

## STUDENT SERVICES

File: JFHA-R

### PROHIBITION AGAINST HARASSMENT AND RETALIATION

The Charlottesville City School Division prohibits sexual harassment and harassment based on sex, gender, race, color, national origin, disability, religion, ancestry, age, marital or veteran's status, physical or mental genetic information, sexual orientation, gender identity or expression, or any classification protected by applicable law or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity.

1. It shall be a violation of Policy JFHA, the Code of Student Conduct, and this regulation for any student or school personnel to harass any school personnel or students sexually, or based on sex, gender, race, color, national origin, disability, religion, ancestry, age, marital or veteran's status, physical or mental genetic information, sexual orientation, gender identity or expression, or any classification protected by applicable law or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity.
2. Further, it shall be a violation of this regulation for any school personnel to tolerate sexual harassment or harassment based on a student's or employee's sex, gender, race, color, national origin, disability, religion, ancestry, age, marital or veteran's status, physical or mental genetic information, sexual orientation, gender identity or expression, or any classification protected by applicable law or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity by students, school personnel or third parties participating in, observing or otherwise engaged in school sponsored activities.
3. For the purpose of this regulation, school personnel includes school board members, school employees, agents, volunteers, contractors or other persons subject to the supervision and control of Charlottesville City Schools. Students include any students enrolled with Charlottesville City Schools.
4. Charlottesville City Schools shall: (1) promptly investigate all complaints, written or verbal, of sexual harassment and harassment based on race, national origin, disability or religion; (2) promptly take appropriate action to stop any harassment and (3) take appropriate action against any student or school personnel who violates the policy or these regulations and take any other action reasonably calculated to end and prevent further harassment of school personnel.
5. Compliance Officer and Alternate Compliance Officer
  - A. The Compliance Officer is the Director of Student Services and Achievement, 1562 Dairy Road, Charlottesville, VA 22901. The Alternate Compliance Officer will be the Assistant Superintendent for

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Administrative Services also located at 1562 Dairy Road, Charlottesville, VA 22901. Both officers may be contacted at 434 245-2400. All students will be notified of the name, office address and telephone number of the officers. The Compliance Officer shall:

- receive reports or complaints of harassment;
- oversee the investigation of any alleged harassment;
- assess the training needs of the school division in connection with this regulation;
- arrange necessary training to achieve this regulation;
- insure that any harassment investigation is conducted by an impartial investigator who is trained in the requirements of equal education opportunity including the authority to protect the alleged victim and others during the investigation.

### Complaint Procedure

#### A. Formal Procedure

##### 1. File Report

- a. Any student who believes he or she has been the victim of sexual harassment or harassment based on race, national origin, religion or disability by a student, school personnel or a third party should report the alleged harassment to one of the compliance officers designated in this regulation or to any school personnel.
- b. The alleged harassment should be reported as soon as possible, and the report generally should be made within fifteen (15) school days of the occurrence.
- c. Further, any student who has knowledge of conduct which may constitute prohibited harassment should report such conduct to one of the compliance officers designated in this regulation or to any school personnel.
- d. Any school personnel who has notice that a student or other school personnel may have been a victim of prohibited harassment shall immediately report the alleged harassment to one of the compliance officers designated in this regulation.

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- e. The reporting party should use the form, Report of Harassment, GAB/JFHA-F, to make complaints of harassment. However, oral reports and other written reports shall also be accepted. The complaint should be filed with either the building principal or one of the compliance officers designated in these regulations.
- f. The principal shall immediately forward any report of alleged prohibited harassment to the compliance officer.
- g. Any complaint that involves the compliance officer or principal shall be reported to the Superintendent.
- h. The complaint, and identity of the complainant and alleged harasser, will be disclosed only to the extent necessary to fully investigate the complaint and only when such disclosure is required or permitted by law. Additionally, a complainant who wishes to remain anonymous shall be advised that such confidentiality may limit the school division's ability to fully respond to the complaint.

### 2. Investigation

- a. Upon receipt of a report of alleged prohibited harassment, the compliance officer shall immediately authorize or undertake an investigation.
- b. The investigation may be conducted by school personnel or a third party designated by the CCS.
- c. The investigation shall be completed as soon as practicable, which generally should be not later than 14 calendar days after receipt of the report by the compliance officer.
- d. Upon receiving the complaint, the compliance officer shall acknowledge receipt of the complaint by giving written notice that the complaint has been received to both the person complaining of harassment and the person accused of harassment.
- e. Also upon receiving the complaint, the compliance officer shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the alleged harasser and the complainant and, in cases involving potential criminal conduct, determining whether law enforcement officials should be notified.

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- f. If the compliance officer determines that more than 14 days will be required to investigate the complaint, the complainant and the accused shall be notified of the reason for the extended investigation and of the date by which the investigation will be concluded.
- g. If the alleged harassment may also constitute child abuse, then it must be reported to the Department of Social Service in accordance with Policy JHG. Regulations and procedures for reporting child abuse or neglect cases shall then be followed and this regulation stopped pending the outcome of the child abuse and neglect process.
- h. The investigation may consist of personal interviews with the complainant, the alleged harasser, and any others who may have knowledge of the alleged harassment or the circumstances giving rise to the complaint.
- i. The investigation may also consist of the inspection of any other documents or information deemed relevant by the investigator.
- j. The school division shall take necessary steps to protect the complainant and others pending the completion of the investigation.
- k. In determining whether alleged conduct constitutes a violation of the policy or these regulations, the CCS administrators shall consider, at a minimum: (1) the surrounding circumstances; (2) the nature of the behavior; (3) past incidents or past or continuing patterns of behavior; (4) the relationship between the parties; (5) how often the conduct occurred; (6) the identity of the alleged perpetrator in relation to the alleged victim (i.e. whether the alleged perpetrator was in a position of power over the alleged victim); (7) the location of the alleged harassment; (8) the ages of the parties and (9) the context in which the alleged incidents occurred.
- l. Determining if a particular action or incident constitutes a violation of the policy or these regulations may require a case by case determination based on all of the facts and circumstances revealed after a complete and thorough investigation.
- m. The compliance officer shall issue a written report to the Superintendent upon completion of the investigation.

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- n. If the complaint involves the Superintendent, then the report shall be sent to the School Board. The report shall include a determination of whether the allegations are substantiated, whether the policy or these regulations were violated and recommendations for corrective action, if any.
  - o. All employees shall cooperate with any investigation of alleged harassment conducted under the policy, these regulations or by an appropriate state or federal agency.
3. Action by Superintendent
- a. Within 5 calendar days of receiving the compliance officer's report, the Superintendent or designee shall issue a decision regarding whether the policy or these regulations were violated.
  - b. This decision must be provided in writing to the complainant and the alleged perpetrator.
  - c. If the Superintendent or designee determines that prohibited harassment occurred, the Superintendent or designee shall take prompt, appropriate action to address and remedy the violation as well as prevent any recurrence. Such action may include discipline up to and including expulsion or discharge.
  - d. Whether or not the Superintendent or designee determines that prohibited harassment occurred, the Superintendent or designee may determine that school-wide or division-wide training be conducted or that the complainant receive counseling.
4. Appeal
- a. If the Superintendent or designee determines that no prohibited harassment occurred, the student who was allegedly subjected to harassment may appeal this finding to the School Board within 5 calendar days of receiving the decision.
  - b. Notice of appeal must be filed with the Superintendent who shall forward the record to the School Board.
  - c. The School Board shall make a decision within 30 calendar days of receiving the record. The School Board may ask for oral or written argument from the aggrieved party and the Superintendent and any other individual the School Board deems relevant.

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- d. If the Superintendent or designee determines that prohibited harassment occurred and discipline is imposed, the disciplined person may appeal the disciplinary sanction in the same manner as any other such sanction would be appealed.

### B. Informal Procedure

1. If the complainant and the person accused of the harassment agree, the student's principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher or administrator.
2. If the complainant and the person accused of harassment agree to resolve the complaint informally, they shall each be informed they have the right to abandon the informal process at any time in the favor of the initiation of the Formal Procedures set forth herein. The principal or designee shall notify the complainant and the person accused of harassment in writing when the complaint has been resolved.
3. The written notice shall state whether prohibited harassment occurred.

### Retaliation

1. Retaliation against students or school personnel who report harassment or participate in any related proceedings is prohibited.
2. CCS administrators shall take appropriate actions against students who retaliate against any student or school personnel who reports alleged harassment or participates in related proceedings.

### Right to Alternative Complaint Procedure

1. Nothing in this regulation shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited harassment including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law.

### Prevention and Notice of Policy

1. Training to prevent sexual harassment and harassment based on race, national origin, disability and religion should be included in student orientations.

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2. Policy JFHA shall be (1) displayed in prominent areas of each division building in a location accessible to students, parents and school personnel, (2) a summary included in the student handbooks; and (3) sent to parents of all students within 30 calendar days of the start of school
3. Further, all students, and their parents/guardians, and employees shall be notified annually of the names and contact information of the compliance officers.

### False Charges

1. School personnel who knowingly make false charges of harassment shall be subject to disciplinary action as well as any civil or criminal legal proceedings.

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Legal References: 20 *U.S.C.* §§ 1681-1688.  
29 *U.S.C.* § 794.  
42 *U.S.C.* §§ 2000d-2000d-7  
42 *U.S.C.* §§ 2000e-2000e-17  
34 *C.F.R.* part 106.9

Cross References: AC Nondiscrimination  
AD Educational Philosophy  
GB Equal Employment Opportunity/Nondiscrimination  
JB Equal Educational Opportunities/Nondiscrimination  
JFC Student Conduct  
JFC-R Standards of Student Conduct  
GCPD Professional Staff Members: Contract Status and Discipline  
JHG Child Abuse and Neglect Reporting  
KKA Service Animals in Public Schools