

P 8-36. Sexual Harassment and Discrimination

Chesapeake Public Schools is committed to maintaining a learning/working environment free from unlawful harassment of any type, including but not limited to sexual harassment and unlawful discrimination based on race, national origin, age, sex, disability, genetic information, or religion. Therefore, Chesapeake Public Schools prohibits discrimination and harassment, including sexual harassment, when either is based on race, national origin, age, sex, disability, genetic information, or religion of students or school personnel at a school or any school-sponsored activity. Such misconduct may result in disciplinary action up to and including dismissal of employees or expulsion of students. The Superintendent shall develop regulations for compliance with this policy.

This policy shall be interpreted so as to protect the rights and interests of both students and employees of the School Division. With respect to matters involving sexual harassment or sex discrimination of or against students, Policy P 9-23 and Regulation R 9-23 shall take precedence.

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R 8-36. Sexual Harassment and Discrimination

It shall be a violation of this regulation for students or school personnel to harass or discriminate against a student or school personnel sexually, or based on race, national origin, sex (including sexual harassment) age, disability, genetic information, religion, or for any other reason prohibited by applicable law. Further, it shall be a violation for school personnel to tolerate such harassment or discrimination by students, school personnel, or third parties participating in, observing, or otherwise engaged in school-sponsored activities.

For the purpose of this regulation, the terms **harassment** shall include, but not be limited to, unwelcome conduct of a sexual nature as described more fully below and also harassment based on race, national origin, age, sex (gender), disability, genetic information, or religion. The term **discrimination** shall include but not necessarily be limited to unequal treatment in terms or conditions of employment on the basis of race, national origin, age, sex, disability, genetic information, or religion. School personnel means School Board members and school employees.

Chesapeake Public Schools shall take reasonable and effective efforts to prevent unlawful harassment by students, school personnel, and by others who may become involved in school activities including volunteers, contractors, vendors, and others, who may come under its supervision and control.

Chesapeake Public Schools shall: (1) promptly investigate all complaints, written or oral, of harassment and/or discrimination; (2) promptly take appropriate action to stop any harassment and/or discrimination; (3) take appropriate action against students or school personnel who violate this regulation and take any other action reasonably calculated to end and prevent further harassment and/or discrimination of school personnel or students; (4) maintain confidentiality to the extent practical, (5) ensure that no complainant or witness is subjected to retaliation; and (6) follow established Chesapeake Public Schools Grievance Procedures for professional and classified employees in the appendix of the School Board Policy Manual.

Definitions:

A. Sexual Harassment

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal, visual, or physical conduct or communication of a sexual nature when:

1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or education; or

2. submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
3. that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or education, or creating an intimidating, hostile or offensive employment or education environment (i.e., the conduct is sufficiently severe, persistent or pervasive to limit an employee's ability to perform his or her job or a student's ability to participate in or benefit from his or her educational program).

Examples of Sexual Harassment

Examples of conduct which may constitute sexual harassment include

- unwelcome, sexually motivated or inappropriate patting, pinching, or other physical contact (other than necessary restraint of students by school personnel to avoid physical harm to people or property)
- unwelcome sexual flirtation or propositions
- sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
- oral comments about an individual's body or overly personal conversation of a sexual nature
- sexual jokes, notes, stories, drawings, gestures, or pictures
- spreading sexual rumors
- touching an individual's body or clothes in a sexual way
- displaying sexually suggestive objects, pictures, cartoons, or posters
- impeding or blocking movement in a sexually suggestive or motivated manner

B. Harassment Based on Race, National Origin, Age, Sex (gender), Disability, Genetic Information, Religion or Other Factors

Harassment or discrimination based on race, national origin, age, disability, religion or other factors consists of physical, graphic, or oral conduct relating to an individual's race, national origin, age, sex(gender), disability, genetic information, religion, or other factors when the conduct:

1. has the purpose or effect of creating an intimidating, hostile, or offensive working or educational environment; or
2. has the purpose or effect of substantially interfering with an individual's work or educational performance; or
3. otherwise adversely affects an individual's employment or educational opportunities

Examples of Other Harassment

Examples of conduct which may constitute harassment based on race, national origin, age, disability, religion, or other factors include:

- graffiti containing racially or culturally offensive language
- name calling, jokes, or rumors
- physical acts of aggression against a person or his property
- slurs, negative stereotypes, and hostile acts
- written or graphic material containing comments or stereotypes which is posted or circulated and is intended to degrade
- age-related comments
- gender-related comments

- C. Sex discrimination is any action that violates federal, state, or local laws prohibiting discrimination on the basis of sex. It is the differential treatment or exclusion of an employee on the basis of preferring one gender to the other.

Examples of Sex Discrimination

Examples of conduct which may constitute sex discrimination (meaning preference of one gender to the other) include but are not limited to the following:

- preference to one person over another on the basis of sex, by ranking applicants separately
- numerical limitations upon the number or proportion of persons of either sex who may be admitted
- treatment of one individual differently from another on the basis of sex
- administration of tests or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex
- application of any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats a person differently on the basis of sex
- discrimination against or exclusion of any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establishes or follows any rule or practice which so discriminates or excludes
- treatment of disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition
- pre-admission or pre-employment inquires as to the marital status of any applicant including whether such applicant is Miss or Mrs. Pre-admission inquiry is allowable as to the sex of an applicant but only if such inquiry is made equally of

- applicants of both sexes and if the results of such inquiry are not used in connection with prohibited discrimination
- recruitment and hiring practices that discriminate on the basis of sex
- compensation practices or policy which discriminates on the basis of sex
- fringe benefits practices or policies which discriminate on the basis of sex
- job classification and structure which discriminates on the basis of sex

Complaint Procedure:

Employees wanting to file a complaint for harassment or discrimination should follow the Grievance Procedure for classified or professional personnel, whichever is applicable. These procedures are located in the Appendix of the Chesapeake Public Schools School Board Manual. The School Board Manual is also accessible online through the School Division's website. In addition to following the Grievance Procedure, the following actions will be taken by the school division:

1. Any person who has been subjected to harassment or discrimination as defined in this regulation should report the alleged act immediately to the appropriate supervisor or to higher management and/or to the Director of Personnel, if the complaint involves the supervisor. In no instance, however, should an employee alleging harassment or discrimination be forced or required to report the problem to the alleged harasser or discriminator. It is not necessary that an initial report of harassment or discrimination be made in writing. The Department of Personnel is responsible for the official investigation of all allegations and shall advise the employee filing the complaint of all findings and conclusions.
2. Under no circumstances shall school personnel retaliate in any way against a victim, school personnel, or against any witness or participant in an investigation who has provided information as a witness to an incident of harassment or discrimination.
3. The local administrator and the Director of Personnel, or designee shall maintain confidentiality in investigating any claims of alleged harassment or discrimination so that privacy and individual rights are protected to the extent reasonably practical.
4. Following the investigation, appropriate action will be taken in response including disciplinary action where indicated.
5. In determining whether alleged conduct constitutes a violation of this regulation, the School Division shall typically consider: (1) the surrounding circumstances; (2) the nature of behavior; (3) past incidents or past or continuing patterns of behavior; (4) the relationship between the parties; (5) how often the conduct

occurred; (6) the position of the alleged perpetrator in relation to the alleged victim (e.g., whether the alleged perpetrator was in a position of authority over the alleged victim); (7) the location of the alleged harassment; (8) the ages of the parties; and (9) the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this regulation requires a case-by-case determination based on all of the facts and circumstances revealed after a thorough investigation.

6. All students and employees shall cooperate with an investigation of alleged harassment or discrimination under this policy by the School Division or by an appropriate federal or state agency.

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