

POLICY	BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND
SEXUAL HARASSMENT/CHILD SEXUAL ABUSE – STUDENT RIGHTS AND REPORTING	POLICY 447
<p>447.1 General Statement of Policy 447.2 Sexual Harassment Defined 447.3 Dating or Sexual Relations between Staff and Students 447.4 Reporting Procedures 447.5 Confidentiality 447.6 Investigation of Report and Imposition of Penalties 447.7 Retaliation and Reprisals Prohibited 447.8 Discipline 447.9 Notice to Students</p>	

447.1 General Statement of Policy

- A. The Board of Education (Board) prohibits discrimination on the basis of sex in its educational program, activities, or employment as required by Title IX of the 1972 Education Amendments and Title VII of the Civil Rights Act of 1964 and recognizes sexual harassment as a form of sexual discrimination. (Cross-reference Board Policy 437 *Bullying-Harassment-Intimidation* and FCPS Regulation 400-48 *Bullying-Harassment-Intimidation Complaint Process for Students*.)

Sexual harassment behavior between an employee and a student may also be deemed a form of child sexual abuse as defined as “an act by an adult involving a minor or a student that constitutes a sexual offense under the laws of the state, or any sexual contact between an adult and a minor” as stipulated in Education Article, *Annotated Code of Maryland*, §6-113.1 and Board Policy 418 *Child Abuse and Neglect* and FCPS Regulation 400-47 *Reporting Abuse and Neglect*.

- B. It is the policy of the Board to maintain a learning and working environment that is free from sexual harassment. The Board believes that sexual harassment is offensive and morally wrong. Therefore, the Board prohibits sexual harassment of, or by, employees, students, volunteers, vendors, or others having business or contacts with the school system. All complaints of sexual harassment will be investigated and appropriate action taken to end the harassment and protect the victim from retaliation. Students who violate this policy will be disciplined in accordance with section 447.8.

447.2 Sexual Harassment Defined

- A. The Board adopts the definition of sexual harassment from the federal Equal Employment Opportunity Commission (EEOC), as interpreted by judicial rulings binding on the Board. Under the EEOC, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to that conduct is made a term or condition, either explicitly or implicitly, of that individual's education or work study employment;
 2. Submission to or rejection of that conduct by an individual is used as the basis for decisions affecting that individual's education or work study employment;
 3. That conduct has the purpose or effect of unreasonably interfering with an individual's education; or
 4. That conduct has the purpose or effect of creating an intimidating, hostile, or offensive education environment or work study environment.
- B. Sexual harassment may include, but not be limited to, the following examples:
1. Verbal harassment, such as derogatory comments, jokes, name-calling, or slurs;
 2. Pressure for sexual activity;
 3. Unnecessary or offensive touching, inappropriate patting or pinching, or impeding or blocking a person's physical movement;
 4. Intentional brushing against a person's body;
 5. Visual harassment, such as derogatory or offensive posters, cards, emails, pictures, calendars, cartoons, graffiti, or drawings;
 6. Demanding sexual favors accompanied by implied or overt threats of preferential treatment with regard to an individual's employment or educational status; or
 7. Demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or education.

447.3 Dating or Sexual Relations between Staff and Students

The relationship between students and staff is to be of a professional nature. Because school personnel have the responsibility for the supervision of children, interactions with students should remain clearly within the appropriate confines of a professional staff/student relationship. Therefore, asking for a date, dating or exploiting the student relationship by soliciting or actually engaging in sexual relations is not to occur between Frederick County Public Schools (FCPS) employees and students. Such action may be grounds for discipline up to and including termination, suspension or revocation of a professional certificate in accordance with Maryland law, and criminal sanctions.

447.4 Reporting Procedures

A. Complaints against students

1. A student who believes they have been subjected to sexual harassment by a student is encouraged to report the alleged acts immediately to the student's principal or report to the school counselor in accordance with FCPS Regulation 400-48 *Bullying-Harassment-Intimidation Complaint Process for Students*.
2. If the complainant does not know which school the student attends, the report should be filed with the Deputy Superintendent, who will ascertain the student's school and forward the report to the principal.

B. Complaints against employees, volunteers, etc.

1. A student who believes they have been subjected to sexual harassment by an FCPS employee, volunteer, vendor, or any individual associated with the school system which occurs in the scope of his/her education/work study experience is encouraged to report the alleged acts immediately to the Director of Human Resources or the EEOC Compliance Officer.
2. If the complaint involves the Director of Human Resources or the EEOC Compliance Officer, the complaint should be filed with the Superintendent.
3. If the complaint involves the Superintendent, the complaint should be filed with the president of the Board.
4. If the complaint involves a member of the Board, the complaint should be filed with the remaining members of the Board.

C. Report by witness

Any person with knowledge, or has reason to suspect, that an individual has or is violating this policy is encouraged to report that information to the Director of Human Resources or the EEOC Compliance Officer.

D. Malicious report

Allegations of sexual harassment are taken very seriously, and an individual who maliciously and knowingly files a false report or statement may be disciplined in accordance with section 447.8.

447.5 Confidentiality

- A. The school system will respect to the extent possible the confidentiality of the complainant, witnesses, and the individual against whom the complaint is filed consistent with the school system's legal obligations to investigate complaints and the due process rights of the accused.
- B. To ensure integrity of the investigation, the complainant, the accused, and witnesses may be directed to refrain from talking about the complaint during the investigation, other than as part of the school system's official investigation and disposition and to discuss with his/her representative.

447.6 Investigation of Report and Imposition of Penalties

- A. Complaints against students.

The school principal will investigate the report and take disciplinary action against the student in accordance with the school system's discipline code for students and suspension and expulsion policy.

- B. Complaints against employees, volunteers, etc.

- 1. A complaint or report against an employee, volunteer, vendor, or other person having business or contact with the school system shall be investigated by the Director of Human Resources or the EEOC Compliance Officer.

Note: An outside investigator trained in discrimination investigations may be selected to investigate when deemed appropriate by the Superintendent.

- 2. The investigation may consist of personal interviews with the complainant, the individual against whom the complaint is made, and others who may have knowledge of the alleged incident or circumstances. The Director of Human Resources may also consider documents, materials, and any other evidence deemed informative or pertinent.
- 3. In determining whether alleged conduct constitutes sexual harassment, the Director of Human Resources should consider whether the conduct was unwelcome, the nature of the sexual conduct, the relationships between the parties, and the context in which the alleged incidents occurred.
- 4. The investigator shall complete a written report as to each complaint or report of a policy violation, regardless of the outcome of the investigation. The report should contain recommended findings and suggestions for resolution or discipline (e.g., violation, no violation, inconclusive; take no action, provide in-service to

accused, discipline accused). The investigator shall endeavor to complete her/his report within thirty (30) business days and contact the complainant and report the conclusions regarding the determination of whether sexual harassment occurred.

5. Many complaints or incidents can be resolved immediately by providing training on this policy and sexual harassment, by serving as an intermediary between the complainant and the accused, or by counseling the accused. The Director of Human Resources shall have the authority to undertake these and similar efforts if they are reasonably calculated to resolve the complaint. The Director of Human Resources shall document the action taken in these instances.
6. Except for complaints resolved under section 447.6, paragraph B.5 above, the investigator shall forward the report to the appropriate supervisor to determine appropriate discipline and intervention.
Note: If the accused is not an employee of the Board, to the most appropriate administrator responsible for or coordinating the accused's relationship to the school system.
7. A school official receiving a report from the Director of Human Resources under section 6 above shall:
 - a. Ensure that the report is acted upon and that disciplinary measures, if appropriate, are taken.
 - b. Provide appropriate due process rights to the employee and ensure confidentiality provisions are provided.
8. If a complaint or report involves the Director of Human Resources, the Superintendent or his/her designee shall conduct the investigation, issue the report, and, if appropriate, take disciplinary action.
9. During an investigation and pending a final resolution, the investigator will take steps to protect the complainant, witnesses, and other employees or students, and offer supports as may be deemed necessary to prevent or address retaliation.

447.7 Retaliation and Reprisals Prohibited

- A. An individual who files a complaint or report of sexual harassment or who testifies, assists, or participates in an investigation of alleged sexual harassment shall not be subject to retaliation, reprisals, harassment, or intimidation.
- B. A person who violates the prohibition against retaliation shall be subject to discipline as outlined in section 447.8.

447.8 Discipline

- A. Administrators shall take appropriate disciplinary measures against individuals who violate this policy.
- B. Employees who violate this policy will be subject to disciplinary action up to and including termination.
- C. Disciplinary measures shall at a minimum be designed to end the sexual harassment.
- D. Nonemployees who violate this policy are subject to consequences up to and including the loss of their privilege to continue doing business with the school system.
- E. Students who violate this policy will be disciplined in accordance with section 447.6.
- F. Sexual harassment is also a violation of federal and state employment laws. Under certain circumstances, sexual harassment may constitute child abuse. The school system will notify appropriate enforcement officials in every case where there is reason to believe that child abuse has occurred, in accordance with the Maryland child abuse reporting law and FCPS Regulation 400-47 *Reporting Abuse and Neglect*.

447.9 Notice to Students

- A. The Superintendent shall take appropriate steps to annually inform students of the contents of this policy, what sexual harassment is, and where to go for help.
- B. Administrators shall be in-serviced annually on this policy. The in-service shall explain what sexual harassment is and inform administrators of their duties, responsibilities, and potential liability as workplace managers. Training will also include warning signs to watch regarding inappropriate relationships between staff and students, such as the following:
 - A student spending frequent and unusual non-instructional time with a teacher, particularly when the teacher does not have that student in his/her class.
 - A teacher/coach frequently/regularly giving one student rides home from school/practice.
 - The classroom door is closed or locked when occupied by the teacher and student(s).
 - The teacher asks personal/inappropriate questions (e.g. about boyfriend/girlfriend, sexual activity).

- The student subject to the conduct/attention often is needy, at-risk, experiencing difficulty at home and/or school.
 - Training will also include a cross-reference to Board Policy 418 *Child Abuse and Neglect* and FCPS Regulation 400-47 *Reporting Abuse and Neglect* as these behaviors could also be deemed a form of child sexual abuse.
- C. This policy shall be explained in the student handbook.

Legal Reference	Title IX of the 1972 Education Amendments		
	Title VII of the Civil Rights Act of 1964, 1991		
	§20-602, State Government Article, <i>Annotated Code of Maryland</i>		
	§6-113.1 Education Article, <i>Annotated Code of Maryland</i>		
Source Document	Board Policy 437 <i>Bullying – Harassment - Intimidation</i> and FCPS Regulation 400-48 <i>Bullying – Harassment – Intimidation Complaint Process for Students</i>		
	Board Policy 418 <i>Child Abuse and Neglect</i> and FCPS Regulation 400-47 <i>Reporting Abuse and Neglect</i>		
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