

Effective: February 10, 2022

Policy Outline

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I. Policy Value Statement

The Board of Education of Howard County is committed to providing an educational and work environment that is free from all forms of discrimination on the basis of sex. The Board recognizes that sexual harassment, as a form of sex discrimination, is prohibited under Title IX of the Education Amendments Act of 1972 (Title IX). To that end, the Board prohibits Title IX Sexual Harassment in its educational program, co-curricular and extra-curricular activities, and in the workplace, in accordance with federal law.

Employees, students, and volunteers may be subject to disciplinary action or consequences for sexual harassment or discriminatory behavior even when the behavior does not constitute Title IX Sexual Harassment as defined by the Department of Education. Such conduct may be addressed in accordance with the appropriate Howard County Public School System (HCPSS) policies and prevailing local, state and federal statutes. No person will be subjected to retaliation for opposing or reporting any practice deemed to violate this policy.

II. Purpose

While all forms of sex-based discrimination are prohibited in the district, the purpose of this policy is to address, and only to address, sexual harassment as defined under Title IX that occurs within the educational programs and activities of the HCPSS, and to provide a grievance process for investigating and reaching a final determination of responsibility for a formal complaint of Title IX Sexual Harassment. While the HCPSS must respond to all reports it receives of sexual harassment, the Title IX Sexual Harassment Grievance Process is initiated only with the filing of a formal complaint.

For discriminatory and/or harassing conduct which does not meet the definition of Title IX Sexual Harassment and this policy, the HCPSS's response will be governed under other applicable laws and policies in accordance with Policy 1010 Anti-Discrimination, Policy 1020

Sexual Discrimination, Sexual Harassment, and Sexual Misconduct, and Policy 1060 Bullying, Cyberbullying, Harassment, or Intimidation.

III. Standards

- A. It is a violation of this policy for any student, employee, or volunteer to engage in Title IX Sexual Harassment.
- B. It is a violation of this policy for any student, employee, or volunteer to engage in retaliation with regard to reports or formal complaints of Title IX Sexual Harassment.
- C. All HCPSS employees will receive regular training relative to mandatory reporting obligations, and any other responsibilities they may relate to this policy. Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process will receive training specific to their responsibilities in addressing Title IX Sexual Harassment.
- D. The HCPSS will respect the confidentiality of the complainant and the respondent as much as possible, however, some information may need to be disclosed to appropriate individuals or authorities. All disclosures will be consistent with the HCPSS's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action.
- E. Retaliation against any person who makes a report or formal complaint, or against any person who assists, participates, or refuses to participate in any investigation of an act alleged in this policy is prohibited. Actions taken in response to materially false statements made in bad faith, or to submitting materially false information in bad faith, as part of a report or during the Title IX Grievance Process do not constitute retaliation. A finding of responsibility alone is insufficient to conclude that a person made a materially false statement in bad faith. Complaints of retaliation with respect to reports or formal complaints of sexual harassment will be filed in accordance with Policy 1060 Bullying, Cyberbullying, Harassment, or Intimidation or the Formal Concern Process.
- F. No person designated as a Title IX Coordinator, investigator, decision-maker, nor any person designated by the HCPSS to facilitate an informal resolution process, may have a conflict of interest or bias for or against complainants or respondents or an individual complainant or respondent. An investigator, decision maker, or informal process facilitator must report possible conflicts of interest or bias to the Title IX Coordinator so an alternate may be identified, if needed. The Title IX Coordinator must report possible conflicts of interest or bias to the Superintendent/designee so an alternate may be identified, if needed.
- G. A report of Title IX Sexual Harassment may be made at any time, in person, by mail, by telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Additionally, while the

HCPSS strongly encourages reports of Title IX Sexual Harassment to be made directly to the Title IX Coordinator, the report may be made to any HCPSS employee, including, for instance, a counselor, teacher, or principal. Any person may report sexual harassment, however, if any HCPSS employee, other than the employee harasser, or the Title IX Coordinator receives information of conduct which may constitute sexual harassment under this policy, they will, without delay, inform the Title IX Coordinator of the alleged Title IX Sexual Harassment. Failure to report will subject the employee to discipline up to and including dismissal.

- H. The Title IX Grievance Process is used only upon the filing of a formal complaint of Title IX Sexual Harassment as described in the implementation procedures. Upon receipt of a formal complaint of Title IX Sexual Harassment, the Title IX Coordinator will coordinate the HCPSS's efforts to comply with its responsibilities related to the Title IX Grievance Process.
- I. The Title IX Coordinator will coordinate the investigation.
- J. Upon conclusion of the investigation, the investigator will prepare and distribute to each party a written investigative report. Each party will have 10 days from receipt to provide a written response to the report.
- K. The determination of responsibility of the respondent will be made by the initial decision maker.
- L. The initial decision maker may impose disciplinary actions and remedies.
- M. The standard to be used for formal complaints in determining whether a violation has occurred and/or that the respondent is responsible is the preponderance of the evidence standard, which is only met when the party with the burden convinces the initial decision maker that there is a greater than 50% chance that the claim is true (i.e., more likely than not).
- N. The decision maker must issue a written documentation/decision and will provide the initial determination of responsibility to the Title IX Coordinator, the Superintendent and the parties simultaneously.
- O. The HCPSS will dismiss a formal complaint with regard to Title IX Sexual Harassment if the alleged conduct:
 - 1. Would not constitute sexual harassment, even if proved;
 - 2. Did not occur in HCPSS's education program or activity; or
 - 3. Did not occur against a person in the United States.
- P. The HCPSS may dismiss a formal complaint with regard to Title IX Sexual Harassment if at any time during the investigation or determination of responsibility stage(s):

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by the HCPSS; or
3. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

- Q. Either party may appeal the initial determination of responsibility or the dismissal of a formal complaint or any allegation in a formal complaint by notifying the Superintendent in writing (“written appeal”), with a copy to the Title IX Coordinator. If there are multiple determinations of responsibility, the written appeal will specify which ones are included in the appeal. The written appeal must be received by the Superintendent within 10 days of the initial determination of responsibility or written notice of dismissal being received by the parties.
- R. The determination regarding responsibility becomes final either on the date that the recipient, through the Superintendent, provides the parties 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 of the initial determination of responsibility would no longer be considered timely. The final determination will be identified as the Title IX Decision. Once the Title IX Decision is final, the district may implement remedies and disciplinary actions.

The Title IX Coordinator is responsible for effective implementation of any non-disciplinary remedies, with the assistance of HCPSS employees and administrative personnel, while disciplinary actions will be imposed by persons charged with such responsibilities under other Board policies, regulations or administrative procedures. The HCPSS may also proceed against the respondent or complainant pursuant to the HCPSS’s applicable code of conduct or other Board policies, collective bargaining agreement, individual contract or administrative rules/regulations/procedures. The issue of responsibility for the conduct at issue will not be subject to further review or appeal within the district.

- S. At any time prior to reaching a determination regarding responsibility (but only after the filing of a formal complaint), the HCPSS may offer an optional informal resolution process (e.g., mediation, arbitration). In no event may the HCPSS offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

IV. Responsibilities

- A. The Superintendent will have overall responsibility for implementing this policy. The Superintendent will appoint a Title IX Coordinator. The name and contact information for the Title IX Coordinator will be prominently displayed on the school system website.

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- B. The Title IX Coordinator will fulfill any of the job duties and responsibilities of that position stated in the Title IX legislation but not herein specified, including responding in a timely manner to complaints of alleged sexual misconduct.
- C. The Title IX Coordinator will respond promptly to all reports as well as formal complaints of Title IX Sexual Harassment. The Title IX Coordinator will receive general and specific reports of Title IX Sexual Harassment and coordinate the responses to both reports and formal complaints so that the same are prompt and equitable. In addition to any other specific responsibilities assigned under this policy, or as assigned by the Superintendent, the Title IX Coordinator will be responsible for:
1. Meeting with a complainant, and informing the parent once the Title IX Coordinator becomes aware of allegations of conduct that could constitute Title IX Sexual Harassment as defined in this policy;
 2. Identifying and implementing supportive measures;
 3. Signing or receiving formal complaints of Title IX Sexual Harassment;
 4. Engaging with the parents of parties to any formal complaint of Title IX Sexual Harassment;
 5. Coordinating with HCPSS personnel to facilitate and ensure implementation of investigations, and remedies, and helping to ensure that HCPSS otherwise meets its obligations associated with reports and formal complaints of Title IX Sexual Harassment;
 6. Coordinating with the Superintendent/designee with respect to assignment of persons to fulfill HCPSS's obligations, both general and case specific, relative to this policy (e.g., investigator, decision makers, etc.; this may involve the retention of third party personnel.);
 7. Coordinating with district and school-level personnel to ensure appropriate training and professional development of employees and others in accordance with this policy; and
 8. Helping to ensure that appropriate systems are identified and maintained to centralize Title IX Sexual Harassment records and data.
- D. In cases where the Title IX Coordinator is unavailable, including unavailability due to a conflict of interest or other disqualifying reason, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed as acting Title IX Coordinator for that case. In such instances "Title IX Coordinator" will include the acting Title IX Coordinators.
- E. Principals will notify students, families, and employees in their schools of the provisions of this policy.
- F. Supervisors will notify those under their supervision of the provisions of this policy.
1. The Superintendent/designee will communicate the provisions of this policy annually through customary channels.

2. Employees will monitor student behavior and respond appropriately to both observed and reported violations of this policy.
 3. Employees in supervisory or management positions will take steps designed to address any existing sexual misconduct by those under their supervision, to prevent any recurrence, and to correct the harmful effects of the misconduct on the complainant and others.
- G. Any employee who receives a report or has knowledge of an allegation of Title IX Sexual Harassment is required to report the information to a school administrator, appropriate supervisor and/or Title IX Coordinator.

V. Delegation of Authority

The Superintendent is authorized to develop procedures to implement this policy.

VI. Definitions

Within the context of this policy, the following definitions apply:

- A. Actual Knowledge – Occurs when the Title IX Coordinator or any HCPSS employee (other than a “respondent” or alleged harasser) receives a notice, report or information or becomes aware of sexual harassment or allegations of sexual harassment.
- B. Allegation – An assertion that someone has engaged in prohibited conduct.
- C. Complainant – An individual who has made a report that could constitute sexual harassment, whether or not that person files a report or formal complaint.
- D. Conditioning – The process of training or accustoming a person to behave in a certain way or to accept certain circumstances.
- E. Days – Calendar days unless specified otherwise.
- F. Decision Maker – Persons tasked with the responsibility of making determinations of responsibility with respect to formal complaints of sexual harassment in accordance with the Title IX Grievance Process.
 1. Initial Decision Maker – Person tasked with making the initial determination of responsibility with respect to formal complaints of sexual harassment in accordance with the Title IX Grievance Process. The initial decision becomes final if there is no appeal filed.
 2. Appeals Decision Maker – Person tasked with making the determination of responsibility if an appeal of the initial decision is filed in accordance with the Title IX Grievance Process.

- G. Determination of Responsibility – Finding by the decision maker on each allegation of Title IX Sexual Harassment contained in a formal complaint that the respondent did or did not engage in conduct constituting sexual harassment under Title IX.
- H. Education Program or Activity in accordance with Code of Federal Regulations (CFR 34) – Locations, events, or circumstances over which the school exercises substantial control over both the complainant and respondent and the context in which the Title IX Sexual Harassment allegedly occurred.
- I. Employee – An individual who is a permanent or temporary employee whose compensation is paid in whole or part by the Board and/or an individual who is a student teacher, an intern, consultant, or an independent contractor for the school system.
- J. Formal Complaint – A document filed by a complainant, the complainant’s parent, or the Title IX Coordinator, alleging Title IX Sexual Harassment against a respondent, and requesting an investigation of the allegation.
- K. Grievance Process – Process for reporting, investigating, and adjudicating formal complaints of Title IX Sexual Harassment.
- L. Informal Resolution Process – Voluntary resolution process that may be utilized as an alternative to the investigation and adjudication of formal complaints of Title IX Sexual Harassment.
- M. Investigator – A school system employee, contracted employee, a member of the school community, or even the Title IX Coordinator tasked to investigate sexual harassment allegations in Title IX cases. The investigator cannot also be the decision-maker.
- N. Non-Disciplinary Remedies – Specific non-punitive measures designed to restore or preserve equal access to HCPSS’s education program following a determination of responsibility. These measures may include, but are not limited to, the following: counseling; course modifications; schedule changes; and increased monitoring or supervision.
- O. Parent – Any one of the following, recognized as the adult(s) legally responsible for the student:
 - 1. Biological Parent – A natural parent whose parental rights have not been terminated.
 - 2. Adoptive Parent – A person who has legally adopted the student and whose parental rights have not been terminated.
 - 3. Custodian – A person or agency appointed by the court as the legal custodian of the student and granted parental rights and responsibilities.

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4. Guardian – A person who has been placed by the court in charge of the affairs of the student and granted parental rights and responsibilities.
 5. Caregiver – An adult resident of Howard County who exercises care, custody, or control over the student but who is neither the biological parent nor legal guardian, as long as the person satisfies the requirements of the Education Article, §7-101 (c) (Informal Kinship Care) or has been issued a U.S. Department of Health and Human Service’s Office of Refugee Resettlement (ORR) Verification of Release form entering into a custodial arrangement with the federal government.
 6. Foster Parent – An adult approved to care for a child who has been placed in their home by a state agency or a licensed child placement agency as provided by the Family Law Article, §5-507.
- P. Report – Notification or disclosure to any school system employee of an incident or incidents that potentially meets the definition of Title IX Sexual Harassment. A report may be oral or written.
- Q. Reporter – The person who reports sexual harassment to the school. This may be the complainant but may also be someone else.
- R. Respondent – An individual who is reported to be the individual accused of conduct that could constitute sexual harassment.
- S. Supportive Measures – Free, non-disciplinary, non-punitive, individualized services offered to the complainant, and may be offered to the respondent, as appropriate. These measures may include, but are not limited to, the following: counseling; mental health services referral, course modifications; schedule changes; and increased monitoring or supervision.
- Such measures will be designed to restore or preserve equal access to HCPSS’s education programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or HCPSS’s educational environment and/or deter sexual harassment. Supportive measures will remain confidential with exclusive exceptions.
- T. Title IX Coordinator – The employee(s) designated to coordinate efforts to comply with and carry out responsibilities under this policy and the law.
- U. Title IX Sexual Harassment – Conduct on the basis of sex (including, without limitation, gender, sexual orientation, and/or gender identity), occurring in a school system education program or activity that satisfies one or more of the following:
1. *Quid pro quo* by an HCPSS employee conditioning an aid, benefit, or service of an education program or activity on an individual’s participation or refusal to

participate in sexual conduct irrespective of whether the conduct is welcomed by the student or other employee;

2. Unwelcome sex-based/related conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the education program or activity (this standard requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the respondent and complainant and the number of individuals involved and their authority); or
3. Sexual assault, dating violence, domestic violence, or stalking as defined in state or federal law.

The context of behavior can make a difference between conduct falling within the technical definition of Title IX Sexual Harassment, and conduct of a sexual nature that is offensive or hostile in itself, but which does not rise to the level within that definition. HCPSS policies prohibit both, but for purposes of its Title IX obligations, HCPSS must address reports or complaints of conduct which may constitute sexual harassment as defined above, under this specific, limited scope policy and Title IX Grievance Process. Except as used in other laws (e.g., Title VII) or policies (e.g., Policy 1020 Sexual Discrimination, Sexual Harassment and Sexual Misconduct and Policy 1060 Bullying, Cyberbullying, Harassment, or Intimidation) pertaining to harassment, including that of a sexual nature, other than Title IX Sexual Harassment. All references to “sexual harassment” in this policy mean sexual harassment that meets the above definition.

Conduct that satisfies this definition is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the school system did not have substantial control over both the respondent and the context in which the harassment occurred.

NOTE: Regarding Concurrent Enrollment and Dual Enrollment, Extended Learning Opportunities, 3rd Party Distance Learning and Other Alternative Instructional Programs: Under federal regulations, in order for the HCPSS to have jurisdiction over conduct that would otherwise meet the definition above of sexual harassment, the HCPSS must have substantial control over both the respondent and the context in which the harassment occurred. In general, this will mean that unless such learning program is occurring upon school system property, conduct otherwise meeting the definition of sexual harassment within that program, may not be subject to this policy

VII. References

- A. Legal
 - 34 CFR Education
 - Title IX of the Education Amendments of 1972
 - Title IX of the Education Amendments of 1972, 20 U.S.C 1681, et seq 20 U.S.C.

Title VII of the Civil Rights Act of 1964
 Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. §1232g
 Individuals with Disabilities Education Act, 20 U.S.C. §1400 (2004)
 The Annotated Code of Maryland, Article 49B, Section 16
 COMAR 13A.08.01.15 (Reporting Delinquent Acts)

- B. Other Board Policies
 - Policy 1000 Civility
 - Policy 1010 Anti-Discrimination
 - Policy 1030 Child Abuse and Neglect
 - Policy 1040 Safe and Supportive Schools
 - Policy 1060 Bullying, Cyberbullying, Harassment, or Intimidation
 - Policy 7030 Employee Conduct and Discipline
 - Policy 8080 Responsible Use of Technology, Digital Tools, and Social Media
 - Policy 9200 Student Discipline
- C. Relevant Data Sources
- D. Other
 - Bullying, Cyberbullying, Harassment, or Intimidation Reporting Form
 - Formal Concern Form
 - HCPSS Employee Handbook
 - HCPSS Student Code of Conduct
 - HCPSS Student Statement/Witness Form
 - Sexual Discrimination, Sexual Harassment, Sexual Misconduct Reporting Form

VIII. History¹

ADOPTED: February 10, 2022
 REVIEWED:
 MODIFIED:
 REVISED:
 EFFECTIVE: February 10, 2022

¹ Key: ***Adopted***-Original date the Board took action to approve a policy; ***Reviewed***-The date the status of a policy was assessed by the Superintendent's Standing Policy Group; ***Modified***-The date the Board took action to alter a policy that based on the recommendation of the Superintendent/designee did not require a comprehensive examination; ***Revised***-The date the Board took action on a policy that based on the recommendation of the Superintendent/designee needed a comprehensive examination; ***Effective***-The date a policy is implemented throughout the HCPSS, typically July 1 following Board action.

TITLE IX SEXUAL HARASSMENT

Effective: February 10, 2022

I. Training

- A. All Howard County Public School System (HCPSS) employees will receive regular training relative to mandatory reporting obligations, and any other responsibilities they may have relative to this policy.
- B. The Title IX Coordinator, investigators, decision makers, and any person who facilitates an informal resolution process, must receive training on the definition of Title IX Sexual Harassment; this policy; the scope of HCPSS's education program; and how to conduct an investigation. This includes the requirements of reporting and the Title IX Grievance Process, hearings; appeals; and information resolution processes. The training must also include avoiding prejudgment of the facts, conflicts of interest and bias.
- C. Decision makers must also receive training on issues of relevance of questions and evidence, including when questions about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- D. Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- E. Materials used to train the Title IX Coordinator, investigators, decision makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of Title IX Sexual Harassment, and must be made available to the public.

II. Confidentiality

- A. The HCPSS will respect the confidentiality of the complainant and the respondent as much as possible, however, some information may need to be disclosed to appropriate individuals or authorities. All disclosures will be consistent with HCPSS's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action. Examples of required disclosure include:
 - 1. Information to either party to the extent necessary to provide the parties due process during the Title IX Grievance Process;

2. Information to individuals who are responsible for handling the investigation and determination of responsibility to the extent necessary to complete the grievance process;
 3. Mandatory reports of child abuse or neglect to the Howard County Department of Social Services (DSS) or local law enforcement in accordance with Policy 1030 Child Abuse and Neglect.
 4. Information to the complainant's and the respondent's parent as required under this policy and/or the Family Educational Rights and Privacy Act (FERPA); and
- B. Additionally, any supportive measures offered to the complainant or the respondent will remain confidential to the extent that maintaining such confidentiality would not impair the ability of HCPSS to provide the supportive measures.

Except as specified above, HCPSS will keep confidential the identity of:

1. Any individual who has made a report or complaint of sexual discrimination;
2. Any individual who has made a report or filed a formal complaint of Title IX Sexual Harassment;
3. Any complainant;
4. Any individual who has been reported to be the perpetrator of sexual discrimination;
5. Any respondent; and
6. Any witness.

Any supportive measures provided to the complainant or respondent will be kept confidential to the extent that maintaining such confidentiality does not impair the ability of the HCPSS to provide the supportive measures.

III. Dissemination and Notice

The HCPSS will include in any student and employee handbooks, and will make publicly available on the HCPSS's website the following information:

- A. The HCPSS's policy of non-discrimination on the basis of sex included in Policy 1010 Anti-Discrimination and Policy 1020 Sexual Discrimination, Sexual Harassment and Sexual Misconduct;
- B. The title, name, office address, email address, and telephone number of the Title IX Coordinator;
- C. How to file a complaint of discrimination or formal complaint of Title IX Sexual Harassment;

- D. How the HCPSS will respond to such a complaint; and
- E. A statement that Title IX inquiries may be referred to the Title IX Coordinator or to the Assistant Secretary for Civil Rights.

The same information will be provided to all persons seeking employment with the HCPSS, or applicants seeking enrollment or participation in HCPSS's educational programs or activities.

Additionally, HCPSS will make this policy, as well as any materials used to train personnel, publicly available on HCPSS's website.

IV. Records and Record Keeping

- A. For each report or formal complaint of Title IX Sexual Harassment, the HCPSS, through the Title IX Coordinator, must create, and maintain for seven (7) years, record of:
 - 1. Any actions, including any supportive measures,
 - 2. The basis for the conclusion that its response was not deliberately indifferent; and
 - 3. Documentation which:
 - a. If supportive measures were provided to the complainant, a description of the supportive measures taken designed to restore or preserve equal access to the education program or activity; or
 - b. If no supportive measures were provided to a complainant, explains the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- B. In addition, the HCPSS will maintain the following records for a minimum of seven (7) years:
 - 1. Records for each formal complaint of sexual harassment, including:
 - a. Any determination regarding responsibility, including dismissals;
 - b. Any disciplinary actions imposed on the respondent;
 - c. Any remedies provided to the complainant designed to restore or preserve equal access to the education program or activity;
 - d. Any appeal and the result therefrom;
 - e. Any informal resolution process and the result therefrom;
 - 2. All materials used to train Title IX Coordinators, investigators, and decision-makers.

V. Reports of Title IX Sexual Harassment, Formal Complaints and HCPSS Responses

A. Reports of Title IX Sexual Harassment

A report does not initiate the formal Title IX Grievance Process. That process is begun only upon the filing of a formal complaint.

Any person may report sexual harassment, however, if any HCPSS employee, other than the employee harasser, or the Title IX Coordinator, receives information of conduct which may constitute sexual harassment under this policy, they will, without delay, inform the Title IX Coordinator of the alleged Title IX Sexual Harassment. Failure to report will subject the employee to discipline up to and including dismissal.

A report of Title IX Sexual Harassment may be made at any time, in person, by mail, by telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Additionally, while HCPSS strongly encourages reports of Title IX Sexual Harassment to be made directly to the Title IX Coordinator, the report may be made to any HCPSS employee, including, for instance, a counselor, teacher or principal.

If the Title IX Coordinator is the alleged respondent, the report or formal complaint may be made directly to the Superintendent/designee, who will thereafter fulfill the functions of the Title IX Coordinator regarding that report/formal complaint, or delegate the function to another person.

NOTE: For any allegation of Title IX Sexual Harassment on a student under the age of 18, such conduction will be reported immediately to the DSS in accordance with HCPSS Policy 1030 Child Abuse and Neglect. If the alleged respondent (perpetrator) is a person holding a license or credential from the MSDE, then a report will also be made according to applicable administrative rules.

B. HCPSS Response to Reports of Title IX Sexual Harassment

The HCPSS will promptly respond when there is actual knowledge of Title IX Sexual Harassment, even if a formal complaint has not been filed. The HCPSS will treat complainants and respondents equitably by providing supportive measures to the complainant and by following the Title IX Grievance Process prior to imposing any disciplinary action or other actions that are not supportive measures against a respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

As soon as reasonably possible after receiving a report of alleged Title IX Sexual Harassment from another HCPSS employee or after receiving a report directly through any means, the Title IX Coordinator will contact the complainant to:

1. Discuss the availability of and offer supportive measures;

2. Consider the complainant's wishes with respect to supportive measures;
3. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
4. Explain to the complainant the process for filing a formal complaint.

C. Formal Complaints

Pursuant to federal regulations and this policy, a formal complaint that contains an allegation of Title IX Sexual Harassment and a request that HCPSS investigate the allegations is required before HCPSS may conduct a formal investigation of Title IX Sexual Harassment or take any action (other than supportive measures) against a person accused of Title IX Sexual Harassment. Once a formal complaint of Title IX Sexual Harassment is received by the Title IX Coordinator, he/she will commence the Title IX Grievance Process.

D. Limitation on Disciplinary Action

In no case will HCPSS impose disciplinary actions against a respondent who has been accused of conduct which may constitute Title IX Sexual Harassment, until the Title IX Grievance Process has been completed and a determination of responsibility for Title IX Sexual Harassment or other conduct in violation of HCPSS policy has been made.

E. Emergency Removal and Administrative Leave.

At any point after receiving a report or formal complaint of Title IX Sexual Harassment, the Title IX Coordinator (or other HCPSS official charged with a specific function under this policy or the Title IX Grievance Process: e.g., investigator, decision maker, etc.) may request the Superintendent/designee to direct that an individualized safety and risk analysis be performed to determine whether a respondent student is an immediate threat to the physical health or safety of any person. In the event that the safety and risk analysis determines that the respondent student does present an immediate threat to the physical health and safety of any person, the HCPSS may remove that student, provided that such removal is in full compliance with the Individuals with Disabilities Education Act (IDEA), a student's Individualized Educational Plan (IEP) and or 504 plan if applicable. Such emergency removal will not be disciplinary. However, the HCPSS must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal, and will continue to offer educational programming until a final determination is made pursuant to the Title IX Grievance Process.

The Title IX Coordinator will keep the HCPSS Superintendent of Schools informed of any employee respondents so that they can make any necessary reports to MSDE in compliance with applicable administrative rules. In appropriate cases, the Superintendent/designee may place an employee respondent on non-disciplinary administrative leave.

F. Title IX Grievance Process

The Title IX Grievance Process is used only upon the filing of a formal complaint of Title IX Sexual Harassment. The provisions of this policy are incorporated as part of the Title IX Grievance Process. Upon receipt of a formal complaint of Title IX Sexual Harassment, the Title IX Coordinator will coordinate the school systems efforts to comply with its responsibilities related to the Title IX Grievance Process.

1. Process for Filing a Formal Complaint of Title IX Sexual Harassment

The Title IX Grievance Process is initiated by way of a formal complaint filed by the complainant, the complainant's parent, or the Title IX Coordinator. The complainant may file a formal complaint or choose not to file a formal complaint and simply receive the supportive measures.

If the complainant does not file a formal complaint, the Title IX Coordinator may sign a formal complaint, but only if initiating the grievance process against the respondent is not clearly unreasonable in light of the known circumstances. The Title IX Coordinator may also file a formal complaint in cases where, in the exercise of good judgment and in consultation with HCPSS's General Counsel, as appropriate, the Title IX Coordinator determines that a grievance process is necessary to comply with the obligation not to be deliberately indifferent to known allegations of sexual harassment (e.g., reports of sexual assault, employee on student harassment, repeat reports, or the conduct in the complainant's report has not been adequately resolved through the provision of supportive measures).

If the formal complaint is filed by the Title IX Coordinator, they are not a party to the action, and HCPSS must comply with all of the provisions of the Title IX Grievance Process relative to respondents and complainants.

If no formal complaint is filed by the complainant or the Title IX Coordinator, no disciplinary action may be taken against the respondent based upon conduct that would constitute Title IX Sexual Harassment under this policy.

Although there is no time limit per se to filing a formal complaint, for formal complaints initiated by the complainant or the complainant's parent, the complainant must be employed by HCPSS or participating in or attempting to participate in the education program or activities of the HCPSS at the time of filing. Additionally, although the HCPSS will initiate the Title IX Grievance Process regardless of when the formal complaint is submitted, delays in reporting may significantly impair the ability of school officials to investigate and respond to the allegations.

A formal complaint must:

- a. Contain the name and address of the complainant and the student's parent if the complainant is a minor student;
- b. Describe the alleged sexual harassment,
- c. Request an investigation of the matter, and
- d. Be signed by the complainant or otherwise indicate that the complainant is the person filing the formal complaint.

The formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email. Formal Complaint of Title IX Sexual Harassment forms may be obtained from the Title IX Coordinator.

2. Initial Steps and Notice of Formal Complaint

- a. The Title IX Coordinator will provide notice to the complainant and the complainant's parent (if the complainant is a non-eligible student under FERPA), and to the respondent (if known) and the respondent's parent (if the respondent is a non-eligible student under FERPA):
 - i. This Title IX Grievance Process, including any informal resolution process;
 - ii. The allegations of sexual harassment potentially constituting Title IX Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview; "sufficient details" will include to the extent known identities of persons involved, the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the incident;
 - iii. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
 - iv. That each party may have an advisor of their choice, who may be, but is not required to be, an attorney;
 - v. That each party is entitled to inspect and review evidence; and
 - vi. A reference to any provision in HCPSS's Student Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- b. The Title IX Coordinator will contact the complainant to discuss and offer supportive measures.
- c. The Title IX Coordinator may contact the respondent to discuss, and or impose, non-disciplinary supportive measures.
- d. The Title IX Coordinator will examine the allegations in the formal complaint to determine if the allegations are sufficient to sustain a

finding of Title IX Sexual Harassment under this policy. If the Title IX Coordinator was not involved with preparing the formal complaint, the Title IX Coordinator will contact the complainant to discuss the formal complaint and whether amendment is appropriate.

- e. If the formal complaint fails to satisfy the definition of Title IX Sexual Harassment, the formal complaint will be dismissed.
 - f. If the formal complaint is not dismissed, the Title IX Coordinator will consult with the Superintendent/designee to determine the appropriate investigator. At the same time, the Title IX Coordinator and the Superintendent/designee will appoint the person who will make the initial Determination of Responsibility (initial decision maker). In all cases, the investigator and the initial decision maker must be properly trained and otherwise qualified. The role of investigator and decision maker cannot be held by the same individual.
 - g. If the report alleges Title IX Sexual Harassment by the Superintendent/designee, the Title IX Coordinator will inform the HCPSS Board Chair and the Deputy Superintendent, the latter of whom will have authority to seek guidance from HCPSS's General Counsel, but will not delay HCPSS's response to the report as outlined in Policy 1025 Title IX Sexual Harassment.
3. General Provisions and Additional Definitions Relative to Title IX Grievance Process
- a. Copies and Notices

Except as specifically stated elsewhere in Policy 1025 Title IX Sexual Harassment, for any document, information or material required to be delivered to a party or to a person assigned with responsibility under the Title IX Grievance Process, the manner of transmittal may be by electronic mail, regular mail or such other manner reasonably calculated to ensure prompt delivery with evidence thereof (such as a commercial carrier or other receipted delivery). Hand delivery will only be permitted if made to the HCPSS official charged with the specific function under Policy 1025 Title IX Sexual Harassment (e.g., Title IX Coordinator, Superintendent/designee, investigator, decision maker(s), etc.).

Any document required to be delivered to a minor or other non-eligible student, must also be delivered to the minor's parent. Copies should also be sent to a party's advisor if the information for the advisor has been previously communicated to the sending party. (Under federal regulations, copies of the investigative evidence, as well as the investigative report, must be forwarded to a party's advisor.)

b. Safety and Risk Analysis and Emergency Removal

At any point during the Title IX Grievance Process, the Title IX Coordinator may arrange for an individualized safety and risk analysis, following which a student may be removed.

c. Administrative Leave

At any point during the Title IX Grievance Process, the Superintendent/designee, at his/her own discretion, and with or without consulting the Title IX Coordinator, may place an employee on administrative leave.

d. Additional Allegations

If, in the course of an investigation, HCPSS decides to investigate allegations about the complainant or respondent that were not included in the previous notice, HCPSS will simultaneously provide notice of the additional allegations to the parties whose identities are known.

e. No Interference with Legal Privileges

At no point in the process will the Title IX Coordinator, the investigator, any decision maker, or any other person participating on behalf of HCPSS, require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege (e.g., doctor/patient, attorney/client, clergy, etc.), unless the person holding such privilege (parent for minor student) has waived the privilege in writing to use the information with respect to the Title IX Grievance Process.

f. Consolidation of Formal Complaints

The HCPSS may consolidate formal complaints of allegations of Title IX Sexual Harassment where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances and the formal complaints are against more than one respondent; or by more than one complainant against one or more respondents; or by one party against the other party.

When HCPSS has consolidated formal complaints so that the grievance process involves more than one complainant or more than one respondent, references to the singular party, complainant, or respondent include the plural, as applicable.

g. Remedies: Range of Disciplinary Actions and Remedial Actions Upon Final Determination of Responsibility

- i. Disciplinary actions are consequences imposed on a respondent when they are found responsible for Title IX Sexual Harassment under this policy. Remedial actions are actions intended to restore or preserve a complainant's equal access to the educational programs and activities of the HCPSS.
 - ii. Disciplinary action against an employee respondent may include any available discipline or action, up to and including dismissal or non-renewal for any other violation of Policy 7030 Employee Conduct and Discipline, applicable individual or collective bargaining contract, or state or federal laws or regulations.
 - iii. Disciplinary action against a student may include any available discipline or action, up to and including expulsion, under the policies, rules and procedures established in the HCPSS Student Code of Conduct.
 - iv. Remedial actions as to a respondent after a final finding of responsibility, whether employee or student, may include the imposition upon a responsible respondent of any additional non-disciplinary measures appropriate to affecting a remedy for Title IX Sexual Harassment. Remedial actions may include such measures as no-contact requirements, scheduling adjustments, removal or exclusion from extracurricular activities, class reassignments, limits on future class registrations, restrictions on access to various spaces in the school buildings, school reassignment, and similar measures fine-tuned to respond appropriately to the circumstances surrounding a complainant's right to access HCPSS's education program and activity.
 - v. Additional remedial actions may include recommendations that a school-wide or system-wide response is needed in order to respond to the Title IX Sexual Harassment in a way that is not clearly unreasonable under the circumstances. In such cases, the Superintendent/designee will provide additional employee training, harassment prevention programs, or other measures as determined appropriate to protect the safety of the educational environment and/or to deter Title IX Sexual Harassment.
4. Timeframe of Grievance Process.

HCPSS will make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the grievance process will be concluded through at least the determination of responsibility decision within 80 days after filing the formal complaint. In more complex cases, the time necessary to complete a fair and thorough investigation or other

circumstances mean that a decision cannot reasonably be made within that time frame.

a. Summary of Grievance Process Timeline

- i. Investigation 20 +/- days as the complexity of the case demands
- ii. 10 days for reviewing information prior to conclusion of investigation
- iii. 10 days after receiving report to respond to report
- iv. 10 days for decision maker to allow initial questions
- v. 10 days for responses to questions
- vi. 10 days for questions and responses to follow-up questions.
- vii. 10 days for determination of responsibility decision
- viii. 10 days for appeal (6 additional days for administrative steps)
- ix. 10 days for argument/statement challenging or supporting determination
- x. 10 days for decision on appeal.

b. Delays and Extensions of Time

At any stage of the grievance process, HCPSS (through the Superintendent/designee, or if the Superintendent/designee is the respondent, the Title IX Coordinator or designee) may for good cause allow for temporary delays or extensions of time upon request of either party, or on his/her own initiative. Examples of good cause may include such things as availability of parties or witnesses, school or school administrative office holidays or vacations, referral back to an earlier stage of the grievance process, concurrent law enforcement or other agency activity, or need to obtain interpreters or accommodation of disabilities. For any such delay or extension of time, the Superintendent/designee or the Title IX Coordinator will provide written notice to the parties of the delay/extension and the reason(s).

5. Investigation

The Title IX Coordinator will coordinate the investigation. The investigator will be as appointed as follows:

- a. The Title IX Coordinator, in consultation with the Superintendent/designee, will designate a qualified person to investigate. The investigation and investigator must:
 - i. Include objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence. (Evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such evidence about the complainant's prior sexual behavior is offered to prove that someone other than the respondent

- committed the conduct alleged by the complainant, or if the evidence concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and is offered to prove consent.)
- ii. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the HCPSS and not on either of the parties;
 - iii. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence;
 - iv. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
 - v. Provide the parties with the same opportunities to have others present during any interview or other part of the investigation, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. The investigator may restrict any others from participating, as long as the restrictions apply equally to both parties;
 - vi. Provide, to a party (e.g., respondent or complainant – and parent as appropriate) whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate within the established timeframes;
 - vii. Provide 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.
- b. Prior to completion of the investigative report, HCPSS, through the Title IX Coordinator, must send to each party and 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.
 - c. The investigator must prepare a written investigative report that fairly summarizes relevant evidence, including, without limitation, witness credibility, discrepancies, inculpatory and exculpatory information, and relevant HCPSS policies, rules and regulations, and the manner in which the same were made known to the pertinent school populations or specific parties. The investigative report will include a description of the procedural steps taken, starting with the receipt of the formal complaint, and continuing through the preparation of the investigative report, including any notifications to the parties, interview with parties and witnesses, site visit, and methods used to gather evidence.
 - d. The investigator will provide the investigative report in hard copy or electronic format to the Title IX Coordinator, to each party and each

party's advisor, if any. Each party will have 10 days from receipt to provide the Title IX Coordinator a written response to the investigative report.

- e. All parties are served when investigations proceed diligently and conclude within a reasonable time, which may vary case by case. In most cases, it is expected that the investigator will conclude the initial investigation and provide the parties the evidence and other information required. Not more frequently than every other week, any party may request the Title IX Coordinator to obtain and provide the parties with a basic status report on the investigator's progress toward completion. In most cases, the investigator should conclude the investigation within 10-20 days after receiving a formal complaint.

6. Determination of Responsibility and Initial Decision Maker.

The determination of responsibility of the respondent will be made by the initial decision maker as appointed.

- a. Prior to making a determination of responsibility, the initial decision maker will afford each party 10 days to submit written, relevant questions to the initial decision maker that the party wants asked of any party or witness.
- b. The initial decision maker must explain to the party proposing the questions any decision to exclude a question as not relevant. 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 question and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- c. The initial decision maker will provide the questions to the party/witness, with copies to each party, and provide no less than 10 days for written responses, likewise to be provided to each party.
- d. The initial decision maker will provide 5 days each for supplementary, limited follow-up questions and 5 days for answers, and may provide for additional rounds of follow-up questions, as long as the provision is extended to both parties equally.
- e. The initial decision maker may not make any credibility determinations based on the person's status as a complainant, respondent or witness.

- f. The respondent must be deemed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- g. The initial decision maker may impose disciplinary actions and remedies.
- h. The standard to be used for formal complaints in determining whether a violation has occurred and/or that the respondent is responsible is the preponderance of the evidence standard, which is only met when the party with the burden convinces the initial decision maker that there is a greater than 50% chance that the claim is true (i.e., more likely than not).
- i. The initial decision maker must issue a written determination/decision within 10 days after the close of the period for responses to the last round of follow-up questions. The written initial Determination of Responsibility must include:

Identification of the allegations potentially constituting Title IX Sexual Harassment;

- i. A description of the procedural steps taken from the receipt of the formal complaint through the initial Determination of Responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
 - ii. Findings of fact supporting the determination;
 - iii. Conclusions regarding the application of the HCPSS's Student Codes of Conduct, policies, administrative regulations or rules to the facts;
 - iv. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether or not the respondent is responsible for Title IX Sexual Harassment), and any disciplinary actions or remedies; and
 - v. The HCPSS's procedures and permissible bases for the complainant and respondent to appeal.
- j. The decision maker will provide the initial Determination of Responsibility to the Title IX Coordinator, the Superintendent/designee and the parties simultaneously.

7. Dismissal of a Formal Complaint

- a. HCPSS must dismiss a formal complaint with regard to Title IX Sexual Harassment if the alleged conduct:
 - i. Would not constitute Title IX Sexual Harassment, even if proved;

- ii. Did not occur in the HCPSS's education program or activity; or
 - iii. Did not occur against a person in the United States.
- b. The HCPSS may dismiss a formal complaint with regard to Title IX Sexual Harassment if at any time during the investigation or determination of responsibility stage(s):
 - c. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
 - d. The respondent is no longer enrolled or employed by the HCPSS; or
 - e. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
 - f. Prior to dismissal of a formal complaint, the person responsible at that stage will consult with the Superintendent/designee.
 - g. Upon dismissal of a formal complaint, the HCPSS must promptly send written notice of the dismissal and the reason(s) therefore simultaneously to the parties.

The dismissal of a formal complaint under Title IX does not preclude HCPSS from continuing any investigation or taking action under HCPSS's Student Code of Conduct or administrative regulations or rules. In some cases, the HCPSS may have an obligation to continue an investigation and proceed under a different policy or mandated process.

8. Appeals Process

- a. Either party may appeal the initial Determination of Responsibility or the dismissal of a formal complaint or any allegation in a formal complaint by notifying the Superintendent/designee in writing (written appeal), with a copy to the Title IX Coordinator. If there are multiple determinations of responsibility, the written appeal will specify which ones are included in the appeal. The written appeal must be received by the Superintendent/designee within 10 days of the initial Determination of Responsibility or written notice of dismissal being communicated to the parties.
- b. An appeal under this policy may only be based upon one or more of the following bases, which must be stated specifically in the party's written appeal:
 - i. Procedural irregularity that affected the outcome of the matter;

- ii. 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; or
- iii. The Title IX Coordinator, investigator(s), or decision-maker(s) 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.

Appeals for any other reason or upon any Determination of Responsibility not included in the written appeal will not be heard. Appeals pertain only to the Determination of Responsibility and non-disciplinary remedies. Once a Determination of Responsibility is final, appeals of disciplinary actions may be made pursuant to HCPSS's ordinary review process for discipline, or, to the extent applicable, any statutory or other processes provided under collective bargaining agreements or individual contracts.

- c. Within 3 days of receipt of the written appeal, the Superintendent/designee will appoint a decision maker for appeal (appeals decision maker), who must have adequate training, be free from conflict of interest, and may not be the same person as the initial decision maker, the person who ordered dismissal, the investigator(s), or the Title IX Coordinator. Upon the appointment of the appeals decision maker, the Superintendent/designee provides a Notice of Appeal to each party and to the Title IX Coordinator, with a copy of the written appeal. The Notice of Appeal must include information about all deadlines and timeframes in the appeal stage.
- d. Each party will have 10 days from the date the Notice of Appeal is delivered to the parties to submit to the appeals decision maker a written statement, with copies to the Superintendent/designee, Title IX Coordinator, and other party a statement (appeal statement) in support of, or challenging, the Determination of Responsibility or dismissal.
- e. Each party will provide copies of the appeal statement to the other party, the Superintendent/designee, and the Title IX Coordinator at the same time the appeal statement is given to the appeals decision maker. If the basis of the appeal is newly available evidence affecting the outcome, the party will submit such evidence or a summary of such evidence along with the party's appeal statement.
- f. The appeals decision maker may refer an appealed issue back to a prior point in the grievance process, with written notice to the parties, the Superintendent/designee and the Title IX Coordinator.
- g. The appeals decision maker will provide a written appeals decision after considering the record and the parties' appeal statements. The appeals

decision maker will only overturn the initial Determination of Responsibility upon a conclusion that it was clearly erroneous (i.e., either made on unreasonable grounds, or without any proper consideration of the circumstances). If the basis or one of the bases for the appeal was new evidence, the appeals decision maker may either make a Determination of Responsibility regarding that evidence, or refer it back to the appropriate stage of the Title IX Grievance Process. The written appeals decision will describe the result(s) of the appeal and the rationale, with copies provided to the parties, Superintendent/designee and Title IX Coordinator, no more than 10 days after receiving the last of the parties' written statements.

9. Finality of Determination of Responsibility

The determination regarding responsibility becomes final either on the date that the recipient, through the Superintendent/designee, provides the parties 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 of the initial Determination of Responsibility would no longer be considered timely. The final determination will be identified as the Title IX Decision.

Once the Title IX Decision is final, HCPSS may implement remedies and disciplinary actions. The Title IX Coordinator is responsible for effective implementation of any non-disciplinary remedies, with the assistance of building and HCPSS administrative personnel, while disciplinary actions will be imposed by persons charged with such responsibilities under other Board policies, regulations or administrative procedures. The HCPSS may also proceed against the respondent or complainant pursuant to HCPSS's Student Code of Conduct or other Board policies, collective bargaining agreement, individual contract or administrative rules/regulations/procedures. The issue of responsibility for the conduct at issue will not be subject to further review or appeal within the HCPSS.

10. Informal Resolution

At any time prior to reaching a determination regarding responsibility (but only after the filing of a formal complaint), HCPSS may offer an optional informal resolution process (e.g., mediation, arbitration), provided that HCPSS:

- a. Provides written notice to the parties disclosing:
 - i. The allegations of the formal complaint;
 - ii. The requirements of the Information 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 an informal

final resolution, any party has the right to withdraw from the Information Resolution Process and resume the grievance process with respect to the formal complaint; and

- iii. Any consequences resulting from participating in the Information Resolution Process, including the records that will be maintained or could be shared.

- b. Obtains the parties' voluntary written consent to the informal resolution process; and

In no event may the HCPSS offer or facilitate an Information Resolution Process to resolve allegations that an employee sexually harassed a student.

VI. Definitions

Within the context of these implementation procedures, the following definition applies:

Safety and Risk Analysis – Use of assessment protocols and applicable state laws and best practices focused upon the particular respondent to examine the specific circumstances arising from the allegations of sexual harassment which pose an immediate threat to a person's physical health or safety.

VII. Monitoring

Policy 1025 implementation procedures will be overseen by the Division of Human Resources & Professional Development.

VIII. History¹

ADOPTED: February 10, 2022

REVIEWED:

MODIFIED:

REVISED:

EFFECTIVE: February 10, 2022

¹ Key: **Adopted**-Original date the Board took action to approve a policy; **Reviewed**-The date the status of a policy was assessed by the Superintendent's Standing Policy Group; **Modified**-The date the Board took action to alter a policy that based on the recommendation of the Superintendent/designee did not require a comprehensive examination; **Revised**-The date the Board took action on a that policy based on the recommendation of the Superintendent/designee needed a comprehensive examination; **Effective**-The date a policy is implemented throughout the HCPSS, typically July 1 following Board action.