subject to appropriate disciplinary action.

**LEGAL REFERENCE:** Code of Virginia, 1950, as amended, §§ 15.2-2800, et seq., 22.1-79.5; Clean Indoor Air Act 20 U.S.C. § 6083.

*Adopted: November 2002, August 2019*

**POLICY 5-3.3 STAFF: WEAPONS IN SCHOOLS**

The Poquoson City School Board is committed to maintaining a safe and secure working and learning environment. Employees are prohibited from carrying, bringing, using, or possessing any weapon as defined by state and federal law in any school building, on school grounds, in any school vehicle or at any school-sponsored activity without the authorization of the school administration or the School Board. The Division Superintendent and School Board will take appropriate personnel action up to and including dismissal of any employee found in violation of this policy. Such action of the Division Superintendent and School Board shall begin immediately on notification of a violation. All incidents involving illegal carrying of a firearm shall be reported in accordance with state law.

**LEGAL REFERENCE:** Code of Virginia, 1950, as amended, §§ 18.2-308.1, 22.1-78, 22.1-279.3:1; Regulations Governing Reporting Acts of Violence and Substance Abuse in Schools, 8 VAC 20-560-10.

*Adopted: November 2002*

*Reviewed: August 2011*

**POLICY 5-3.4 STAFF PARTICIPATION IN POLITICAL ACTIVITIES AND PROFESSIONAL ORGANIZATIONS**

The Poquoson City School Board encourages employees to exercise all their rights as citizens, including involvement in political activities. Employees may solicit support for political candidates or political issues outside regular work hours, but should make clear that their views and actions are made as individuals and that they do not represent the views of the Poquoson City Public Schools. No employee shall use his position in the school division to promote a political cause. No employee shall attempt to indoctrinate students by virtue of his position while students are under the supervision of the School Board, as is further outlined in Policy 6-1.10.

Political posters, announcements and flyers shall not be displayed on school bulletin boards or distributed through mail or messenger facilities. These restrictions shall not apply to classroom bulletin boards and displays being used to supplement instructional units.

The School Board recognizes that employees participate in professional organizations. See **SUPERINTENDENT’S REGULATION 5-3.4 STAFF PARTICIPATION IN POLITICAL ACTIVITIES AND PROFESSIONAL ORGANIZATION**

**LEGAL REFERENCE:** Code of Virginia, 1950, as amended, §§ 22.1-79.3, 40.1-57.2, 40.1-57.3.

*Adopted: November 2002*

*Revised: August 2011*

## **POLICY 5-3.5 NONSCHOOL EMPLOYMENT**

### **Outside Employment**

Employees of the Poquoson City School Board may accept outside employment provided that such employment does not interfere with or affect their performance in the position for which they are employed and that the outside employment does not reflect adversely upon the school division. The Division Superintendent may require an employee to report all outside employment.

### **Aids/Services/Equipment**

No employee of the School Board shall take advantage of his or her position to promote or to sell any educational aids to students or parents of students enrolled in the school division.

### **Licensed Personnel: Tutoring**

Professional staff members shall be prohibited during the school year from tutoring students (on a paid basis) whom they teach. No teacher shall recommend that a student be tutored without first conferring with the student's principal.

### **Staff Gifts and Solicitations**

Exchange of gifts between students and staff shall be discouraged. No school division employee shall solicit goods or services for personal use or for student use during school hours on school property without written authorization from the Division Superintendent. See Policies 2-2.3 and 2-5.4.

**LEGAL REFERENCE:** Code of Virginia, 1950, as amended, §§ 2.2-3100, et seq., 22.1-70, 22.1-78.

*Adopted: November 2002*

*Revised: July 2009*

*Reviewed: August 2011*

## **POLICY 5-3.6 HOURS OF EMPLOYMENT/WORK DAY**

### **Licensed Personnel**

Poquoson City School Board licensed personnel are employed on a contractual basis to perform specific duties. The individual employee has the responsibility to spend such time as is necessary to fulfill his or her obligations both during and after school hours. Subject to School Board approval, the Division Superintendent or his designee shall determine specific working hours.

- 1 Teachers shall work a minimum of seven hours and fifteen minutes per day.
2. All teachers are expected to remain in their schools for periodic inservice training sessions, faculty meetings, etc., which normally will be in addition to the regular teaching day.
3. Teachers also are expected to assume additional responsibilities, such as assisting with the program of extracurricular activities, bus duty, etc., some of which are in excess of the normal school day.

### **Classified Licensed and Classified Non-licensed Personnel**

The Division Superintendent or designee, subject to approval by the School Board, shall determine specific working hours for classified licensed and non-licensed personnel and, through appropriate administrative regulations, shall advise these employees of their working hours.

### **Overtime**

#### Exempt Personnel - Overtime

When it becomes necessary for employees who are classified as "exempt" under the Fair Labor Standards Act (FLSA) to work overtime, the employee's immediate supervisor and the Division Superintendent or designee may grant compensatory leave time equivalent to the overtime worked consistent with the provisions of the FLSA.

#### Non-Exempt Personnel - Overtime

Employees who are classified as "non-exempt" under the Fair Labor Standards Act shall not work overtime without express approval in writing of their immediate supervisors and the Division Superintendent or designee. The School Board discourages overtime work by non-exempt employees. All supervisory personnel must monitor overtime on a weekly basis and report such time to the division superintendent or his or her designee. Principals and supervisors will monitor employees' work schedules and will ensure that all employees are compensated for any overtime work as required by the Fair Labor Standards Act and the Virginia Overtime Wage Act. Principals and supervisors, however, shall adjust daily work schedules where possible to prevent non-exempt employees from working more than forty (40) hours per workweek. In no circumstances shall vacation leave exceed the amount specified in applicable sections of the Poquoson City School Board Policy and Regulations Manual. See Policies 5-7.6 and 5-7.7.

#### Flexible Schedule

The Division Superintendent is authorized to delegate to principals and directors the authority to establish flexible working hour schedules for non-licensed employees to the extent permitted by applicable law. The Division Superintendent, if he or she elects to exercise this authority, shall establish procedures that ensure compliance with the Fair Labor Standards Act and other applicable law, and that ensure productive work schedules.

**LEGAL REFERENCE:** Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78, 22.1-79(5), 22.1-291.1, 40.1-29; Regulations Governing the Employment of Professional Personnel, 8 VAC 20-440-10; Regulations Governing Sick Leave Plan for Teachers, 8 VAC 20-460-10; Fair Labor Standards Act, 29 U.S.C. 201, et seq.

*Adopted: November 2002*

*Revised: July 2005, August 2011, August 2021*



## **POLICY 5-3.7 REDUCTION IN FORCE**

### **Generally**

An orderly and consistent plan shall be followed in the event the Poquoson City School Board must reduce the number of licensed, classified licensed and classified non-licensed personnel from the school division due to a decrease in student enrollment, insufficient funding, expiration of special grants, a change in curriculum or a modification of the educational program and/or other conditions which may require a reduction in staff. In such event, the School Board authorizes the Division Superintendent to recommend the program adjustments to be made and the reduction in staff required in accordance with the accompanying regulation. All reductions shall be based on the best interests of the school division, the maintenance of a sound and balanced educational program consistent with the functions and responsibilities of the School Board, and in accordance with applicable law. Reductions shall not be made solely on the basis of seniority but must include consideration of, among other things, the performance evaluations of the teachers potentially affected by the reduction in workforce.

This policy will be utilized to select individual employees to be released after efforts have been made to effect the required reductions in personnel through attrition and by reassignment or transfer of personnel.

Within two weeks of the approval of the School Board budget by the appropriating body, but no later than June 1, the School Board will notify any teacher who may be subject to a reduction in force due to a decrease in the School Board's budget as approved by the appropriating body.

See SUPERINTENDENT'S REGULATION 5-3.7 REDUCTION IN FORCE

**LEGAL REFERENCE:** Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78, 22.1-304, 22.1-305; Virginia Board of Education Regulations, Procedure for Adjusting Grievances, 8 VAC 20-90-10.

*Adopted: November 2002*

*Revised: July 2003, August 2011, August 2013*

## **POLICY 5-3.8 SEXUAL HARASSMENT PROHIBITED BY TITLE IX**

### Definitions

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

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

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

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

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

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

### Title IX Grievance Process

#### *Generally*

Any person may report sex discrimination prohibited by Title IX, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. The reporting party may use the form attached to this Policy as Regulation 7-1.2(A), to make a complaint. Such a report may be made at any time, including non-business hours, by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

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

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

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

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

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

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

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

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

The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

All relevant evidence is evaluated objectively, including both inculpatory and exculpatory evidence. Credibility determinations are not based on a person's status as a complainant, respondent, or witness. Any Title IX Coordinator, investigator, decision-maker, or any person who facilitates an informal resolution process may not have a conflict of interest or bias for or against complainants or respondents generally or individual complainant or respondent.

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

The standard of evidence used to determine responsibility is preponderance of the evidence. The grievance process does not allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.

### *Notice of allegations*

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

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

The written notice

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

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

### *Dismissal of formal complaints*

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

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

Such a dismissal does not preclude action under another provision of the School Board's code of conduct or the superintendent's Standards of Student Conduct.

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

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

### *Investigation of formal complaint*

When investigating a formal complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the School Board and not on the parties, provided that a party's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party are not accessed, considered, disclosed or otherwise used without the voluntary, written consent of the party's parent, or the party if the party is an eligible student, to do so for this grievance procedure.

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

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

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

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

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

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

After the investigator has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the question any decision to exclude a question as not relevant.

#### *Determination regarding responsibility*

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

The written determination must include

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

- the procedures and permissible bases for the complainant and respondent to appeal.

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

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

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

### Appeals

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

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

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

As to all appeals, the Title IX Coordinator

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

The appeal decision-maker

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

### *Timelines*

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

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

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

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

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

agree to the informal resolution process, or until either party withdraws from the informal resolution process.

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

### Informal Resolution Process

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

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

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

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

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

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

### Recordkeeping

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

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

For each response required under 34 C.F.R. § 106.44, the School Board must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment prohibited by Title IX. In each instance, the School Board will document the basis for its conclusion that its response was not deliberately indifferent, and document

that it has taken measures designed to restore or preserve equal access to its education program or activity. If the School Board does not provide a complainant with supportive measures, then it will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

### **Retaliation**

Retaliation against students or school personnel who report harassment or participate in any related proceedings is prohibited. The School Board shall take appropriate action against students or school personnel who retaliate against any student or school personnel who reports alleged harassment or participates in related proceedings. The Title IX Coordinator will inform persons who make complaints, who are the subject of complaints, and who participate in investigations of how to report any subsequent problems.

### **Right to Alternative Complaint Procedure**

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

### **Prevention and Notice of Policy**

Training to prevent sexual harassment based on race, national origin, disability and religion should be included in employee and student orientations as well as employee in-service training.

This policy shall be (1) displayed in prominent areas of each division building in a location accessible to students, parents and school personnel; (2) included in the student and employee handbooks; and (3) sent to parents of all students within 30 calendar days of the start of school. Further, all students, and their parents/guardians, and employees shall be notified annually of the names and contact information of the compliance officers.

### **False Charges**

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

**LEGAL REFERENCE:** Title VII of the Civil Rights Act of 1964, as amended in 1972, 42 U.S.C. 2000 d-z; 20 U.S.C. §§ 1681-1688; 29 U.S.C. § 794; Executive Order 11246, 1965, as amended by Executive Orders 11375 and 12086; Equal Employment Opportunity Act of 1972; Education Amendments of 1972, Title IX; 34 C.F.R. Part 106; 45 C.F.R. Parts 81, 86; Rehabilitation Act of 1973; Age Discrimination In Employment Act; Constitution of Virginia, Art. I, generally; Americans With Disabilities Act of 1990; Code of Virginia, 1950, as amended, §§ 22.1-79(6), 22.1-306, and 22.1-253.13:7; Regulations of the Virginia Board of Education, Procedures for Adjusting Grievances, 2 VAC 20-90-10, et seq.

*Adopted: January 2021*