

Preventing and Addressing Student Sexual
Abuse by School Staff in *Capital City 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 sexual abuse by school staff.¹ It also requires schools to provide training for staff at the time of hiring and at a minimum every two years thereafter on sexual misconduct, student sexual abuse, and child abuse. Additionally, schools must provide training and information for parents/guardians on an annual basis regarding child abuse, sexual misconduct, and student sexual abuse. Capital City Public Charter School (Capital City) is committed to implementing best practices to prevent and respond to student sexual abuse.

Capital City's policy includes requirements for preventing student sexual abuse as well as procedures for responding to allegations of student sexual abuse. For a list of definitions of key terms used throughout this policy, please consult [Appendix A](#).

A. Scope of Policy

This policy applies to all Capital City campuses and all school staff and students, regardless of sexual orientation or gender identity. All employees, contractors, and agents of the school will adhere to this policy. The policy applies to all actions that occur between school staff and students.

This policy describes steps that Capital City staff are required to take when they possess knowledge of actual or alleged sexual misconduct, sexual abuse, sexual contact, and/or sexual acts between students and staff, consistent with DC Official Code § 4-1321.01, *et seq.*² This policy does not replace Capital City's human resources policies for investigating and taking personnel action for misconduct that does not rise to the level of an investigation by the Child and Family Services Agency (CFSA) or the Metropolitan Police Department (MPD).

B. Prohibition of Student Sexual Abuse by School Staff

Capital City prohibits actions of student sexual abuse by school staff. Any behavior by school staff toward a student that is unwelcome conduct of a sexual nature and would reasonably cause the student to feel uncomfortable is prohibited, regardless of whether such behavior is complained of by the student, the behavior is overtly sexual, or such behavior could constitute a crime. These behaviors may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.³ The school takes seriously all allegations of student sexual abuse. When the school knows or reasonably should know that such an act has occurred, the school will take immediate action and follow the procedures outlined in this policy. The school will act upon any knowledge of abuse, regardless of whether the student who was abused has filed a complaint or has otherwise notified the school.

¹ School Safety Omnibus Amendment Act of 2018:
<http://lims.dccouncil.us/Download/40929/B22-0951-SignedAct.pdf>. Codified at DC Official Code § 38-951.01, *et seq.* Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>.

² DC Official Code § 4-1321.01, *et seq.* Retrieved from:
<https://code.dccouncil.us/dc/council/code/titles/4/chapters/13/subchapters/II/>

³ 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*, 2. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

C. Key Considerations

Situations that involve allegations of student sexual abuse by school staff are highly sensitive and often complex. Capital City personnel, as mandated reporters, will always contact the CFSA hotline at (202) 671-SAFE or MPD at 911 if they are uncertain about how to proceed with a situation. CFSA and MPD indicate they are available to consult with schools, and that the two agencies closely collaborate with each other to ensure the proper response and protection of students.

II. Preventing Student Sexual Abuse by School Staff

A. Informing the School Community about the Policy

Capital City will provide students, families, and school personnel with this policy and information about where complaints may be filed as part of annual distribution of our student handbooks and personnel policies. In order to ensure that students and families are adequately informed about the policy and procedures, the school will make this policy available on the school's website, in the human resource information system, in the office of the school counselor and school social worker, and in the parent and student handbooks.⁴ Capital City will inform students of this policy in a developmentally appropriate manner, and will use health curricula as a means to open conversations related to safety and sexual abuse.⁵

B. Training

Capital City recognizes the importance of educating its employees and families regarding the prevention of sexual abuse between staff and students.

In addition to [mandated reporter training](#),⁶ school staff will receive training on sexual misconduct, sexual abuse, and child abuse upon hiring and biennially thereafter.⁷ Staff training will include instruction on the following:

- Recognizing and reporting sexual misconduct, student sexual abuse, and child abuse;
- Receiving disclosures of sexual misconduct, student sexual abuse, and child abuse in a supportive, appropriate, and trauma-informed manner;
- Prevention, warning signs, and effects of sexual misconduct, student sexual abuse, and child abuse; and
- Communicating with students and parents regarding reporting and preventing sexual misconduct, student sexual abuse, and child abuse.⁸

⁴ 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*, 20. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

⁵ 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>

⁶ Mandated Reporter Training: <https://cfsa.dc.gov/service/mandated-reporter-training>

⁷ DC Official Code § 38-951.02(c)(1). Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>

⁸ DC Official Code § 38-951.02(c)(1). Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>

Training and information on sexual misconduct, sexual abuse, and child abuse will also be made available for parents/guardians annually.⁹ Training for parents/guardians will include instruction on the following:

- Recognizing and reporting sexual misconduct, student sexual abuse, and child abuse;
- Receiving disclosures of sexual misconduct, student sexual abuse, and child abuse in a supportive, appropriate, and trauma-informed manner;
- Prevention, warning signs, and effects of sexual misconduct, student sexual abuse, and child abuse;
- Effective, developmentally-appropriate methods for discussing sexual misconduct, student sexual abuse, and child abuse; and
- School and community resources available to assist with the prevention of, and response to, sexual misconduct, student sexual abuse, and child abuse.¹⁰

C. Interactions between School Staff and Students

Capital City will always view any sexual activity between any staff, contractor, volunteer, or agent of the school and any student below the age of 21 years enrolled in the school or school system as unwelcome and nonconsensual.¹¹

When meeting or communicating with a student one-on-one, Capital City staff will follow these guidelines:

- To the maximum extent possible, meet in a public place where both the staff member and the student are in full view of others.
- Avoid physical contact that can be misinterpreted.
- If meeting in a room or office, leave the door open or move to an area that can be clearly observed by others if passing by. If the door must be closed due to a confidential setting (e.g., a mental health counseling session), then ensure that the window is not blocked so that anyone walking by can view into the room, unless blocking the window is necessary for confidentiality (e.g., a mental health counseling session).
- Document and immediately report any unusual incidents, including disclosures of abuse or maltreatment, behavior problems and how they were handled, injuries, or any interactions that might be misinterpreted.
- Always email students from school-issued email addresses. Always text students using school-issued texting system (e.g., Remind software). If it is ever necessary to send or reply to emails and text messages from students on non-school-issued systems, copy a supervisor and/or the students' parent/guardian.

⁹ DC Official Code § 38-951.02(c)(2). Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>

¹⁰ DC Official Code § 38-951.02(c)(2). Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>

¹¹ DC Official Code § 22-3009.03-04. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

The following sections are adapted from the DC Public Charter School Board’s *Model D.C. Public Charter School Student Protection Policy* and outline examples of types of contact between school staff and students that are inappropriate.¹² While these lists are not exhaustive, they serve as a guide for conduct. Ultimately, each situation will be considered on a case-by-case basis.

Mode of Contact	Examples of Inappropriate Interactions
Physical Contact	<ul style="list-style-type: none"> ● Kisses ● Showing affection in isolated areas ● School staff sleeping in a bed with a student ● Allowing students older than kindergarten-age to sit on personnel’s knees ● Wrestling ● Piggyback rides ● Tickling ● Allowing a student to cling to a school staff member’s leg ● Any type of massage given by or to a student ● Any form of affection that is unwanted by the student ● Touching stomach, bottom, chest, or genital areas
Verbal Interactions	<ul style="list-style-type: none"> ● Compliments related to physique or body development ● Discussing sexual encounters or in any way involving students in the personal problems or issues of school staff ● Off-color or sexual jokes
Interactions Outside of School	<ul style="list-style-type: none"> ● Taking one student on an outing, even with the parent/guardian’s written permission ● Visiting one student in the student’s home, without a parent/guardian present ● Entertaining one student in the staff member’s home ● Students spending the night in the staff member’s home
Electronic and Telephonic Interactions	<ul style="list-style-type: none"> ● Any private electronic communication or image sharing, including via text, instant message, personal email accounts, or the use of social networking websites for direct messaging students ● Posting pictures of students on personal social media sites ● Adding students as friends on personal social media sites ● Any personal telephonic communication, including texting, voice calls, and video calls, or any such communication that does not comply with rules around copying supervisor or a student’s parent or guardian.

D. Prohibition Against Assisting Employment of Perpetrators of Child Sexual Abuse Offenses

In addition to the prohibition outlined in SSOAA,¹³ the Every Student Succeeds Act (ESSA) also includes provisions that prevent school staff from assisting in the employment of perpetrators of child sexual

¹² Praesidium (2018). *Model D.C. Public Charter School Student Protection Policy*.

¹³ DC Official Code § 32.1131.01, *et seq.* Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/32/chapters/11A/#>

abuse.¹⁴ Capital City employees, contractors, and agents are prohibited from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.¹⁵ This means that Capital City staff members may not help perpetrators by giving recommendations to prospective employers. This prohibition will not apply if the information giving rise to probable cause has been reported to a law enforcement agency with jurisdiction over the alleged sexual misconduct or sexual assault and any other appropriate authorities as required by federal and District law and one of the following conditions is true:

1. The matter has been officially closed, or the United States Attorney’s Office for the District of Columbia or MPD has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the employee, contractor, or agent engaged in sexual misconduct or sexual abuse regarding a minor or student in violation of District or federal law; or
2. The employee, contractor, or agent has been charged with and acquitted or otherwise exonerated of the alleged misconduct or abuse; or
3. The case or investigation remains open and there have been no charges filed against, or indictment of, the employee, contractor, or agent within four years of the date on which the information was reported to the United States Attorney’s Office for the District of Columbia or the MPD.

Any school employee, contractor, or agent who knowingly assists another school employee, contractor, or agent who is known or believed to have engaged in sexual misconduct regarding a minor or student will be subject to appropriate disciplinary action in accordance with the Capital City personnel policies, up to and including termination of employment.

Capital City will maintain records of all allegations of sexual misconduct, child abuse, or the failure to report child abuse, as well as the outcome of any subsequent investigation for all school employees, contractors, or agents. Capital City will provide this information when contacted by another LEA or school that is considering hiring the applicant.¹⁶

III. Addressing Student Sexual Abuse by School Staff

The following sections detail avenues and requirements for reporting as well as key considerations for schools.

¹⁴ 20 US Code § 7926. Retrieved from: <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section7926&num=0&edition=prelim>

¹⁵ 20 US Code § 7926. Retrieved from: <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section7926&num=0&edition=prelim>

¹⁶ DC Official Code § 38-951.03(b). Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>

A. Reporting Student Sexual Abuse

1. Student, Parent, and Guardian Reporting

Students, parents, guardians, and other individuals are encouraged to file complaints as soon as possible after the alleged act; however, no time limit will be placed upon when a complaint may be filed.

Complaints, including anonymous complaints, may occur through any form of communication, including in writing, via telephone, or via in-person conversation. Complaints will be filed with the Capital City Title IX Coordinator (Chief Operating Officer, Jonathan Weinstein, jweinstein@ccpcs.org). The name, office address, and contact information for the Title IX Coordinator is also available on the Capital City website (www.ccpcs.org) and in the main office. If a student, parent, guardian, or other individual files a report of student sexual abuse with a school staff member other than the Title IX Coordinator, then that school staff member will immediately follow mandated reporter requirements to alert MPD by calling 911. The staff member will then report the information to the Title IX Coordinator.

Reporting students, parents, guardians, or other individuals may choose to simultaneously alert MPD by calling 911. Even if MPD is investigating, the school will continue its own investigation, as legal standards for criminal investigations are different from the standards under Title IX. Capital City will not delay its investigation while the MPD investigation occurs. Capital City will make every effort to coordinate with MPD so as not to interfere with MPD's investigation.

If a reporting student decides against filing a formal complaint, Capital City will still investigate and take appropriate steps to resolve the situation and ensure the safety of all students. Furthermore, Capital City will investigate any incidents of misconduct involving direct observation by school staff, regardless of whether the student files a report or requests any action.¹⁷ 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 will be coordinated with both of those entities.

In cases of discrimination, a student may also choose to file a complaint with the US Department of Education [Office for Civil Rights \(OCR\)](#) or the District of Columbia [Office of Human Rights \(OHR\)](#).^{18,19}

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

¹⁷ This paragraph 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*, 15. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

¹⁸ Office for Civil Rights: <https://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>

¹⁹ Office of Human Rights: <https://ohr.dc.gov/service/file-discrimination-complaint>

Washington, DC 20001
Phone: (202) 727-4559
Fax: (202) 727-9589
TTY: 711
Email: ohr@dc.gov

2. Mandated Reporting by School Staff

All Capital City staff have the duty to report the complaint to appropriate school officials.²⁰ Additionally, all mandated reporters of Capital City 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.^{21,22} For more information on mandated reporter requirements, consult CFSA's [Mandated Reporter Training](#).²³ CFSA will 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 will file the report with MPD by calling 911.

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

- The name, address, age, and gender of the student;
- The staff member 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, Capital City will not conduct interviews with the student or suspected staff member abuser without coordinating with the public agencies conducting outside investigations. Notes of voluntary or spontaneous statements by the student will be made and given to the investigating agency. Capital City recognizes that 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, but may still need to conduct internal investigations related to human resources and employment policies.

Capital City Staff staff will 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 coordinating with a student's parent or guardian to facilitate CFSA or MPD interviews as appropriate. The school will also provide access to the school for

²⁰ 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>

²¹ DC Official Code § 4-1321.02. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/4/chapters/13/subchapters/II/>

²² 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>

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

sexual assault victim advocates or sexual assault youth victim advocates, who may be present during the MPD interview, consistent with DC Official Code § 23-1908 and the Sexual Assault Victims' Rights Amendment Act of 2019.²⁴

The school will 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.²⁵

Upon making the report to CFSA or MPD, school staff will then promptly deliver the report to the Title IX Coordinator and the head of school. In an instance where the Title IX Coordinator and/or the head of school is the subject of the report, the school will designate an alternative reporting person.

3. Confidentiality

Capital City will discuss confidentiality standards and concerns with the reporter. Every effort will be taken to protect the confidentiality of reporting students in accordance with Title IX of the Education Amendments of 1972.²⁶ If a reporting student requests to remain anonymous, Capital City will take all reasonable steps to investigate and respond to the complaint consistent with the reporting student'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.²⁷

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 a party engaged in retaliatory behavior will be 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 or criminal action. Participants in an investigation, including victims, 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 or the designated alternative reporting person.

²⁴ 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>

²⁵ DC Official Code § 22-3020.55 Retrieved from:

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

²⁶ 20 US Code §§ 1681, *et seq.* Retrieved from:

<http://uscode.house.gov/view.xhtml?path=/prelim@title20/chapter38&edition=prelim>

²⁷ This paragraph 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*, 17. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>.

B. Responding to Allegations of Student Sexual Abuse by School Staff

Capital City will adhere to the following procedures when responding to allegations of student sexual abuse by school staff.

1. Immediate Steps

After a report has been filed with CFSA or MPD and the Title IX Coordinator, the school will immediately begin the following protocol.

a. Acknowledgement of Receipt of Complaint

Within a reasonable number of days, but in no case more than three business days, of receipt of the complaint, the school's Title IX Coordinator will acknowledge in writing receipt of the complaint and inform the reporting student, parent, guardian, or staff member of the steps of the investigatory process.

b. Interim Measures to Protect the Safety of the Student Experiencing Alleged Student Sexual Abuse

Upon becoming aware of any allegation of student sexual abuse, the school will take immediate actions to interrupt or stop the occurrence, prevent its recurrence, and address its effects. These actions will occur regardless of whether the incident is the subject of criminal investigation. Responsive measures will be designed to minimize, as much as possible, the burden on the reporting student. In order to protect, as much as possible, the confidentiality of the reporting student, responsive measures will only be shared with school staff who are actively involved in their implementation. The school will formalize the actions it is taking in a written action plan. These actions may include the following:

- Altering the reporting student's and/or the accused staff member's schedule to minimize or eliminate contact between them. Preference will always be given to maintaining the reporting student's schedule and modifying the accused staff member's schedule;
- Changing locker locations;
- Allowing the reporting student to withdraw from a class without penalty;
- 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
- Placing the staff member on administrative leave while the investigation occurs.

2. Informing the School Community

Capital City will work with MPD to determine when it is appropriate to notify the school community, including parents/guardians, of a complaint. Each complaint will be considered on a case-by-case basis, and the appropriate communication will then be developed. Capital City will take care not to compromise the investigation by releasing information prior to consulting with MPD. Capital City's statement to our community may contain the following information:

- 1) A statement that an investigation into sexual misconduct is taking place at the school; and
- 2) Information about the administrative action taken by the school to ensure that the alleged offender, at a minimum, has no unsupervised contact with students.

In order to ensure the integrity of the investigation and to comply with confidentiality requirements, the school will make every effort to prevent disclosure of the name of the reporting student, the name of the accused staff member, and the name(s) of any witness(es).²⁸ Publicized accusations, if ultimately found to be false, may nevertheless irreparably damage the reputation of the accused staff member.²⁹

3. Impartial Procedures for Investigating Complaints

Capital City will comply with Title IX guidance to complete the school's investigation of complaints.³⁰ Disciplinary action will be instituted and resolved immediately upon completion of the investigation, in accordance with Capital City's grievance procedures and personnel policies.

4. Resources for Affected Students and Families

The [DC Victim Hotline](#) is available 24/7 by telephone, text, or online chat to provide³¹ comprehensive information, resources, and referrals in the District of Columbia. 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 sexual abuse.

- [Department of Behavioral Health's \(DBH\) Behavioral Resource Directory](#);³²
- [MPD's Sexual Assault Resources List](#);³³
- [MPD's Victim Specialists Unit](#);³⁴ [and](#)
- [OSSE's Supporting Mental Health in Schools Resources List](#).³⁵

²⁸ 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*, 16. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

²⁹ This paragraph 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*, 18. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

³⁰ See 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*, 16. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

³¹ DC Victim Hotline: <https://ovsjg.dc.gov/page/dc-victim-hotline-now-available>

³² DBH's Behavioral Resource Directory: <https://dbh.dc.gov/page/behavioral-health-resource-directory>

³³ MPD's Sexual Assault Resources List: <https://mpdc.dc.gov/node/137932>

³⁴ MPD's Victim Specialists Unit: <https://mpdc.dc.gov/node/141392>

³⁵ 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 to this policy to prevent and address student sexual abuse by school staff.

Accused Staff Member

The accused staff member is the person or persons who are alleged to have committed the act resulting in the complaint. The accused staff member may be any employee or volunteer of a school, or an employee of an entity with whom the school contracts, who acts as an agent of the school at the school or during activities sponsored by the school.³⁶

Child Abuse

Child abuse is the infliction of physical or mental injury upon a child, sexual abuse or exploitation of a child, or the negligent treatment or maltreatment of a child.³⁷

Child

For the purposes of this policy, a child is any student who has not yet attained the age of 16.

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 will not constitute consent. Past words or actions indicating freely given agreement to a past physical act or contact will not constitute consent to a future physical act or contact.³⁸

Capital City will always view as unwelcome and nonconsensual any sexual activity between any teacher, counselor, principal, coach, or other person of authority and any student below the age of 20 years enrolled in the school or school system.³⁹

Minor

For the purposes of this policy, a minor is any student who has not yet attained the age of 18.⁴⁰

Reporting Student

The reporting student is the individual who reports a complaint. A parent/guardian or a school staff member may also make a report on behalf of a student.

Sexual Act

A sexual act means:

(A) The penetration, however slight, of the anus or vulva of another by a penis;

³⁶ DC Official Code § 38-951.01. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>

³⁷ DC Official Code § 38-951.01. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>

³⁸ DC Official Code § 38-824.02. Retrieved from:

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

³⁹ DC Official Code § 22-3009.03-04. Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁴⁰ Even if a student is no longer a minor, student-teacher relationships under the age of 20 are improper and defined as sexual abuse under DC Official Code § 22-3009.03-04. Retrieved from:

<https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

- (B) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or
- (C) The penetration, however slight, of the anus or vulva by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- (D) The emission of semen is not required for the purposes of subparagraphs (A)-(C) of this paragraph.⁴¹

Sexual Contact

Sexual contact means the touching with any clothed or unclothed body part or any object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.⁴²

Sexual Misconduct

Sexual misconduct is any verbal, nonverbal, written, or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with a student. This includes:

- A sexual invitation;
- Dating or soliciting a date;
- Engaging in sexual dialogue;
- Making sexually suggestive comments;
- Describing prior sexual encounters; or
- Physical exposure of a sexual or erotic nature.⁴³

Staff

Staff means any employee or volunteer of a school, or an employee of an entity with whom the school contracts, who acts as an agent of the school at the school or activities sponsored by a school.⁴⁴ The terms “school staff” and “school personnel” are used interchangeably throughout this document.

Student Sexual Abuse

Student sexual abuse means any of the following acts committed by a school staff member against a student of a school:

- **Sex trafficking of children:** To knowingly recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.⁴⁵
- Abducting or enticing a child from their home for the purposes of prostitution or harboring such a child: For the purposes of prostitution it is unlawful for any person to persuade, entice, or forcibly abduct a child under 18 years of age from his or her home or usual abode, or from the

⁴¹ DC Official Code § 22–3001(8). Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁴² DC Official Code § 22–3001.9. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁴³ DC Official Code § 38-951.01. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>

⁴⁴ DC Official Code § 38-951.01. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/38/chapters/9A/>

⁴⁵ DC Official Code § 22–1834. Retrieved from: <https://code.dccouncil.us/dc/council/code/sections/22-1834.html>

custody and control of the child's parents or guardian or to secrete or harbor any child so persuaded, enticed, or abducted from their home or usual abode or from the custody and control of the child's parents or guardian.⁴⁶

- **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.⁴⁷

- **Second degree sexual abuse:** Engaging in or causing another person to engage in or submit to a sexual act in the following manner:
 - 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
 - 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.⁴⁸

- **Third degree sexual abuse:** Engaging in or causing sexual contact with or by another person 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 person unconscious; or
 - 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

⁴⁶ DC Official Code § 22-2704. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/27/>

⁴⁷ DC Official Code § 22-3002. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁴⁸ DC Official Code § 22-3003. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

substantially impairs the ability of that other person to appraise or control his or her conduct.⁴⁹

- **Fourth degree sexual abuse:** Engaging in or causing sexual contact with or by another person in the following manner:
 - 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
 - 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.⁵⁰
- **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.⁵¹
- **First degree child sexual abuse:** Being at least 4 years older than a child and engaging in a sexual act with that child or causing that child to engage in a sexual act.⁵²
- **Second degree child sexual abuse:** Being at least 4 years older than a child and engaging in sexual contact with that child or causing that child to engage in sexual contact.⁵³
- **First degree sexual abuse of a minor:** Being 18 years of age or older, in a significant relationship with a minor, and engaging in a sexual act with that minor or causing that minor to engage in a sexual act.⁵⁴
- **Second degree sexual abuse of a minor:** Being 18 years of age or older, in a significant relationship with a minor, and engaging in a sexual contact with that minor or causing that minor to engage in a sexual contact.⁵⁵
- **First degree sexual abuse of a secondary education student:** Any teacher, counselor, principal, coach, or other person of authority in a secondary level school who engages in a sexual act with a student under the age of 20 years enrolled in that school or school system, or causes that student to engage in a sexual act.⁵⁶

⁴⁹ DC Official Code § 22–3004. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁵⁰ DC Official Code § 22–3005. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁵¹ DC Official Code § 22–3006. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁵² DC Official Code § 22–3008. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁵³ DC Official Code § 22–3009. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁵⁴ DC Official Code § 22–3009.01. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁵⁵ DC Official Code § 22–3009.02. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁵⁶ DC Official Code § 22–3009.03. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

- **Second degree sexual abuse of a secondary education student:** Any teacher, counselor, principal, coach, or other person of authority in a secondary level school who engages in sexual conduct with a student under the age of 20 years enrolled in that school or school system, or causes that student to engage in sexual conduct.⁵⁷
- **Enticing a child or minor:**
 - Being at least 4 years older than a child or being in a significant relationship with a minor and
 - Taking that child or minor to any place for the purpose of committing any offense set forth in §§ [22-3002](#) to [22-3006](#) and §§ [22-3008](#) to [22-3009.02](#), or
 - Seducing, enticing, alluring, convincing, or persuading or attempting to seduce, entice, allure, convince, or persuade a child or minor to engage in a sexual act or contact.
 - Being at least 4 years older than the purported age of a person who represents himself or herself to be a child and attempting to:
 - Seduce, entice, allure, convince, or persuade any person who represents himself or herself to be a child to engage in a sexual act or contact, or
 - Entice, allure, convince, or persuade any person who represents himself or herself to be a child to go to any place for the purpose of engaging in a sexual act or contact.⁵⁸
- **Misdemeanor sexual abuse of a child or minor:** Being 18 years of age or older and more than 4 years older than a child, or being 18 years of age or older and being in a significant relationship with a minor, and engaging in sexually suggestive conduct with that child or minor.⁵⁹
- **Arranging for a sexual contact with a real or fictitious child:** Engaging in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child at least 4 years younger than the person, or to arrange for another person to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child of at least 4 years younger than the person.⁶⁰
- **Sexual performance using minors:**
 - Knowingly using a minor in a sexual performance or promoting a sexual performance by a minor.

⁵⁷ DC Official Code § 22–3009.04. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁵⁸ DC Official Code § 22–3010. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁵⁹ DC Official Code § 22–3010.01. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁶⁰ DC Official Code § 22–3010.02. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

- Knowing the character and content thereof, attending, transmitting, or possessing a sexual performance by a minor.⁶¹

- **Attempts to commit sexual offenses:** Attempting to commit any offense defined above.⁶²

Sexually Suggestive Conduct

Engaging in any of the following acts in a way which is intended to cause or reasonably causes the sexual arousal or sexual gratification of any person:

- Touching a child or minor inside his or her clothing;
- Touching a child or minor inside or outside his or her clothing close to the genitalia, anus, breast, or buttocks;
- Placing one's tongue in the mouth of the child or minor; or
- Touching one's own genitalia or that of a third person.⁶³

⁶¹ DC Official Code § 22–3102. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/31/>

⁶² DC Official Code § 22–3018. Retrieved from: <https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>

⁶³ DC Official Code § 22–3010.01(b). Retrieved from:
<https://code.dccouncil.us/dc/council/code/titles/22/chapters/30/>