

Student on Student Sexual Harassment and Title IX Policy

Region: DC

Federal and D.C. laws prohibit the discrimination of harassment on the basis of sex. This Policy was written in conjunction with Rocketship Policy #403.2, the Discrimination, Harassment, Intimidation, Bullying, and Title IX Policy.

I. Sexual Harassment Prohibited

A. Prohibitions under DC Law

Sexual harassment, sexual assault and dating violence are strictly prohibited on school grounds, property immediately adjacent to school grounds, at school sponsored or school related activities, functions or programs whether on or off school grounds, on or off school bus or other vehicles owned, leased or used by the school, or through the use of technology or an electronic device owned, leased or used by the school.

Sexual harassment, sexual assault and dating violence are also prohibited at a location, activity, function or program that is not school related or through the use of technology or an electronic device that is not owned, leased or used by the school, if the act or acts in question 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.

Retaliation against a youth, volunteer or staff member who reports sexual harassment, sexual assault and dating violence, provides information about any such acts, or witnesses any such acts is also prohibited.

Administrators will make expectations clear to students and staff that sexual harassment, sexual assault and dating violence will not be tolerated and will be the grounds for disciplinary action up to and including suspension and dismissal for students.

1. Definitions

Sexual harassment is defined under the D.C. code as any unwelcome or uninvited sexual advances, sexual favors, sexually motivated physical conduct, stalking, or other verbal or physical conduct of a sexual nature that can be reasonable predicted to:

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

Sexual harassment under Title IX consists of conduct on the basis of sex, including but not limited to unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct on the basis of sex, regardless of whether or not the conduct is motivated by sexual desire, when: (a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's

employment, education, academic status, or progress; (b) submission to, or rejection of, the conduct by the individual is used as the basis of employment, educational or academic decisions affecting the individual; (c) the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment; and/or (d) submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

It is also unlawful to retaliate in any way against an individual who has articulated a good faith concern about sexual harassment against themselves or against another individual.

Sexual harassment may include, but is not limited to:

- Physical assaults of a sexual nature, such as:
 - Rape, sexual battery, molestation or attempts to commit these assaults.
 - Intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another's body, or poking another's body.
- Unwanted sexual advances, propositions or other sexual comments, such as:
 - Sexually oriented gestures, notices, remarks, jokes, or comments about a person's sexuality or sexual experience.
 - Preferential treatment or promises of preferential treatment to an individual for submitting to sexual conduct, including soliciting or attempting to solicit any individual to engage in sexual activity for compensation or reward or deferential treatment for rejecting sexual conduct.
 - Subjecting or threats of subjecting a student or employee to unwelcome sexual attention or conduct or intentionally making the student's or employee's performance more difficult because of the student's sex.
- Sexual or discriminatory displays or publications anywhere in the work or educational environment, such as:
 - Displaying pictures, cartoons, posters, calendars, graffiti, objections, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning or pornographic or bringing or possessing any such material to read, display or view in the work or educational environment.
 - Reading publicly or otherwise publicizing in the work or educational environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic.
 - Displaying signs or other materials purporting to segregate an individual by sex in an area of the work or educational environment (other than restrooms or similar rooms).

The illustrations of harassment and sexual harassment above are not to be construed as an all-inclusive list of prohibited acts under this Policy.

Sexual assault is defined as any of the following offenses:

- A. First degree sexual abuse (DC Code 22-3002) - engaging in or causing another person to engage in or submit to a sexual act¹ in the following manner:
 - a. By using force² against that other person;
 - b. By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury³, or kidnapping;
 - c. After rendering that other person unconscious; or
 - d. 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.
- B. Second degree sexual abuse (DC Code 22-3003) - engaging in or causing another person to engage in or submit to a sexual act in the following manner:
 - a. 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
 - b. Where the person knows or has reason to know that the other person is:
 - i. Incapable of appraising the nature of the conduct;
 - ii. Incapable of declining participation in that sexual act; or
 - iii. Incapable of communicating unwillingness to engage in that sexual act.⁴
- C. Third degree sexual abuse (DC Code 22-3004) - engaging in or causing sexual contact⁴ with or by another person in the following manner:
 - a. By using force against that other person;
 - b. By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;
 - c. After rendering that person unconscious; or
 - d. 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.
- D. Fourth degree sexual abuse (DC Code 22-3005) - engaging in or causing sexual contact with or by another person in the following manner:

¹ "Sexual act" means:

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

² "Force" means the use or threatened use of a weapon; the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or the use of a threat of harm sufficient to coerce or compel submission by the victim.

³ "Bodily injury" means injury involving loss or impairment of the function of a bodily member, organ, or mental faculty, or physical disfigurement, disease, sickness, or injury involving significant pain.

⁴ "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.

- a. 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
 - b. Where the person knows or has reason to know that the other person is:
 - i. Incapable of appraising the nature of the conduct;
 - ii. Incapable of declining participation in that sexual contact; or
 - iii. Incapable of communicating unwillingness to engage in that sexual contact.
- E. Misdemeanor sexual abuse (DC Code 22-3006) - engaging in a sexual act or sexual contact with another person and who should have knowledge or reason to know that the act was committed without that other person's permission
- F. Attempts to commit sexual offenses (DC Code 22-3018) - attempting to commit any of the above offenses.

Dating violence is defined as abusive or coercive behavior where a dating 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 partner⁵.

Retaliation is any form of intimidation, reprisal, or harassment directed against a student who reports any of the above acts, provides information during an investigation of said acts, or witnesses or has reliable information about such acts.

III. Investigations

Upon receipt of a report of misconduct prohibited by this Policy from a student, staff member, parent, volunteer, visitor or affiliate of Rocketship, the Coordinator (or administrative designee) will promptly initiate an investigation. In most cases, a thorough investigation will take no more than twenty-five (25) school days. If the Coordinator (or administrative designee) determines that an investigation will take longer than twenty-five (25) school days and needs to be delayed or extended due to good cause, the Coordinator (or administrative designee) will inform the complainant of the reasons for the delay or extension and provide an approximate date when the investigation will be complete.

At the conclusion of the investigation, the Coordinator (or administrative designee) will meet with the complainant and, to the extent possible with respect to confidentiality laws, to provide the complainant with information about the investigation, including any actions necessary to resolve the incident/situation. However, the Coordinator (or administrative designee) will not reveal confidential information related to other students or employees.

For investigations of and responses to formal complaints of sexual harassment, the following grievance procedures will apply:

- Notice of the Allegations
 - o Upon receipt of a formal complaint of sexual harassment, the Coordinator will give all known parties written notice of its grievance process, including any voluntary informal resolution process. The notice will include:

⁵ "Dating partner" means 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.

- A description of the allegations of sexual harassment at issue and to the extent known, the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident;
 - A statement that the respondent is presumed not responsible for the alleged conduct until a final decision is reached;
 - A statement that the parties may have an advisor of their choice, who may be an attorney, and may inspect and review evidence; and
 - A statement that Rocketship prohibits an individual from knowingly making false statements or knowingly submitting false information during the grievance process.
- Emergency Removal
 - Rocketship may place a non-student employee respondent on administrative leave during the pendency of a formal complaint of sexual harassment grievance process in accordance with Rocketship's policies.
 - Rocketship may remove a respondent from Rocketship's education program or activity on an emergency basis, in accordance with Rocketship's policies, provided that Rocketship 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.
 - This provision may not be construed to modify any rights under the IDEA, Section 504, or the ADA.
 - Informal Resolution
 - If a formal complaint of sexual harassment is filed, Rocketship may offer a voluntary informal resolution process, such as mediation, to the parties at any time prior to reaching a determination regarding responsibility. If Rocketship offers such a process, it will do the following:
 - Provide the parties with advance written notice of:
 - The allegations;
 - The requirements of the voluntary informal resolution process including the circumstances under which the parties are precluded from resuming a formal complaint of sexual harassment arising from the same allegations;
 - The parties' right to withdraw from the voluntary informal resolution process and resume the grievance process at any time prior to agreeing to a resolution; and
 - Any consequences resulting from participating in the voluntary informal resolution process, including the records that will be maintained or could be shared; and
 - Obtain the parties' advance voluntary, written consent to the informal resolution process.
 - Rocketship will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
 - Investigation Process

- o The decision-maker will not be the same person(s) as the Coordinator or the investigator. Rocketship shall ensure that all decision-makers and investigators do not have a conflict of interest or bias for or against complainants or respondents.
- o In most cases, a thorough investigation will take no more than twenty-five (25) school days. If the investigator determines that an investigation will take longer than twenty-five (25) school days and needs to be delayed or extended due to good cause, the investigator will inform the complainant and any respondents in writing of the reasons for the delay or extension and provide an approximate date when the investigation will be complete.
- o The parties will be provided with an equal opportunity to present witnesses, to inspect and review any evidence obtained that is directly related to the allegations raised, and to have an advisor present during any investigative meeting or interview.
- o The parties will not be prohibited from discussing the allegations under investigation or to gather and present relevant evidence.
- o A party whose participation is invited or expected at an investigative meeting or interview will receive written notice of the date, time, location, participants, and purpose of the meeting or interview with sufficient time for the party to prepare to participate.
- o Prior to completion of the investigative report, Rocketship will send to each party and the party's advisor, if any, a copy of the evidence subject to inspection and review, and the parties will have at least ten (10) days to submit a written response for the investigator's consideration prior to the completion of the investigation report.
- o The investigator will complete an investigation report that fairly summarizes relevant evidence and send a copy of the report to each party and the party's advisor, if any, at least ten (10) days prior to the determination of responsibility.
- Dismissal of a Formal Complaint of Sexual Harassment
 - o If the investigation reveals that the alleged harassment did not occur in Rocketship's educational program in the United States or would not constitute sexual harassment even if proved, the formal complaint with regard to that conduct must be dismissed. However, such a dismissal does not preclude action under another applicable Rocketship policy.
 - o Rocketship may dismiss a formal complaint of sexual harassment if:
 - The complainant provides a written withdrawal of the complaint to the Coordinator;
 - The respondent is no longer employed or enrolled at Rocketship; or
 - The specific circumstances prevent Rocketship from gathering evidence sufficient to reach a decision on the formal complaint or the allegations therein.
 - o If a formal complaint of sexual harassment or any of the claims therein are dismissed, Rocketship will promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to the parties.
- Determination of Responsibility
 - o The standard of evidence used to determine responsibility is the preponderance of the evidence standard.
 - o Rocketship will send a written decision on the formal complaint to the complainant and respondent simultaneously that describes:

- The allegations in the formal complaint of sexual harassment;
- All procedural steps taken including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- The findings of facts supporting the determination;
- The conclusions about the application of Rocketship's code of conduct to the facts;
- The decision and rationale for each allegation;
- Any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant; and
- The procedures and permissible bases for appeals.

Students or employees who engage in misconduct prohibited by this Policy, knowingly make false statements or knowingly submit false information during the grievance process may be subject to disciplinary action up to and including expulsion from Rocketship or termination of employment. The Coordinator is responsible for effective implementation of any remedies ordered by Rocketship in response to a formal complaint of sexual harassment.

Should the reporting individual find Rocketship's resolution unsatisfactory, the reporting individual may, within five (5) business days of notice of Rocketship's decision or resolution, submit a written appeal to the Rocketship Board of Directors, who will review the investigation and render a final decision.

The following appeal rights and procedures will also apply to formal complaints of sexual harassment:

- The complainant and the respondent shall have the same appeal rights and Rocketship will implement appeal procedures equally for both parties.
- Rocketship will notify the other party in writing when an appeal is filed.
- The decision-maker for the appeal will give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome; issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both parties.

IV. Counseling and Interventions for Accused Students

Rocketship will work with its wellness and mental health providers to identify appropriate counseling and intervention strategies for students alleged to have committed acts of sexual harassment, sexual assault or dating violence, and to determine whether it is a referral to the Child and Family Services Agency is required where the accused's behavior indicates that he or she may be the victim of child sexual abuse or child abuse.

V. Resources for Students and Families Affected by Sexual Harassment, Sexual Assault or Dating Violence

Students and families affected by sexual harassment, sexual assault or dating violence may be eligible for school-based supports.

Other information and resources available outside of school include:

- 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

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