

PROCEDURE TITLE: PROCEDURES RELATING TO TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 AND ITS IMPLEMENTING REGULATIONS		
ADOPTION/EFFECTIVE DATE: October 12, 2015	MOST RECENTLY AMENDED: August 12, 2024	MOST RECENTLY REAFFIRMED: January 13, 2023
POLICY/PROCEDURE MANUAL SUMMARY CATEGORY: Equity and Non-Discrimination		

I. Purpose

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

While all forms of sex-based discrimination, including sexual harassment, are prohibited in HCPS and under Title IX regulations, the purpose of the Title IX Procedure is to address sexual harassment by providing a process for reporting and investigating such claims and reaching a final determination of responsibility. HCPS has adopted Grievance Procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education programs or activities, or by the Title IX Coordinator/Designee, alleging any action that would be prohibited by Title IX or the Title IX regulations.

II. Definitions

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

- A. **Advisor** is a parent, guardian, or any person chosen by the Complainant or the Respondent to represent them and their interests throughout the Grievance Procedure. An advisor does not need to be an attorney.
- B. **Complainant** is (1) an HCPS student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

- C. **Complaint** means an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.
- D. **Consent** means a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior mutually. It must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one's mental or physical helplessness or incapacity. Consent cannot be implied based upon the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- E. **Days** means business days unless specified otherwise.
- F. **Decisionmaker** means the HCPS official responsible for making a determination of responsibility in response to an investigation of sexual harassment triggered by a Complaint.
- G. **Designee** means a person who is assigned to perform a specific duty or a role as it relates to the Title IX Grievance Procedure.
- H. **Disciplinary Sanctions** mean consequences imposed on a Respondent following a determination under Title IX that the Respondent violated the recipient's prohibition on sex discrimination.
- I. **Education Program or Activity** means all operations of HCPS, which includes locations, events, or circumstances over which HCPS exercises substantial control over both the Respondent and the context in which sexual harassment occurs. This includes, but is not limited to, programs and activities in buildings owned or controlled by a student organization that is officially recognized by the school; conduct or circumstances over which HCPS exercises disciplinary authority over the Respondent; and conduct alleged to be contributing to a hostile environment which occurred outside of the education program or activity or outside of the US.
- J. **Evidentiary Standard** - The "Preponderance of the Evidence" Standard is the evidentiary standard to be used during the investigation and final determination of a Complaint. The Preponderance of the Evidence means that the evidence shows that the alleged action is more likely to have occurred than not.
- K. **Grievance Procedure** means the process of resolution pursued in response to

filing a Complaint alleging sex-based discrimination or sexual harassment under Title IX.

- L. **HCPS** means Harford County Public Schools. HCPS may also be referred to herein as “recipient.”
- M. **Informal Resolution Process** is offered to the Complainant and the Respondent after a Complaint has been filed as a mechanism to resolve a complaint prior to its final adjudication. For students, the informal resolution process is governed by the Student Conduct Policy. Both the Complainant and the Respondent must consent to participate in the Informal Resolution Process. Informal resolution of a Complaint is prohibited when the Complaint involves allegations of an HCPS employee sexually harassing a student.
- N. **Investigative Report** means a written account of the Investigator’s findings in response to a Complaint.
- O. **Investigator** means the school official responsible for investigating and responding to a Complaint.
- P. **Member Of School Community** means:
1. Board of Education member.
 2. Any employee of HCPS.
 3. Any HCPS volunteer.
 4. A student.
 5. Any other person who participates in educational programs or activities of HCPS or is present on HCPS grounds or premises and is under the authority or control of HCPS.
- Q. **Notification** means verbal or written communication in which any person notifies the Title IX Coordinator/Designee of sexual discrimination and/or harassment.
- R. **Parental Status** means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but incapable of self-care because of a physical or mental disability, is: (1) A biological parent; (2) An adoptive parent; (3) A foster parent; (4) A stepparent; (5) A legal custodian or guardian; (6) In loco parentis with respect to such a person; or (7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- S. **Party** means a Complainant or Respondent.
- T. **Pregnancy or Related Conditions** means (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination or pregnancy, or lactation; or (3) Recovery

from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

- U. **Relevant** means related to the allegations of sex discrimination under investigation as part of the Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- V. **Remedies** means measures provided, as appropriate, to a Complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.
- W. **Removal** means requiring a Respondent to relocate or discontinue their attendance or participation in an HCPS education program or activity on an emergency basis.
- X. **Reporter** means a person who submits a notification.
- Y. **Respondent** means a person who is alleged to have violated the recipient's prohibition on sex discrimination.
- Z. **Retaliation** means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.
- AA. **Sex-based Discrimination** occurs when, within a HCPS education program or activity, a Complainant is denied or limited in the ability to participate in or benefit from HCPS services, activities, or opportunities on the basis of sex, to include gender, sexual orientation, and gender identity.
- BB. **Sexual Harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:
 - 1. *Quid pro quo harassment*. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly

- conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct; or
2. *Hostile environment harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the Complainant's ability to access the recipient's education program or activity;
 - b. The type, frequency, and duration of the conduct;
 - c. The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct;
 - d. The location of the conduct and the context in which the conduct occurred; and
 - e. Other sex-based harassment in the recipient's education program or activity; or
 3. *Specific offenses.*
 - a. Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
 - b. Dating violence meaning violence committed by a person:
 - i. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (a) The length of the relationship;
 - (b) The type of relationship; and
 - (c) The frequency of interaction between the persons involved in the relationship;
 - c. Domestic violence meaning felony or misdemeanor crimes committed by a person who:
 - i. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - ii. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - iii. Shares a child in common with the victim; or
 - iv. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

- d. Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i. Fear for the person's safety or the safety of others; or
 - ii. Suffer substantial emotional distress.

- CC. **Student with a Disability** means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

- DD. **Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) Restore or preserve that Party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or (2) Provide support during the recipient's Grievance Procedure or during an Informal Resolution Process.

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

- EE. **Title IX** means Title IX of the Education Amendments of 1972, codified at 20 U.S. Code Section 1681, et seq. and its implementing regulations codified at 34 Code of Federal Regulations (CFR) Part 106.1, et seq. which, in pertinent part, prohibit discrimination on the basis of sex in employment and education with respect to access to facilities, programs, or activities and prohibit sexual harassment.

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

III. **Complaints**

- A. The following people have a right to make a Complaint of sex discrimination, including complaints of sex-based harassment, requesting that HCPS investigate and make a determination about alleged discrimination under Title IX:

1. A "Complainant," which includes:
 - a. a student or employee of HCPS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - b. a person other than a student or employee of HCPS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in HCPS' education program or activity;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
3. HCPS' Title IX Coordinator/Designees.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator/Designee initiates a Complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

- B. With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons also have a right to make a complaint:
 1. Any student or employee of HCPS; or
 2. Any person other than a student or employee who was participating or attempting to participate in HCPS' education program or activity at the time of the alleged sex discrimination.

HCPS may consolidate Complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a Party, Complainant, or Respondent include the plural, as applicable.

IV. Procedures

A. General Guidance Regarding the Title IX Grievance Procedure

1. HCPS will treat Complainants and Respondents equitably.
2. HCPS requires that any Title IX Coordinator/Designee, Investigator, or Decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A Decisionmaker may be the same person as the Title

IX Coordinator or Investigator.

3. HCPS presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.
4. HCPS has established the following timeframes for the major stages of the Grievance Procedure:
 - a. Evaluation - the decision whether to dismiss or investigate a Complaint will be made within 5 days of Notification;
 - b. Investigation – will be completed within 45 days of beginning the Grievance Procedure;
 - c. Written Determination – will be sent to Parties within 15 days of the completion of the Investigation; and
 - d. Appeal (if any) – shall be received within 10 days of the date of the Written Determination.
5. HCPS allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay. Parties will be sent an email detailing the reason for extension and the revised timeline.
6. HCPS will take reasonable steps to protect the privacy of the Parties and witnesses during its Grievance Procedure. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The Parties cannot engage in retaliation, including against witnesses.
7. HCPS will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
8. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by HCPS to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
 - a. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - b. A Party's or witness's records that are made or maintained by a

physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless HCPS obtains that Party's or witness's voluntary, written consent for use in its Grievance Procedure; and

- c. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

B. Making a Notification

1. Title IX Coordinator and Designees

The Title IX Coordinator is tasked with coordinating HCPS' response to all allegations of sex discrimination and/or sexual harassment. The Title IX Coordinator's responsibilities are critical to developing, implementing, and monitoring meaningful efforts to comply with HCPS policies and procedures, and Federal Title IX regulations. Dr. Eric Davis, Chief of Administration, serves as the HCPS Title IX Coordinator. Supporting him as Designees are Ken Miller, designated for student matters, and Renee McGlothlin, designated for all other members of the school community.

Contact information for the Title IX Coordinator/Designees is below.

Title IX Coordinator:
Dr. Eric Davis
102 South Hickory Ave
Bel Air, MD 21014
(410)588-5202
TitleIX@hcps.org

To file a notification involving students:
Ken Miller
102 South Hickory Ave
Bel Air, MD 21014
(410)375-0408
Keneth.Miller@hcps.org

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

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

The Title IX Coordinator's duties include:

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

2. Guidelines Regarding Notifications

- a. Any HCPS employee or school community member with information about conduct that reasonably may constitute sex discrimination, including sexual harassment in an education program or activity as defined in the Title IX Policy/Procedure, must give notification of the sex discrimination to the Title IX Coordinator/Designee in person, by telephone, or by electronic mail. If the incident involves students, they may go through their administrator, using the referral process. Notifications may be made at any time, including during non-business hours. Failure to notify may result in disciplinary action, up to and including termination, being taken against the employee.
- b. Any student who believes they are a victim of sexual harassment occurring in HCPS's education programs or activities is encouraged to notify the student's principal or the Title IX Coordinator/Designee. Notifications may also be made to a

teacher, counselor, assistant principal, teacher assistant, or any other school employee. Parents and students may also utilize the Bully and Harassment report to initiate the Title IX Grievance Procedure.

- c. A delay in notification may result in the loss of relevant evidence, impacting HCPS staff's ability to respond and take appropriate action.
- d. Complainants may file anonymously; however, an anonymous Complaint may or may not be processed as determined in the sole discretion of the Title IX Coordinator/Designee and pursuant to applicable law.
- e. Although HCPS encourages all HCPS students, parents, and community members and requires staff to notify of any conduct that is perceived to violate a HCPS policy or Title IX, the Title IX Coordinator/Designee will determine if the allegation falls within Title IX regulations. Only incidents falling within Title IX's definition of sexual harassment or sexual discrimination will be brought forth through the Title IX Grievance Procedure. Should notifications not fall under Title IX, these will be addressed through other means, to include HCPS Board policies, Superintendent's rules, and system procedures.

3. Title IX Coordinator/Designee's Response to Notification of Sex Discrimination and/or Sexual Harassment

- a. Upon receiving a notification of alleged sex discrimination and/or sexual harassment, the Title IX Coordinator/Designee will promptly contact the Complainant (and, if the Complainant is under the age of 18, the Complainant's parent or guardian) to:
 - i. Discuss the process of filing a Complaint;
 - ii. Discuss the school and/or HCPS office's responsibility to provide supportive measures, which are available whether a Complaint is filed or not, to ensure the Complainant feels safe and secure, maintaining access to the educational or working environment; and,
 - iii. Discuss the next steps in the investigation.
- b. If the Respondent is an employee, the HCPS Human Resources Department shall determine if the Respondent shall be placed on administrative leave or reassigned to another position during the investigation of the allegation(s).
- c. The Complainant's parents or guardian will be informed of the availability to file a Complaint if the Complainant is under the age of 18.
- d. If the Complainant does not elect to initiate a Complaint, the Title IX Coordinator/Designee will conduct a preliminary review of the notification.

- i. If the Title IX Coordinator/Designee considers the nature of the allegation to fall under the prohibitions of Title IX and has the authority to initiate a complaint, the Title IX Coordinator/Designee will follow the Grievance Procedure.
- ii. If the Title IX Coordinator/Designee determines the allegation does not fall under Title IX prohibitions but may violate a different Board policy, Superintendent's rule, or student behavioral code, the notification will be directed to the appropriate HCPS staff and/or office.
- e. Should the Title IX Coordinator/Designee suspect the alleged conduct constitutes sexual assault, the Title IX Coordinator/Designee will notify the appropriate authorities to include law enforcement and all other appropriate authorities.
 - i. Upon notification to these authorities, the Title IX Coordinator/Designee will suspend the investigation as appropriate until the authorities have completed their fact-finding, and notify the Parties of such suspension.
 - ii. In the interim, supportive measures will be provided to both the Complainant and Respondent.
- f. The Title IX Coordinator/Designee shall also contact the Respondent and inform them of the availability of supportive measures available to them.
- g. No HCPS employee, student, or school community member shall retaliate in any way against a person for making a Complaint, testifying, assisting, participating, or declining to participate in any manner in an investigation or complaint proceeding. Individuals who engage in retaliatory actions will be subject to the appropriate and applicable disciplinary process.

C. Title IX Grievance Procedure

1. Filing of a Complaint

- a. Based upon the allegation and information received from the Complainant in the Notification, the Title IX Coordinator/Designee will determine if there was a possible likelihood of sex discrimination and/or sexual harassment, at which point, the Complainant and/or the Complainant's parent(s) or guardian(s) may decide to file a Complaint.
- b. The filing of a Complaint does not preclude HCPS from responding to the Complaint by applying other HCPS policy violations, such as the Student Code of Conduct or Employee Handbook, or allegations that are not related to sexual harassment. Nonsexual harassment allegations and/or findings shall be promptly reported to the principal of the student and/or

- the supervisor of the Respondent to process pursuant to the HCPS applicable policies, including its disciplinary policies.
- c. At the outset of filing the Complaint, the Title IX Coordinator/Designee shall contact the Complainant, or if the Complainant is under the age of 18, the Complainant's parent or guardian, and inform them of the Complaint. The Complainant/parent will be notified that they have an option to contact an Advisor throughout the process. If the Complainant is over the age of 18, the parent and guardian contact will be at the option of the Complainant, provided the Complainant has the capacity to make such a determination.
 - d. If a student Complainant and/or the Complainant's parent(s) or guardian(s) elect not to file a Complaint and the Title IX Coordinator/Designee does not consider the conduct to fall under Title IX, the Title IX Coordinator/Designee will notify the school, and the incident will be handled at the school level in accordance with Student Code of Conduct and/or HCPS disciplinary policies or procedures.
 - e. The Title IX Coordinator/Designee may file a Complaint based on the nature of the incident or a possible pattern of behavior, even in the event the Complainant and/or Complainant's parent(s) or guardian(s) wish not to proceed. If the allegations and information received involve sexual harassment of a student by an employee, the Title IX Coordinator/Designee must submit a signed, written Complaint to initiate an investigation, regardless of the Complainant and/or the Complainant's parent's or guardian's consent.
 - f. Once a Complaint has been filed, the Title IX Coordinator/Designee will promptly provide the Complainant with a copy of HCPS' applicable Title IX Policy and Procedure.
 - g. Immediately following the filing of a Complaint, the Title IX Coordinator/Designee will initiate the investigation of the allegations by a trained Investigator.

2. Notice of Allegations

Upon initiation of HCPS' Title IX Grievance Procedure, HCPS will notify the Parties of the following:

- a. HCPS' Title IX Grievance Procedure and any Informal Resolution Process;
- b. Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties, a description of the evidence provided by witnesses involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);

- c. Retaliation is prohibited; and
- d. The Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. [If HCPS provides a description of the evidence: The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any Party.]

If, during an investigation, HCPS decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the Notification provided or that are included in a consolidated Complaint, HCPS will notify the Parties of the additional allegations.

3. Investigation of a Complaint

- a. HCPS will provide for adequate, reliable, and impartial investigation of all Complaints.
- b. The burden is on HCPS—not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
- c. HCPS will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.
- d. HCPS will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.
- e. HCPS will provide each Party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:
 - i. HCPS will provide the Parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any Party;
 - ii. HCPS will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
 - iii. HCPS will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through the Grievance Procedure. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

4. Emergency Removal

Any Respondent is subject to removal from the school system's education program and activities, or any part of the program or activities, on an emergency basis if a school-based threat assessment team conducts an individualized safety and risk analysis and determines that removal is justified because the person poses an immediate health or safety threat to any person arising from the allegations of sexual harassment.

Removal may include placing an employee on administrative leave during the course of the investigation. Removing a student from an extracurricular activity is also considered a removal under this subsection where such action would not otherwise constitute a supportive measure.

- a. Any such removal shall not violate the rights of any person under Section 504 and the Individuals with Disabilities Education Act ("IDEA").
- b. The Respondent shall receive notice of the removal.
- c. The Superintendent/Title IX Coordinator/Designee shall document all emergency removal decisions under this subsection, including the immediate threat to health or safety that justified the removal.

5. Dismissal of a Complaint

- a. HCPS may dismiss a Complaint of sex discrimination if:
 - i. HCPS is unable to identify the Respondent after taking reasonable steps to do so;
 - ii. The Respondent is not participating in HCPS' education program or activity and is not employed by HCPS;
 - iii. The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator/Designee declines to initiate a Complaint, and HCPS determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
 - iv. HCPS determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, HCPS will make reasonable efforts to clarify the allegations with the Complainant.
- b. Upon dismissal, HCPS will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then HCPS will also notify the Respondent of the dismissal and the basis for the

- dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing.
- c. HCPS will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then HCPS will also notify the Respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:
 - i. Procedural irregularity that would change the outcome;
 - ii. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
 - iii. The Title IX Coordinator/Designee, Investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.
 - d. If the dismissal is appealed, HCPS will:
 - i. Notify the Parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
 - ii. Implement appeal procedures equally for the Parties;
 - iii. Ensure that the Decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 - iv. Ensure that the Decisionmaker for the appeal has been trained consistent with the Title IX regulations;
 - v. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 - vi. Notify the parties of the result of the appeal and the rationale for the result.
 - e. When a Complaint is dismissed, HCPS will, at a minimum:
 - i. Offer supportive measures to the Complainant as appropriate;
 - ii. If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
 - iii. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator/Designee, to ensure that sex discrimination does not continue or recur within HCPS' education program or activity.

6. Informal Resolutions for Employees

- a. After the filing of a Complaint, but before a final determination

regarding responsibility has been made, HCPS may facilitate an informal resolution process that does not involve a full investigation provided that:

- i. Both parties have been provided written notice disclosing the allegations, the requirements of the informal resolution process, including any Party's rights to withdraw from the Informal Resolution Process and resume the Grievance Procedure, and any consequences resulting from participating in the Informal Resolution Process, including the records that will be maintained or could be shared; and,
 - ii. Both Respondent and Complainant provide their voluntary, written consent to the informal resolution process.
- b. The Title IX Coordinator/Designee has the authority to determine if an Informal Resolution Process is appropriate given the allegations. Should the Title IX Coordinator/Designee determine an informal resolution is inappropriate based on the allegations presented, the Informal Resolution Process will be denied, and the Grievance Procedure will be resumed.
 - c. The informal process is intended to be flexible while providing a full range of possible outcomes. A facilitator will supervise the informal resolution process and will provide both parties independently, in writing, the proposed terms. Should either Party not agree with the proposed terms or is uninterested in engaging in the process, the Complaint process will be initiated.
 - d. The informal resolution will not require either Party to be present in the same room. Parties are allowed to consult their Advisors or have their Advisors present during the process.
 - e. Should the facilitator feel that either Party is not acting in good faith, the facilitator may terminate the informal resolution, and the Grievance Procedure will be resumed.
 - f. Both parties and the facilitator will have the opportunity to offer terms as part of the final agreement. The facilitator will draft a final agreement for both parties to review. The facilitator and both parties must agree to all outcomes of the informal resolution. Should there be disagreement or either Party refuses to sign, the final agreement is considered failed, and the Grievance Procedure will be resumed.
 - g. The signed final agreement of the informal resolution is binding for both parties and concludes the Grievance Procedure for HCPS.

7. Questioning the Parties and Witnesses

HCPS will provide a process that enables the Decisionmaker to question

Parties and witnesses to adequately assess a Party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. The Decisionmaker will email questions to Parties who have two (2) days to respond in writing. If no response is received, the Decisionmaker will proceed with issuing a Written Determination.

8. Written Determination and the Decisionmaker's Role

- a. Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the Decisionmaker will:
 - i. Use of the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Decisionmaker will not determine that sex discrimination occurred.
 - ii. Notify the Parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable;
 - iii. Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Grievance Procedures that the Respondent engaged in prohibited sex discrimination;
 - iv. If there is a determination that sex discrimination occurred, the Title IX Coordinator/Designee will, as appropriate:
 - (a) Coordinate the provision and implementation of remedies to the Complainant and other people HCPS identifies as having had equal access to HCPS' education program or activity limited or denied by sex discrimination;
 - (b) Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions;
 - (c) Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within HCPS education program or activity;

- (d) Comply with the Grievance Procedure before the imposition of any disciplinary sanctions against a Respondent; and
 - (e) Not discipline a Party, witness, or others participating in the Grievance Procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.
- b. The Decisionmaker's Role
 - i. The Decisionmaker will consider all materials when making a decision regarding the responsibility of the Respondent and apply the preponderance of the evidence standard. The Decisionmaker may ask questions of the Title IX Coordinator/Designee during the consideration of the evidence. *Note: Sexual predisposition or prior sexual behavior of the Complainant is not relevant unless offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.*
 - ii. The written determination from the Decisionmaker must include:
 - (a) Identification of the allegations potentially constituting sexual harassment;
 - (b) Description of the procedural steps taken from receipt of the Complaint through the determination;
 - (c) Finding of facts supporting the determination;
 - (d) Conclusions regarding the application of HCPS policies, rules, and procedures to the facts;
 - (e) A statement of, and rationale for, the result as to each allegation;
 - (f) HCPS procedures and permissible bases for the Complainant and Respondent to appeal; and,
 - (g) Identification of appellate Decisionmaker who will preside over the appeal, which cannot be the same person as the previous Decisionmaker, Investigator, or Title IX Coordinator/Designee.
 - iii. The Decisionmaker's written determination regarding responsibility must be served within sixty (60) calendar days of the filing of the initial Complaint to both Parties simultaneously, as well as a copy to the Title IX Coordinator/Designee. Once a determination has been

made, notification will be sent to the parties involved, which shall include:

- (a) The Complainant and Respondent will be notified that a decision has been reached.
 - (b) If Respondent is found to be responsible, Respondent shall be notified of the findings and consequences.
 - (c) The school will be notified of the resolution, with details shared on a need-to-know basis and under legal guidance.
 - (d) The appeal process is provided.
 - (e) Filing of an appeal does not place school discipline or consequences on hold.
- iv. The written determination becomes final:
- (a) If an appeal is not filed, and the ten (10) calendar days in which an appeal would be considered timely have exceeded; or
 - (b) The day each Party is notified of the written result of the appeal if one is filed.
- v. Employees found responsible for sexual discrimination, including harassment, are subject to discipline, up to and including termination. In addition, the conduct may also be reported to law enforcement, as appropriate.
- (a) Substantiated sexual harassment by employees is subject to discipline up to and including termination, and said discipline will be imposed in accordance with the employee's rights under their negotiated agreement or individual employee's contract. An employee recommended for disciplinary action shall have all the applicable rights afforded under Board of Education policies, Superintendent's rules, the applicable negotiated agreements, and state law. The right to appeal the discipline is separate from the right to challenge on the enumerated grounds of the decision by the Title IX Decisionmaker. The disciplinary appeal shall be governed by the appropriate procedures in the Education Article of the Maryland Annotated Code and applicable policies and rules.
 - (b) Nothing in this Procedure shall preclude the school system from taking disciplinary action against an employee when the evidence does not establish sexual harassment as defined by Title IX, but the conduct violates other Board policies, superintendent's rules, or expected standards of

employee behavior outlined in the Employee Handbook. Any disciplinary action will be imposed consistent with the employee's rights under the appropriate negotiated agreement.

9. Procedures for Filing an Appeal

- a. Either Party may file an appeal regarding the determination of responsibility or a dismissal of the Complaint on the following bases:
 - i. Procedural irregularity;
 - ii. New evidence that was not presented or available prior for consideration. The submission must support a written request for reconsideration, and the written request must include a compelling reason why the documentation or evidence was not made available during the investigation; or,
 - iii. The Title IX Coordinator/Designee, Investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent that would change the outcome.
- b. The appeal must be received in writing to the Decisionmaker presiding over the appeal as identified in the written determination and the Title IX Coordinator/Designee within ten (10) days of the determination of responsibility. The appeal must provide in detail the grounds supporting the appeal.
- c. Upon receipt of the appeal, the Decisionmaker will review the appeal to determine if it satisfies the grounds for filing an appeal. Should it satisfy, the Decisionmaker presiding over the appeal will notify the other Party in writing when the appeal is filed and simultaneously provide a copy of the appeal materials to each Party.
- d. The Decisionmaker presiding over the appeal shall issue a written decision simultaneously to each Party and the Title IX Coordinator/Designee describing the result of the appeal and the rationale for the result.
- e. The written decision concludes the appellate and Grievance Procedure of the Title IX Complaint for HCPS.

Approved By:



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

8/27/24
Date

PROCEDURE

Procedure Action Dates		
ACTION DATE	ACTION DATE	ACTION DATE
Adopted 10-12-2015	Reaffirmed 01/13/2023	
Amended 08/14/2020	Amended 08/12/2024	
Amended 01/27/2022		
Amended 03/24/2022		

Responsibility for Procedure Maintenance & References	
LAST EDITOR/DRAFTER NAME: Ms. Renee McGlothlin	JOB POSITION OF LAST EDITOR/DRAFTER: Coordinator
PERSON RESPONSIBLE: Dr. Eric Davis	JOB POSITION OF PERSON RESPONSIBLE: Chief of Administration
DESIGNEE NAME:	DESIGNEE POSITION:
PROCEDURE NUMBER PRIOR TO NOVEMBER 1, 2005:	

LEGAL REFERENCES¹

References are set forth in the Procedure.

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