

Preventing and Addressing Student-on-
Student Acts of Sexual Harassment, Sexual
Assault, and Dating Violence in Elsie
Whitlow Stokes Community Freedom Public
Charter School

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I. Introduction

The School Safety Omnibus Amendment Act of 2018 (SSOAA) requires schools to adopt and implement a policy that prevents and addresses student-on-student acts of sexual harassment, sexual assault, and dating violence.¹ It also requires schools to provide training for staff at the time of hiring and at a minimum every two years thereafter on student-on-student acts of sexual harassment, assault, and dating violence. Additionally, schools must provide information for parents/guardians on recognizing the warning signs of student-on-student sexual harassment, sexual assault, and dating violence, as well as effective, age-appropriate methods for discussing such topics with students.

Title IX of the Education Amendments of 1972 (Title IX) also requires schools to respond to sexual harassment when the school has actual knowledge of sexual harassment that occurred within the school's education program or activity against a person in the United States.

Elsie Whitlow Stokes Community Freedom Public Charter School's (Stokes School) policy includes requirements for preventing student-on-student acts of sexual harassment, sexual assault, and dating violence as well as procedures for responding to allegations of such acts. For a list of definitions of key terms used throughout this policy, please consult [Appendix A](#).

Title IX Coordinators

The individuals designated to coordinate the school's response to reports or complaints of sexual harassment, sexual assault and dating violence and for overseeing the school's compliance with Title IX as it relates to students are:

Brookland Campus

Bobby Caballero – bobbyc@ewstokes.org: 3700 Oakview Terrace, NE Washington, DC 20017 – 202-265-7237

East End Campus

Abdul Karim Ewing Boyd – karime@ewstokes.org 5600 East Capitol Street, NE Washington, DC 20019 - 202-975-2100

Either Campus

Fresia Cortes – fresiac@ewstokes.org – 202-265-7237/202-975-2100

Situations that involve allegations of student-on-student acts of sexual harassment, sexual assault, and dating violence are highly sensitive and often complex. Schools shall always contact the Metropolitan Police Department (MPD) at 911 or the Child and Family Services Agency (CFSA) hotline at (202) 671-SAFE if they are uncertain about how to proceed with a situation, including if the school is unsure whether a situation rises to the level of criminal or mandatory reporting requirements under District or federal law. CFSA and MPD are available to consult with schools and a student's identity may be kept

¹ School Safety Omnibus Amendment Act of 2018: <http://lims.dccouncil.us/Download/40929/B22-0951-SignedAct.pdf>. Codified at DC Official Code § 38-952.01, *et seq.* Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9B/>

anonymous during a consultation. MPD and CFSA s collaborate closely to ensure the proper response and protection of students.

A. Scope of Policy

This policy applies to all campuses within Stokes School and to all students enrolled in Stokes School, regardless of sexual orientation or gender identity. All employees, contractors, and agents of Stokes School and all students enrolled in schools in *Stokes School* shall adhere to this policy. The policy applies to all actions that occur at school, during school events and activities regardless of their location, and during travel time to and from school, school events, and activities. It may also include contact over social media that create a hostile environment at school for the victim, infringe on the rights of the victim at school or materially and substantially disrupt the education process or the orderly operation of a school.

B. Prohibition of Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

Stokes School prohibits student-on-student acts of sexual harassment, sexual assault, and dating violence and takes seriously all allegations of such actions. When the school knows or reasonably should know that such an act has occurred, then the school shall take immediate and appropriate action to respond as outlined in this policy.

C. Key Considerations

As noted above, the policy applies to all actions that occur at school, during school events and activities regardless of their location, and during travel time to and from school, school events and activities. It may also include contact over social media that create a hostile environment at school for the victim, infringe on the rights of the victim at school or materially and substantially disrupt the education process or the orderly operation of a school. The school shall follow the Stokes School student discipline policies, as required by DC Official Code § 38-236.01 *et. seq*, to determine actions that fall within the school's responsibility to address as discipline matters.² Regardless of whether an action occurs within the school's scope of responsibility to address as a disciplinary matter, school staff shall always report any information of suspected criminal conduct to MPD by calling 911 or suspected abuse or neglect of a child within the child's home to CFSA by calling (202) 671-SAFE.

It may be necessary to consider the degree to which younger children are engaging in activities that are considered typical versus problematic. The CFSA hotline (202) 671-SAFE is available to talk with school staff to determine if behavior is developmentally appropriate or indicative of abuse.

II. Preventing Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

A. Informing the School Community about the Policy

At least once per school year, schools shall provide students, families, and school personnel with this policy and information about where complaints may be filed. In order to ensure that students and families are adequately informed about the policy and procedures, the school shall make this policy

² DC Official Code § 38-236.01, *et seq*. Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/38/chapters/2/subchapters/II/parts/C/>

available in the following locations: on the school's website, in the main office, in the school health suite, in the office of the school counselor and school social worker, and in the parent and student handbooks. Schools shall inform students about this policy in a developmentally appropriate manner. Schools are encouraged to use health curricula as a means to open conversations related to sexual harassment, sexual assault, and dating violence.³ This policy shall also be included in the Stokes School staff handbook.

B. Training

Stokes School recognizes the importance of educating its employees and students regarding the prevention of student-on-student acts of sexual harassment, sexual assault, and dating violence. Information on recognizing the warning signs of student-on-student acts of sexual harassment, sexual assault, and dating violence, as well as effective age-appropriate methods for discussing such topics with students, shall be made available for parents/guardians.⁴

Additionally, school staff shall receive training utilizing evidence-based standards on student-on-student acts of sexual harassment, sexual assault, and dating violence upon hiring and biennially thereafter.⁵ Staff training shall include instruction on the following:

- Identifying, responding to, and reporting student-on-student acts of sexual harassment, sexual assault, or dating violence, including any mandatory reporting requirements under District or federal law which may be triggered by such incidents;
- Communicating universal prevention techniques to students that increase their ability to set and communicate about appropriate boundaries, respect boundaries set by others, and build safe and positive relationships; and
- Receiving reports and disclosures from students regarding student-on-student acts of sexual harassment, sexual assault, or dating violence in a supportive, appropriate, and trauma-informed manner.

Title IX personnel involved in the informal resolution process and/or reporting and investigation processes will receive training on the following:

- The definition of sexual harassment;
- The scope of the school's education program or activity;
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes that protects the safety of complainants and promotes accountability;
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- Issues of relevance, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

³ Please see OSSE's "Curricula Guide for Meeting DC Health Education Standards and School Safety Omnibus Amendment Act of 2018 (SSOAA) Requirements" for a list of curricula that meet SSOAA's requirements: <https://osse.dc.gov/page/school-safety-omnibus-amendment-act-2018-ssoaa#resources>

⁴ DC Official Code § 38-952.02. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9B/>

⁵ DC Official Code § 38-952.02. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9B/>

III. Addressing Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

A. Reporting Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

1. Response to Reports

Any individual may report sexual harassment, sexual assault or dating violence – reports do not have to be made by the victim. Such reports can be made in person, by mail, by telephone, or by email, using the contact information listed for the Title IX coordinators below or by any other means that result in the Title IX coordinators receiving the report

Brookland Campus

Bobby Caballero – bobbyc@ewstokes.org: 3700 Oakview Terrace, NE Washington, DC 20017 – 202-265-7237

East End Campus

Abdul Karim Ewing Boyd – karime@ewstokes.org 5600 East Capitol Street, NE Washington, DC 20019 - 202-975-2100

Either Campus

Fresia Cortes – fresiac@ewstokes.org – 202-265-7237/202-975-2100

All staff members are required to report any sexual harassment, sexual assault, or dating violence they witness or are made aware of. Staff members should immediately record all such incidents in accordance with school procedures and notify the Title IX Coordinator or other administrator on duty.

Any student who believes that they have been the target of sexual harassment, sexual assault or dating violence or who is aware of such acts is strongly encouraged to promptly report the matter orally or in writing to the Title IX Coordinator, an administrator, or to any other faculty or staff member or member with whom the student is comfortable speaking. Also, any student who is subject to retaliation in violation of this policy or who knows of another student who has been subject to retaliation is urged to report it as soon as possible.

Anyone else who witnesses or becomes aware of sexual harassment, sexual assault or dating violence is also strongly urged to promptly notify the Title IX Coordinator.

Parents of students under 18 have the right to act on behalf of their child with respect to exercising the student's rights under Title IX or the SSOAA. This authority to act on behalf of the child applies

throughout all aspects of this policy, from reporting sexual harassment to considering appropriate and supportive measures; from choosing to file a formal complaint to participating in the grievance process. If there is a dispute between the parent and child, decisions on how to proceed will be made by the Title IX coordinator dependent on the circumstances.

When a report is made without a formal complaint, the Title IX coordinator will:

- Promptly contact the complainant to discuss the availability of supportive measures;
- Consider the complainant's wishes with respect to supportive measures;
- Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint;
- Explain to the complainant the process for filing a formal complaint.

If the complainant does not wish to proceed with a formal complaint, the complainant's wishes will be respected unless the Title IX Coordinator determines that initiating an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

The school will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the school's ability to provide the supportive measures.

Supportive measures include, but are not limited to, the following:

- Developing a safety plan;
- Providing counseling or other related supports to the complainant;
- Class/schedule changes;
- Changing locker locations;
- Allowing the complainant to withdraw from a class without penalty;
- Providing increased monitoring, supervision, or security at the locations or activities where the misconduct occurred;
- Providing an escort to ensure that the reporting student feels safe throughout the school building;
- Providing academic support, such as tutoring, for the reporting student;
- Considering steps to ensure safe passage to and from school for the student;
- Providing access to the school's behavioral health team;
- Providing referrals to community-based services; and
- Providing training and education materials for students and employees;
- Revising and publicizing the LEA's policies on sexual misconduct; and

- Conducting student, parent, and employee climate surveys regarding sexual misconduct.⁶
-

The school may not impose disciplinary sanctions (or other sanctions that are not “supportive measures”) against the respondent without conducting a formal investigation. However, the school may remove a respondent on an emergency basis if:

- It undertakes an individualized safety and risk analysis;
- Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
- Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

A formal complaint may be filed by the complainant, the complainant’s parent/legal guardian, or the Title IX coordinator if he/she determines that a formal investigation is needed.

Reporting students, parents, guardians, or other individuals may choose to simultaneously alert MPD by calling 911. Even if MPD is investigating, the school shall continue its own investigation, as legal standards for criminal investigations are different from the standards under Title IX. Schools shall not delay their investigation while the MPD investigation occurs. However, Stokes School will coordinate with MPD in an effort to avoid interviewing any involved parties until after MPD has conducted its interviews.

In cases of discrimination, a student may also choose to file a complaint with the US Department of Education [Office for Civil Rights \(OCR\)](https://www.ed.gov/about/offices/list/ocr/) or the District of Columbia [Office of Human Rights \(OHR\)](https://ohr.dc.gov/service/file-discrimination-complaint).^{7,8}

US Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Phone: (800) 421-3481
Fax: (202) 453-6012; TDD: (800) 877-8339
Email: OCR@ed.gov

DC Office of Human Rights
441 4th Street NW, Suite 570 North
Washington, DC 20001
Phone: (202) 727-4559
Fax: (202) 727-9589

⁶ White House Task Force to Protect Students from Sexual Assault (2016). *Considerations for School District Sexual Misconduct Policies*, 9. Retrieved from: <https://www.justice.gov/archives/ovw/page/file/900716/download>

⁷ Office for Civil Rights: <https://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>

⁸ Office of Human Rights: <https://ohr.dc.gov/service/file-discrimination-complaint>

TTY: 711

Email: ohr@dc.gov

2. Mandated Reporting

All school staff have the duty to report the complaint to appropriate school officials.⁹ Additionally, all mandated reporters of Stokes School are required to report any information of neglect and abuse of a child to MPD by calling 911 or to CFSA by calling (202) 671-SAFE.^{10,11} For more information on mandated reporter requirements, consult CFSA's [Mandated Reporter Training](#).¹² CFSA shall only be contacted if the alleged perpetrator of the abuse is the student's parent, guardian, or custodian. In all other cases, the school staff member shall file the report with MPD by calling 911.

The report shall include as much of the following information as possible:

- The name, address, age, and gender of the student;
- The individual allegedly perpetrating the sexual misconduct against the student;
- The nature and extent of the sexual misconduct, as the individual knows it – and any previous sexual misconduct that the individual may know about; and
- Any additional information that may be helpful.

There is no requirement that the reporter determine whether the report is substantiated. It is not the responsibility of school staff to prove that the student has been a victim of sexual misconduct or to determine whether the student is in need of protection. Criminal/child abuse and neglect investigations are the responsibility of CFSA and MPD. As such, such interviews with the student or suspected abuser shall not be conducted by school staff or school district employees. Notes of voluntary or spontaneous statements by the student shall be made and given to the investigating agency. Interviews conducted for the purposes of determining criminal conduct or determining child abuse by anyone other than the investigating agency (MPD or CFSA) could jeopardize proper handling of a child abuse or neglect case. Interviews conducted subsequent to the end of the investigating agencies' investigation for purposes of compliance with existing law are not prohibited.

School staff shall cooperate with CFSA and MPD personnel authorized to investigate reports of sexual misconduct, including by preserving any video footage, providing access to students, providing space for CFSA or MPD to conduct interviews, and allowing for the student to be interviewed without school staff present. The school shall also provide access to the school for sexual assault victim advocates or sexual assault youth victim advocates, who may be present during the MPD interview, consistent with DC

⁹ This sentence adapted from: US Department of Education Office for Civil Rights (January 2001). *Revised Sexual Harassment Guidance: Harassment of Students by Schools Employees, Other Students, or Third Parties: Title IX*, 13. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

¹⁰ DC Official Code § 4-1321.02. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/4/chapters/13/subchapters/II/>

¹¹ DC Official Code § 22-3020.52 (Pertaining to reporting requirements involving child victims of sexual abuse). Retrieved from: <https://code.dccouncil.us/dc/council/code/sections/22-3020.52.html>

¹² Mandated Reporter Training: <https://cfsa.dc.gov/service/mandated-reporter-training>

Official Code § 23-1908 and the Sexual Assault Victims' Rights Amendment Act of 2019.¹³ The school shall limit communication about the investigation to only those individuals who are required to know.

Any person making reports in good faith in an investigation of sexual misconduct between school staff and students is immune from any civil or criminal liability that otherwise might arise from those actions.¹⁴

Upon making the report to CFSA or MPD, school staff shall then promptly deliver the report to the Title IX Coordinator and the head of school.

3. Confidentiality

The school shall discuss confidentiality standards and concerns with the complainant. Some complainants may wish to remain anonymous. The school shall inform the complainant that a confidentiality request may limit the school's ability to respond. If the complainant continues to request to remain anonymous, then the school shall take all reasonable steps to investigate and respond to the complaint consistent with the complainant's request, as long as doing so does not prevent the school from responding effectively to the complaint and preventing the action from recurring with other students.

The school shall also consider the confidentiality needs of the respondent. Publicized accusations, if ultimately found to be false, may nevertheless irreparably damage the reputation of the accused student.

4. Retaliation

Retaliation against any person who has filed a complaint, or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this policy is prohibited, and therefore, subject to disciplinary action. Retaliation may include, but is not limited to, harassment, threats, taunting, spreading rumors, unauthorized disclosure of the details of an investigation, ostracism, assault, destruction of property, or any negative conduct toward participants in response to an investigation and the events causing it. Anyone found to have engaged in retaliation will be subject to disciplinary action. Participants in an investigation, including complainants, respondents, and witnesses, should report to the Title IX Coordinator any conduct that might reasonably constitute retaliation. If the Title IX Coordinator is the source of the retaliation, then the person alleging retaliation should contact the head of school.

B. Responding to Formal Complaints of Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

The school shall adhere to the following procedures when responding to formal complaints of student-on-student acts of sexual harassment, sexual assault, and dating violence.

¹³ DC Official Code § 23-1908. Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/23/chapters/19/subchapters/II/>, as amended by the Sexual Assault Victims' Rights Amendment Act of 2019. Retrieved from: <http://lims.dccouncil.us/Legislation/B23-0067>

¹⁴ DC Official Code § 22-3020.55 Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/subchapters/II-A/>

The school will promptly investigate any formal complaints received. Respondents will be presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation process.

Once an investigation is concluded, further steps will be taken as needed to interrupt or stop each specific act of sexual harassment, sexual assault or dating violence, prevent its recurrence, and address its effects, regardless of whether the incident is the subject of a criminal investigation.

Formal complaints will be investigated by either:

Brookland Campus

Bobby Caballero – bobbyc@ewstokes.org; 3700 Oakview Terrace, NE Washington, DC 20017 – 202-265-7237

East End Campus

Abdul Karim Ewing Boyd – karime@ewstokes.org; 5600 East Capitol Street, NE Washington, DC 20019 - 202-975-2100

Either Campus

Fresia Cortes – fresiac@ewstokes.org – 202-265-7237/202-975-2100

Once the investigation is complete, a decision will be rendered based on all of the evidence available. The decision-maker will be Erika Bryant, Executive Director.

1. Immediate Steps

In cases of criminal conduct or suspected abuse in the home, the school shall begin the following protocol after a report has been filed with CFSA or MPD and the Title IX Coordinator. In all other cases, the following protocol shall begin immediately after a formal complaint is made.

a. Acknowledgement of Receipt of Complaint

Information for Complainant

Within three business days of receipt of the complaint, the school's Title IX Coordinator shall acknowledge in writing receipt of the complaint and provide information to the complainant about:

- The investigation process and informal resolution process including a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of investigation process;
- The allegations including sufficient details known at the time including the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, sexual assault and/or dating violence, and the date and location of the alleged incident, if known;
- The complainant's right to have an advisor of his/her choice who may be, but is not required to be, an attorney;
- The right to inspect and review evidence;
- The prohibition against knowingly making false statements or knowingly submitting false information during the investigation process; and

- Available services and advocacy organizations, about the investigation process, about their rights under Title IX of the Education Amendments of 1972, the District of Columbia Human Rights Act of 1977, and crime victims' rights.

Information for Respondent

Within three business days of receipt of a formal complaint, the Title IX Coordinator will provide information to the respondent about:

- The investigation process and informal resolution process including a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of investigation process;
- The allegations including sufficient details known at the time including the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, sexual assault and/or dating violence, and the date and location of the alleged incident, if known;
- The respondent's right to have an advisor of his/her choice who may be, but is not required to be, an attorney;
- The right to inspect and review evidence; and
- The prohibition against knowingly making false statements or knowingly submitting false information during the investigation process.

2. Impartial Procedures for Investigating Complaints

Investigation

Complaints of sexual harassment, sexual assault or dating violence will be investigated in an adequate, reliable and impartial manner. Within four (4) business days of receipt of the complaint, the designated school personnel shall begin investigating the alleged acts. The school will make every effort to complete the investigation within thirty (30) days of receipt of a formal complaint. Extensions of this timeline will be permitted for good cause. If such an extension is exercised, the investigator will notify each party in writing of the reason for the extension. At the conclusion of the investigation period, the investigator will prepare an investigative report to share with the parties and decision-maker as outlined below.

The school will make every effort to protect confidentiality during the course of the investigation. The individual responsible for conducting the investigation will be responsible for making determinations about confidentiality.

Each investigation will include an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. The investigation may include interviewing. In an effort not to compromise the integrity of the law enforcement and child protective services investigation, the timing and manner of the school's investigation shall be coordinated with MPD and CFSA. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The

school will bear the burden of gathering evidence to reach a determination regarding responsibility for the alleged conduct. This investigation will include, as necessary, interviewing witnesses, obtaining documents, and allowing the complainant and respondent to present any inculpatory and exculpatory evidence including witnesses.

The complainant and respondent will have the same opportunity to have others share information on their behalf during any investigative proceeding and to be supported during any proceeding by an advisor of their choice who may be, but is not required to be, an attorney. The parties will be provided written notice if they are invited to participate in any investigative proceeding in person. The notice will include the date, time, location, participants, and purpose of any such proceeding, with sufficient time for the party to prepare to participate.

When talking with students about alleged incidents, the school shall inform students that they may have their parent/guardian present. Schools shall consider the student's age when determining whether it is appropriate to contact the parent/guardian prior to talking with the student. The school shall consider the safety of the student when encouraging the student to disclose the report to their parent/guardian. For example, students who identify as LGBTQ may not be comfortable disclosing dating violence to their parent/guardian, if the parent/guardian is not aware and supportive of the student's sexual identity, gender identity, or gender expression.¹⁵

Each party will have the same opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The evidence will be sent to each party in electronic format or hard copy at least 10 days prior to the completion of an investigative report so that the parties have an opportunity to submit a written response.

Upon its completion, the investigator will send to each party and the decision-maker an investigative report that fairly summarizes relevant evidence. The parties will be given at least ten (10) days to respond to the investigative report as outlined below.

Decision Making

At least ten (10) days prior to a decision being rendered, each party will have an opportunity to submit a written response to the investigative report which may include written, relevant questions that a party wants asked of any other party or witness. The decision maker will gather responses to those questions and provide those responses in writing to each party. The parties will have three (3) additional days to submit additional, limited follow-up questions. The decision-maker will make determinations about what questions are 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 questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

¹⁵ Lesbian, Gay, Bisexual, Transgender, Queer, and Questioning.

The decision-maker will review all evidence gathered through the investigative report and responses from each party and will make a determination as to responsibility for the alleged conduct. The decision-maker will use a clear and convincing standard (i.e., clear and convincing evidence establishes that the allegation is substantially more likely than not true) to determine responsibility. Once a determination is made, a written decision will be issued to both parties and will include the following:

- Summary of the allegations;
- Summary of the course and outcome of the investigation including any notifications to the parties, interviews with parties and witnesses, and other methods used to gather evidence;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the policy and code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and what other supportive measures will be made available to the complainant;
- Information about the procedures for appeal.

The decision-maker may notify appropriate law enforcement agencies if school staff determine that the behavior cannot be safely and appropriately handled through school-based disciplinary action. Law enforcement agencies will be notified if mandatory reporting requirements are triggered.

Appeals

Any party who not satisfied with the outcome of the investigation may appeal in writing to the Chair of Stokes School Board of Trustees. Appeals must be made within 30 days of the conclusion of the initial investigation. When an appeal is made, both parties will be notified of the appeal and will be given an opportunity to respond. The decision-maker for the appeal will not be the same decision-maker that reached the determination regarding responsibility, the investigator or the Title IX Coordinator.

The secondary investigation shall be completed within 30 days of receipt of an appeal, unless: (1) circumstances require additional time to complete a thorough investigation; (2) the higher-level authority sets forth those circumstances in writing; (3) the additional time is not to exceed 15 days. Upon completion of the appeal, the complainant and respondent will be notified in writing of the outcome of the appeal and the rationale for the result, any change to the result of the initial investigation and when such results become final.

The investigatory process shall be conducted by a school official or agent who receives at least annual training on the following:

1. The definition of sexual harassment;
2. The scope of the school's education program or activity;

3. How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes that protects the safety of complainants and promotes accountability;
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
5. Issues of relevance, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
6. Issues related to student-on-student acts of sexual harassment, sexual assault, or dating violence; and
7. How to conduct an investigation that protects the safety of reporting students and promotes accountability.

Disciplinary action shall be instituted and resolved immediately upon completion of the investigation. Disciplinary action shall be implemented in accordance with the Stokes School student discipline policies, as required by DC Official Code § 38-236.01 *et. seq.*¹⁶

3. Possible Responses When it is Determined that Sexual Harassment, Sexual Assault or Dating Violence Occurred

When it has been determined that sexual harassment, sexual assault or dating violence has occurred, possible responses include but are not limited to: counseling, changing the respondent's schedule to remove them from certain classes; placing them on a safety plan in place to limit interaction with the complainant; a tiered approach to discipline that incorporates restorative practices that the school employs. Responses may also include restrictions of movement within the building, restrictions related to after school activities, school trips, or in some instances suspension or expulsion of the respondent.

4. Resources for Affected Students and Families

The [DC Victim Hotline](#) is available 24/7 by telephone, text, or online chat.¹⁷ Through a partnership with the Mayor's Office of Victim Services and Justice Grants (OVSJG) and the National Center for Victims of Crime, the hotline provides comprehensive information, resources, and referrals in the District of Columbia. The DC Victim Hotline represents a collaboration of service providers in the District who are working to seamlessly connect victims of crime to free resources and to help them navigate the physical, financial, legal, and emotional repercussions of crime. To contact the Hotline, dial or text 1-844-4HELPDC (1-844-443-5732) or access the online chat at www.DCvictim.org/Chat.

Additionally, the school's behavioral health team is available to provide support for students, which may include individual counseling and referral for community-based services.

Please consult the following for lists of appropriate resources, services, and information for students and families affected by student-on-student acts of sexual harassment, sexual assault, and dating violence.

- [Department of Behavioral Health's \(DBH\) Behavioral Resource Directory](#).¹⁸

¹⁶ DC Official Code § 38-236.01, *et seq.* Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/38/chapters/2/subchapters/II/parts/C/>

¹⁷ DC Victim Hotline: <https://ovsjg.dc.gov/page/dc-victim-hotline-now-available>

¹⁸ DBH's Behavioral Resource Directory: <https://dbh.dc.gov/page/behavioral-health-resource-directory>

- [MPD's Sexual Assault Resources List](#).¹⁹
- [MPD's Victim Specialists Unit](#).²⁰ and
- [OSSE's Supporting Mental Health in Schools Resources List](#).²¹
- RAINN (National number to reach counselor anywhere in the country) - 1-800-656-HOPE (4673)
- National Sexual Violence Resource Center (Provides information about sexual violence) - 1-877-739-3895; www.nsvrc.org
- DC Rape Crisis Center - 202-333-RAPE (7273)
- Network for Victim Recovery of DC (NVRDC) (Provides free, holistic, and comprehensive case management and legal services to victims of all types of crime regardless of income.) - (202) 742-1727
- Men Can Stop Rape (Outreach and education and prevention work with men and boys.) - (202) 265-6530
- Safe Shores (DC Children's Advocacy Center) - (202) 645-320
- Wendt Center (offers individual and group counseling) – 202-204-5021

4. Counseling and Intervention for the Respondent

As mandated reports, school staff who know or have reasonable cause to believe that a student is a victim of sexual abuse must report that knowledge or belief to CFSA by calling (202) 671-SAFE or to MPD by calling 911.²² If the accused student's behavior indicates that they may be the victim of child sexual abuse or child abuse, then school staff shall follow [Mandated Reporting Guidelines](#).²³ Please note: CFSA shall only be contacted if the alleged perpetrator of the abuse is the student's parent, guardian, or custodian. In all other cases, the school staff member shall file the report with MPD.

Students who are alleged to have committed acts of student-on-student sexual harassment, sexual assault, or dating violence shall also be connected with appropriate counseling and intervention strategies, beginning with the school's behavioral health team. The school's behavioral health team may determine that the student should be connected with other resources, which may include resources from the Department of Behavioral Health's (DBH) [Behavioral Health Resource Link](#) or OSSE's [Supporting Mental Health in Schools Resources List](#).^{24,25}

¹⁹ MPD's Sexual Assault Resources List: <https://mpdc.dc.gov/node/137932>

²⁰ MPD's Victim Specialists Unit: <https://mpdc.dc.gov/node/141392>

²¹ OSSE's Supporting Mental Health in Schools Resources List: <https://osse.dc.gov/page/supporting-mental-health-schools>

²² DC Official Code § 4-1321.02. Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/4/chapters/13/subchapters/II/>

²³ Mandated Reporting Guidelines: <https://cfsa.dc.gov/service/mandated-reporter-training>

²⁴ DBH's Behavioral Health Resource Link: <https://washington.dc.networkofcare.org/mh/>

²⁵ OSSE's Supporting Mental Health in Schools Resources List: <https://osse.dc.gov/page/supporting-mental-health-schools>

Appendix A: Definitions

The following key terms and definitions apply throughout this policy to prevent and address student-on-student sexual harassment, sexual assault, and dating violence.

Complainant

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Consent

Consent means words or overt actions indicating a freely given agreement to a physical act within the course of an interpersonal relationship. Consent to a physical act or contact may be initially given but withdrawn at any time. Lack of verbal or physical resistance or submission by the victim due to their mental or physical incapacitation or impairment, or the use of force, threats, or coercion shall not constitute consent. Past words or actions indicating freely given agreement to a past physical act or contact shall not constitute consent to a future physical act or contact.²⁶

As appropriate, Stokes School will consider the age of the student (including the legal age of consent in the District of Columbia, as applicable), the nature of the conduct involved, and other relevant factors in determining whether a student had the capacity to consent to the sexual conduct. A student's participation in or acceptance of the conduct does not mean that they consented to the conduct. Some students may lack the ability to consent due, for example, to their age, intellectual or other disability, or incapacitation from the use of drugs or alcohol.²⁷

Dating Partner or Intimate Partner

A dating partner, or an intimate partner, is any person who is involved in a relationship with another person that is primarily characterized by social interaction of a sexual, romantic, or intimate nature, whether casual, serious, or long-term.²⁸

Dating Violence or Intimate Partner Violence

Dating violence is defined differently in local and Federal law. Stokes School will consider both definitions in determining whether dating violence occurred.

District of Columbia law defines dating violence as abusive or coercive behavior where a dating partner or intimate partner uses threats of, or actually uses, physical, emotional, economic, technological, or sexual abuse to exert power or control over a current or former dating partner or intimate partner.²⁹

Title IX defines dating violence as violence committed by a person—

- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

²⁶ DC Official Code § 38-824.02(b-2)(2)(A). Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/38/chapters/8A/subchapters/IV/>

²⁷ This paragraph adapted from: White House Task Force to Protect Students from Sexual Assault (2016).

Considerations for School District Sexual Misconduct Policies, 6. Retrieved from:

<https://www.justice.gov/archives/ovw/page/file/900716/download>

²⁸ DC Official Code § 38-952.01. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9B/>

²⁹ DC Official Code § 38-952.01. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9B/>

- (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
- (i) The length of the relationship.
 - (ii) The type of relationship.
 - (iii) The frequency of interaction between the persons involved in the relationship.

Formal Complaint

Formal complaint means a document filed by a complainant, complainant's parent/guardian or by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment.

Respondent

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

Retaliation

Retaliation is intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX.

Sexual Assault

Sexual assault is defined differently in local and Federal law. Stokes School will consider both definitions in determining whether sexual assault occurred.

District of Columbia law defines sexual assault as any of the following offenses:

- **First degree sexual abuse:** Engaging in or forcing another person to engage in or submit to a sexual act in the following manner:
 - By using force against that other person;
 - By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;
 - After rendering that other person unconscious; or
 - After administering to that other person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.³⁰
- **Second degree sexual abuse:** Engaging in or causing another person to engage in or submit to a sexual act in the following manner:

³⁰ DC Official Code § 22–3002. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

- o By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or
- o Where the person knows or has reason to know that the other person is:
 - Incapable of appraising the nature of the conduct;
 - Incapable of declining participation in that sexual act; or
 - Incapable of communicating unwillingness to engage in that sexual act.³¹
- **Third degree sexual abuse:** Engaging in or causing sexual contact with or by another person in the following manner:
 - o By using force against that other person;
 - o By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;
 - o After rendering that person unconscious; or
 - o After administering to that person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.³²
- **Fourth degree sexual abuse:** Engaging in or causing sexual contact with or by another person in the following manner:
 - o By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or
 - o Where the person knows or has reason to know that the other person is:
 - Incapable of appraising the nature of the conduct;
 - Incapable of declining participation in that sexual contact; or
 - Incapable of communicating unwillingness to engage in that sexual contact.³³
- **Misdemeanor sexual abuse:** Engaging in a sexual act or sexual contact with another person when one should have knowledge or reason to know that the act was committed without that other person's permission.³⁴

³¹ DC Official Code § 22–3003. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

³² DC Official Code § 22–3004. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

³³ DC Official Code § 22–3005. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

³⁴ DC Official Code § 22–3006. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

- **Attempts to commit sexual offenses:** Attempting to commit any offense defined above.³⁵

Title IX defines sexual assault as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Sexual Harassment

Sexual harassment is defined differently in local and Federal law. Stokes School will consider both definitions in determining whether sexual harassment occurred.

District of Columbia law defines sexual harassment as any unwelcome or uninvited sexual advances, requests for sexual favors, sexually motivated physical conduct, stalking, or other verbal or physical conduct of a sexual nature that can be reasonably predicted to:

- Place the victim in reasonable fear of physical harm to their person;
- Cause a substantial detrimental effect to the victim's physical or mental health;
- Substantially interfere with the victim's academic performance or attendance at school; or
- Substantially interfere with the victim's ability to participate in, or benefit from, the services, activities, or privileges provided by a school.³⁶

Title IX of the Education Amendments of 1972 ("Title IX") defines sexual harassment as conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or

³⁵ DC Official Code § 22–3018. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

³⁶ DC Official Code § 38.952.01. Retrieved from: <https://code.dccouncil.us/dc/council/code/sections/38-952.01.html>

3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v)³⁷, “dating violence” as defined in 34 U.S.C. 12291(a)(10)³⁸, “domestic violence” as defined in 34 U.S.C. 12291(a)(8)³⁹, or “stalking” as defined in 34 U.S.C. 12291(a)(30)⁴⁰.

Supportive Measures

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

³⁷ An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

³⁸ Violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

³⁹ Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

⁴⁰ Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) fear for his or her safety or the safety of others; or

(B) suffer substantial emotional distress.