



THE GREATER
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**The Sexual Harassment Action and Reporting in
Education (SHARE) Recommendations for the
Fairfax County School Board**

The Greater Good Initiative
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POLICY BRIEF

Title IX is the federal civil rights law that prohibits discrimination on the basis of sex in educational institutions. Through subsequent case law and policy, Title IX has also been established as the federal law that protects students from sexual misconduct at school.¹ Sexual assault, harassment, dating violence, and stalking are all grounds for schools to act to protect their students. ‘Sexual Harassment’, as used throughout this proposal, is inappropriate sexual conduct that may include unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or electronic harassment of a sexual nature. Sexual harassment may include:

- Any unwanted intentional touching of intimate body parts of another person, however slight, or causing another person to touch the intimate body parts of oneself or another;
- Improper touching of another
- Unwelcome ongoing and repeated flirtations, propositions, remarks or gestures
- Sexual slurs, leering, threats, verbal abuse or sexually degrading descriptions
- Comments about a person’s body or sexuality
- Impeding or blocking movement in a sexually suggestive or intimidating manner
- Display of written materials, pictures, or electronic images of a sexual nature;
- Circulating, showing or creating electronic mail messages (e-mails) or websites of a sexual nature
- Spreading rumors of a sexual nature about another
- Engaging in a pattern of conduct (physical, verbal or electronic, or any other course of conduct) that is sexual in nature directed at another person which causes or creates a hostile or intimidating school environment.

¹ Brown Center on Education Policy, August, 2020

13.8% of FCPS students responded that they had been sexually harassed in the past year, according to the 2018 Fairfax County Youth Survey². This rate was even higher among female students with 20.3% of such respondents answering that they had experienced sexual harassment. Sexual harassment has adverse effects on the academic and emotional wellbeing of students who have experienced it;³ these effects can cause students to experience a decline in their mental health, a struggle to keep up in classes, and higher risks of dropping out of school.⁴ K-12 institutions have a tendency to lump bullying and sexual harassment together, allowing faculty and students to overlook behavior that is gender based; this tendency to overlook sexual harassment permeates in the minds of young people, especially girls⁵.

The recent Title IX rule changes⁶ made by the US Department of Education under Secretary Betsy DeVos have significantly changed how school administrations are mandated to respond to peer-to-peer Sexual Harassment; these rules have been widely condemned by survivor advocacy groups⁷ as undermining the reporting and investigative procedures for Sexual Harassment. The Fairfax County Public School Board must now do everything in their power to ensure that inappropriate behavior continues to be reported and survivors are supported. The School Board has a unique opportunity to reevaluate current policy in addition to following up on concerns outlined in the Fairfax County School Board Resolution on Sexual Misconduct passed in September of 2018.⁸

²Indiana University Institute for Research on Addictive Behavior and Fairfax County Office of Strategy Management for Health & Human Services, 2019

³ US Department of Education Office of Civil Rights, August 14, 2020

⁴ National Women's Law Center, 2007

⁵ Stein, N, 2003

⁶ US Department of Education, August, 2020

⁷ Know Your IX, August, 2020

⁸ McElveen, 2018

This policy includes recommendations for revisions to current FCPS Regulation 2118, changes to the ways in which Title IX and sexual harassment are addressed on the FCPS website, and additional programmatic responses to sexual harassment reporting and investigations.

Due to the constraints that the COVID-19 pandemic has put on FCPS educational programming, the School Board must address misconduct via electronic communication in Regulation 2118 and create additional channels for students to report Sexual Harassment. It is recommended that an online reporting system be implemented and the email address listed on the Title IX statement web page allow for non-FCPS correspondences. In order for students to be able to identify and report sexual harassment should they experience or see it, a clear and thorough Student Rights & Responsibilities definition of sexual harassment should be prominently displayed and widely understood. It is further recommended that the definitions of certain terms used throughout Regulation 2118 are clarified and established processes and described with more detail. In order to adequately respond to Sexual Harassment, FCPS must ensure all students feel comfortable and safe reporting inappropriate behavior; to accomplish this, it is recommended that FCPS commits to investigations of the same scope and rigor regardless of when a report is made and that students will not be punished for not reporting misconduct. In addition, it is encouraged that the frequency of training for the Title IX Coordinator, Title IX Investigators, and decision-makers be disclosed in Regulation 2118 in order to guarantee that all FCPS staff that have responsibilities related to Title IX enforcement and are equipped to handle these duties.

PRELIMINARY REPORT

What is the problem that you're trying to fix?

Sexual harassment is a widespread and emotionally taxing form of harm that impacts an American—approximately every 73 seconds—and leads approximately 70% of victims to “experience moderate to severe distress.”⁹ The United States Department of Justice reports that nearly 28% of children between the ages of 14 and 17 have been victims of intimate partner violence.¹⁰ Furthermore, in a recent national survey of 2,064 public schools, 83% of females and 79% of males in grades 8 through 11 have experienced sexual harassment at school.¹¹ Navigating the sexual harassment reporting process is complicated and overwhelming. When a student experiences sexual harassment by a peer, they may not know how to report it due to the complexities of reporting procedures. Sexual Harassment is often left out of presentations related to student conduct, and is only discussed in private after one experiences it. During 2019, 82.45% of rape cases in Fairfax County were not cleared due to complications or negligence; “Of the county’s 131 reported rapes, 23 were cleared by arrest.”¹² Because discussion of sexual harassment is considered taboo in various cultures, there is a challenge when attempting to spread awareness and create an inclusive environment around the issue.¹³ In addition, lack of access to sexual harassment education can be harmful to students. Staff and faculty members should not be the only group with awareness of the reporting system.

The current definitions surrounding Sexual Harassment in FCPS district policy are vague and verbose; additionally, it lacks clarifying examples and specificity, which would allow for a

⁹ "Victims of Sexual Violence: Statistics | RAINN", 2020

¹⁰ Hamby, Finkelhor & Turner, 2020

¹¹ "American Association of University Women Educational Foundation", 2007

¹² Madigan, 2019

¹³ "NAPIESV | National Organization of Asians and Pacific Islanders Ending Sexual Violence", n.d.

more general understanding. Sexual harassment can happen to anyone regardless of their racial, ethnic, or cultural backgrounds. Cultural groups have various customs, values, and traditions; therefore, it is important that the proposed policy is serving its purpose while adhering to diverse cultural values and norms.

Additionally, if the only option to report misconduct is to file an on-campus report, the student could feel uncomfortable or have insufficient privacy, whereas technological access questions arise if the only submission option is to file an internet-based online report. These minimal options would hinder students from reporting incidences of sexual harassment and would prevent victims from receiving due justice. As the vast majority of the county's cases go unreported or legally uncleared, FCPS must go above and beyond the current Title IX minimal requirements to ensure that reporting accessibility increases and victims do not suffer the long-term emotional or physical burdens of sexual harassment..¹⁴

What is the solution proposed?

The primary focus of these recommendations is to increase the accessibility of the FCPS Sexual Harassment policy and to update Regulation 2118 in order to better serve those affected by inappropriate sexual conduct. General recommendations include improving and clarifying the district's definition of sexual harassment by clearly outlining inappropriate conduct in the classroom and emphasizing the differences between sexual harassment and bullying. Moreover, FCPS should improve the district sexual harassment response by adding the name of the district Title IX Coordinator to the Title IX statement webpage for further transparency, distributing the email of the Title IX coordinator to the public to strengthen awareness and accessibility, adding the link to Regulation 2118 to the Title IX statement webpage to improve public awareness, and

¹⁴ Hamby, Finkelhor & Turner, 2020

potentially developing an online sexual harassment reporting system for students to use while they are attending school in a hybrid or distance learning format are other significant recommendations.

First, specific changes to existing Regulation 2118 are being suggested to further refine the district's Sexual Harassment policy and response. First, as students are currently attending school through a distance learning format due to the COVID-19 pandemic, policy should be updated to responding to any instances of sexual harassment that occur in a virtual class setting.

Second, the following definitions and phrasings should be rephrased within Regulation 2118: 1) definitions of sexual harassment to be inclusive of distance learning; 2) the definition of a student should be updated to include alumni, drop-outs, and transfers who are participating in a district-sponsored educational program; 3) replace the term "suspected conduct" with "alleged conduct"; and 4) change the phrase "not later than one workday or as soon as practicable" to deter individuals from intentionally delaying reports of sexual misconduct.

Third, several improvements should be made to the investigation process: 1) policy should emphasize that not reporting sexual harassment promptly will not affect the scope and rigor of the resulting investigation; 2) the written statement given to both parties stating that the Respondent is not presumed responsible throughout the process should be eliminated in order to be more survivor-friendly; 3) the district should provide an advocate to a party in order to ensure equitable representation if one party does not have an advocate and the other does; 4) the district should make clear to both parties what constitutes "good cause" for an investigation to be dismissed or extended; 5) the district should ensure that one party's supportive measures do not place an unreasonable burden on the other party; and 6) the writing of Regulation 2118 should be clarified to indicate that finding the Respondent responsible for sexual harassment is not

retaliation within itself, that students will not be punished for choosing not to report harassment, and define the frequency of training for the Title IX Coordinator, the Title IX investigators, and decision makers.

Preventing sexual harassment should be a significant priority for Fairfax County. Staff and faculty should be trained using updated material and clearly know their roles in matters of potential sexual harassment cases. Training should be both comprehensive and culturally competent to remain inclusive and help foster an open environment. One specific type of training that would be appropriate is prevention and bystander intervention. This type of training can help create a safe environment while instilling a sense of accountability through empowerment⁷. The educational aspects of training should continue to be incorporated in the health and physical education or student leadership curriculums for students to continue learning.

Finally, to increase accessibility and comfort for students to submit their incident report, there should be more than one submission option. Students should be able to decide if they would prefer to submit the report through an online form or by paper, where they can drop off the report to the appropriate office. Accommodations should be made to make this process run smoothly. Examples of accommodations could be a translator, a private room, a counseling session with the guidance counselor or a mental health hour. Mental health hour is defined as a period of time to focus on the emotional, psychological, and social well-being by taking part in various reflective activities, such as coloring, journaling, meditating, etc.¹⁵

Why was this specific issue chosen?

The U.S. Department of Education's consequential updates to Title IX policy in May, 2020 included shifting responsibility from schools onto students and encouraging live hearings

¹⁵ Smith, 2018

and cross-examinations during sexual harassment investigations, placing complainants in a vulnerable situation (Melnick, 2020). As the district is now required to comply with these new federal regulations, it is imperative to strengthen FCPS's sexual harassment policy.

As it stands, current FCPS sexual harassment policy lacks clarity and access for students and parents. If the current ineffective policy is continually implemented, substandard Sexual Harassment policy may prevent students who have been affected by sexual misconduct from seeking help. Additionally, unclear, overly verbose policy may intellectually inhibit students from knowing what to do should they choose to report. Furthermore, current policy does not thoroughly discuss preventing sexual misconduct or supporting complainants through the investigative process. Both of these elements are essential to ensuring that incidences of sexual harassment are limited and students are not affected again; however, the lack of clear discussion makes achieving these goals difficult. Although the School Board has made strides against sexual harassment, the lack of accessible resources for students as well as unclear Sexual Harassment policy are evidence of strides that still need to be made. These deficiencies have made the need to improve district policy readily apparent. In order to address the information deficit in FCPS Sexual Harassment Policy, a set of recommendations to improve the visibility of Title IX policy and sexual harassment response information is proposed. Ensuring all members of the school community have the resources and information regarding sexual harassment and its reporting process is fundamental for students and parents being able to receive guidance regarding Title IX and Sexual Harassment.. With a prominent display of policies in student handbook and guides, it will contribute to the ease of the student in understanding the nature of Sexual Harassment, steps taken to report Sexual Harassment and resources for support and help.

What were the broad questions that guided research into this issue?

In thinking about this broad and pressing issue, a number of questions arose as follows: How does sexual harassment affect students?; What is the national policy on sexual harassment in secondary schools?; What is FCPS's policy on sexual harassment in their schools?; What secondary schools have strong policies on sexual harassment?; How are their policies structured?; Why are these policies strong?; How do other school districts in Virginia structure their sexual harassment policies?; What services must be provided to survivors of sexual harassment or assault in a school setting?; Who handles and investigates allegations of sexual harassment or assault?; What are the new Title IX changes and how has FCPS responded to them? After looking into these questions, recommendations were created to suggest feasible improvements to Sexual Harassment Policy that keeps survivors at the forefront of consideration.

What is the relevance of the issues to FCPS and its citizens?

The sexual harassment policies in Fairfax County lack clarity and detail, contributing to insufficient knowledge of what entails sexual harassment and the subsequent reporting process. As a result, students and staff members are unable to accurately seek the help and guidance they need. The Student Rights & Responsibilities, has an absence of a distinct and clear section for sexual harassment; including but is not limited to: the definition of sexual harassment, the procedures and steps to seek help and report sexual abuse, how family members and staff members can deal with this issue and help their student, and a complete guide of resources and sources students can utilize during this process. The SR&R does not contain a thorough and detailed information that addresses sexual harassment and how students and staff members can seek and receive help. This issue is relevant because it impacts the various life factors of the

students, both academically and mentally. A 2018-2019 Fairfax County Youth Survey reports that 14.2% of students reported being sexually harassed, and the school board itself has taken cases regarding investigation of how FCPS handles sexual harassment claims.¹⁶ As a result, the FCPS School Board passed a resolution taking a firm stance against sexual misconduct and how to lead and create a cultural change within FCPS schools.¹⁷ The resolution explains that the school district's policy is that when immediately investigating reports of sexual misconduct, they must follow appropriate discipline and guidelines to address sexual harassment. FCPS is responsible for the safety and wellbeing of its students and staff.

Why is this an issue that requires governmental response?

The School Board has the power to implement a top-to-bottom culture change. The official codes of conduct are an extension of the school district's ideals, to which it has the sole power to amend; therefore, any serious conversation regarding the prevention of sexual harassment begins at the premises set by the School Board. FCPS has the ability to improve upon its expectations of staff and student, in turn, promoting a better understanding of what consists of sexual harassment, ways to avoid it, and what to do when it happens. Additionally, FCPS is instrumental in improving the distribution of this information, making it more accessible to staff, students, and parents. Lastly, FCPS has the ability to offer improved accessibility to those individuals trained to handle and respond to sexual harassment cases, which encourages reassurance for complainants to come forward.

¹⁶ Leayman & Staff, 2020

¹⁷ Leayman & Staff, 2020

What are the arguments for the creation of the programmatic or policy response to issues that will be proposed?

Strong Sexual Harassment policy requires several working components in which the set of proposals aim to address more specifically. Revising Regulation 2118, specifically, as well as the broader definition of what entails “sexual harassment” as defined by the SR&R is an integral first step in helping FCPS to prevent cases of sexual harassment and encourage students to come forward if it does unfortunately occur. Furthermore, as with all policy, both the legislators and those affected should have a clear understanding of the policy. Especially dealing with sexual harassment, the procedures involved in preventing and handling cases “cannot be prompt or equitable unless students know it exists, how it works.”¹⁸ Previously mentioned, this begins with writing specific definitions to be understandable to all parties. Another component in making the Sexual Harassment Policy successful is making sure that information and resources are well-circulated and disseminated to staff, students, and parents alike.¹⁹ The policy proposal suggests that further investments should be made in order to accomplish increasing the accessibility of both information and resources; this may include making Sexual Harassment Policy guidelines or report outlets easier to find on the FCPS website. Small adjustments, such as adding the Title IX Coordinator’s name and an accessible email to the Title IX statement webpage, can very possibly increase the likelihood for students to come forward with reports.²⁰ In promoting a safe learning community, the School Board must lead the culture change they committed to in the ‘FCPS Board Resolution on Sexual Misconduct’.²¹

¹⁸ Spellings, M., & Monroe, S, 2008.

¹⁹ Office of Civil Rights, 2020.

²⁰ Spellings, M., & Monroe, S, 2008.

²¹ Fairfax County Public School Newsletter, 2020.

What is the basic form of your policy response?

This policy response takes form primarily through the introduction of general recommendations to FCPS administration as well as proposed amendments to Regulation 2118.

General Recommendations

- Define sexual harassment clearly and thoroughly on district webpages and student handbooks; including examples of how inappropriate conduct would play out in a K-12 setting.
- Emphasis that Sexual Harassment is distinct from bullying and is thus handled differently (Title IX vs SR&R violation).
- Add name of Title IX Coordinator to [Title IX statement webpage](#)
- Make the email available on the Title IX statement web page accessible to the public
- Add the link to Regulation 2118 on the Title IX statement webpage
- Request that an online reporting system be made available on the district website

Changes to [Regulation 2118](#)

- **Section II: Definitions**
 - B. Address sexual coercion in the definition of consent.
 - I. Add that finding the Respondent responsible does not constitute Retaliation.
 - J. Explicitly include virtual classes in the definition of “education program or activity”.
 - L. Include any alumni, drop-out, or transfer that is participating in an FCPS educational program in the definition of ‘Student’.
 - O. Include the name of the Title IX coordinator on the FCPS Title IX statement webpage.
- **Section III: Reporting Guidelines**
 - B. Include that while prompt reporting is encouraged, the time of a report will not affect the scope and rigor of an investigation.
 - C. Add that Students who choose not to report Sexual Harassment will not be punished.
- **Section IV: Reporting Sexual Harassment to School Officials**
 - A.1. Change “suspected Sexual Harassment” to “alleged Sexual Harassment”
 - B.1. Change “not later than one workday” to “not later than one workday or as soon as practicable”

- **Section V: Grievance Process Procedures**
 - B. Clarify that supportive measures are not unreasonably burdensome to the other party.
 - C.2. Addition of an online reporting system to the current methods of reporting Sexual Harassment
 - D.1. Eliminate the written statement given to both parties that the Respondent is not presumed responsible throughout the investigation.
 - D.1. If one party has an advocate and the other doesn't, the district will provide that party an advocate to insure equitable representation through the investigative process.
 - F. 7. The decision-maker or the Title IX Coordinator must provide both parties what constitutes "good cause" in sufficient detail in their notice of dismissal or extension of an investigation.

- **VIII: Annual Notification and Training for Employees**
 - A. Clarify the frequency of training for The Title IX Coordinator, Title IX Investigator, and Decision-makers

What ongoing questions do you have?

Moving forward, FCPS will continue to adapt and change to the diverse needs of its school community. With these changes, some questions will naturally arise, especially on maintaining accountability, inclusion, and safety in an ever-changing community. These questions may include; *How can we make sure that the students and immediate community are encouraged to be aware of all of the changes made?*; School based administration and the Title IX office should continue to work together to ensure that all members of the school community are able to find information about Title IX policy changes and how they will affect students. Because the Title IX office is located in the FCPS central offices, school based administrators will need to continue to stay updated on the changes occurring at all levels of government and be able to relay that to students and parents. *Is there any specific framework for creating this online*

reporting system we want to advocate for?; The online reporting system should be extremely user friendly and not require the download of any programs or updates. Continuing to advocate for any online reporting system to be easy to access by students, whether that is on the FCPS website, the school website, or both, will be an ongoing effort should this proposal be adopted by the School Board. Additionally, in order to allow students and parents to be fully informed at every step of the process, an overview of the Title IX reporting and grievance procedures should be displayed with the online reporting system. *If the Title IX rules that went into effect August 14, 2020 are replaced by a new presidential administration, how will the School Board adapt?* First and foremost, the School Board should continue to abide by all state and federal laws, regulations, and rules. Under any presidential administration or Title IX rules, the School Board should always aim to have a survivor oriented policy that encourages all members of the school community to report Sexual Harassment should they experience or see it. If any changes are made, FCPS should work to ensure that the changes are broadly understood by anyone who wishes to stay informed in such matters. Regardless of presidential administration or political agendas, the School Board must continue to be leaders in creating inclusive, safe, and respectful schools for all.

POLICY PROPOSAL AND ANALYSIS

What is the programmatic or policy response to the problem that was chosen?

This policy seeks to address the shortcomings in FCPS Regulation 2118 adopted to be in accordance with new Department of Education Title IX Rules as well as give students more resources and knowledge pertaining to Title IX. Included in this set of recommendations are additions and modifications to Regulation 2118 as well proposals to expand the reach of FCPS' Sexual Harassment prevention and response.

General Recommendations

- Define sexual harassment clearly and thoroughly on district webpages and student handbooks—including examples of how inappropriate conduct would play out in a K-12 setting.
- Emphasis that Sexual Harassment is distinct from bullying and is thus handled differently (Title IX vs SR&R violation).
- Add name of Title IX Coordinator to [Title IX statement webpage](#)
- Make the email available on the Title IX statement web page accessible to the public
- Add the link to Regulation 2118 on the Title IX statement webpage
- Request that an online reporting system be made available on the district website

Changes to [Regulation 2118](#)

- **Section II: Definitions**
 - B. Address sexual coercion in the definition of consent.
 - I. Add that finding the Respondent responsible does not constitute Retaliation.
 - J. Explicitly include virtual classes in the definition of “education program or activity”.
 - L. Include any alumni, drop-out, or transfer that is participating in an FCPS educational program in the definition of ‘Student’.
 - O. Include the name of the Title IX coordinator on the FCPS Title IX statement webpage.

- **Section III: Reporting Guidelines**
 - B. Include in the reporting guidelines that while prompt reporting is encouraged, the length of time between an alleged incident of Sexual Harassment and the time of the report will not affect the scope and rigor of an investigation.
 - C. Add that Students who choose not to report Sexual Harassment will not be punished.

- **Section IV: Reporting Sexual Harassment to School Officials**
 - A.1. Change “suspected Sexual Harassment” to “alleged Sexual Harassment”
 - B.1. Change “not later than one workday” to “not later than one workday or as soon as practicable”

- **Section V: Grievance Process Procedures**
 - B. Clarify that supportive measures are not unreasonably burdensome to the other party.
 - C.2. Addition of an online reporting system to the current methods of reporting Sexual Harassment
 - D.1. Eliminate the written statement given to both parties that the Respondent is not presumed responsible throughout the investigation.
 - D.1. If one party has an advocate and the other doesn’t, the district will provide that party an advocate to insure equitable representation through the investigative process.
 - F. 7. The decision-maker or the Title IX Coordinator must provide both parties what constitutes “good cause” in sufficient detail in their notice of dismissal or extension of an investigation.

- **VIII: Annual Notification and Training for Employees**
 - A. Clarify the frequency of training for The Title IX Coordinator, Title IX Investigator, and Decision-makers

Outline the process your policy proposal will take once implemented. Explain any systems that will be in place, administrative changes, agency authority changes, etc.

_____An online reporting system available on the FCPS website will need to be created and implemented; FCPS students will need to know that this system exists and how to access it. In addition, investments must be made in training for school administrators and Title IX staff on

how to receive and respond to reports made on this online system. Updates to the Title IX Statement and SR&R web pages will need to be made to reflect the changes made in this policy proposal. To insure equity in the Title IX investigative process, FCPS should appoint an advisor, if one party has an advisor and one does not, to the party without an advisor. A system to seek out qualified and knowledgeable advisors who are able to assist parties in the process will need to be implemented should the School Board find this recommendation suitable.

Why is this something that should be addressed at the county level?

As emphasised in the resolution passed by the FCPS School Board on September 27²², 2018, all institutions have a responsibility to foster an inclusive and safe space for all of their members. Also underscored in the resolution is the recognition that school districts have an immeasurable influence on the communities they serve and therefore serious enforcement of current policy as well as constant evaluation of how the district can more adequately respond to sexual misconduct is imperative to the culture that FCPS seeks to create in the community-at-large. While school-based administrators are often the ones who come into contact with behavior that constitutes Sexual Harassment in the schools they oversee, the School Board must be the preeminent authority in insuring all students, regardless of sex, are given equal access to the educational programs offered by FCPS.

²² Member McElveen, 2018

Are there alternative responses that should be taken into account?

The US Department of Education's Title IX rules that went into place August 14, 2020²³ have drastically changed the way in which all federally funded schools are mandated to respond to Sexual Harassment and have been condemned by survivor advocacy groups²⁴ as harmful to students who have experienced sexual misconduct in schools. The School Board passed FCPS Regulation 2118 to be in compliance with these new federal rules. While the School Board is technically within the bounds of current federal and state law, FCPS must take every additional step necessary to prevent and respond to Sexual Harassment in schools even while unfavorable Title IX rules are in place.

Why is the policy you have proposed the appropriate/best response to the problem you have identified?

_____ This policy aims to improve Regulation 2118 by creating equity and clarity in its implementation, especially in a virtual school setting. By modifying existing policy, FCPS can integrate these recommendations into current measures being taken to follow Title IX rules and protect students from Sexual Harassment. Because of the complexities of the start of the 2020-2021 school year, it is entirely possible that students are not aware of the drastic changes that were made to Title IX over the summer. These changes significantly alter how students will experience the Formal Complaint reporting and investigative process. The School Board has a responsibility to insure that students have access to resources that will help them understand how these changes will affect them should they experience Sexual Harassment in FCPS schools. In addition, students must be able to recognize Sexual Harassment; clear and thorough definitions,

²³ US Department of Education, 2020

²⁴ Know Your IX, 2020

including examples, shall be available in prominently visible. All members of the school community must be able to identify inappropriate behavior if they experience or see it. By having a two pronged approach of addressing concerns about Regulation 2118 as well as using this time to expand preventative and response measures, the School Board can further their goals laid out in the 'Fairfax County School Board Resolution on Sexual Misconduct' and One Fairfax Resolutions.

What are the resources that will be needed to carry out this programmatic or policy response?

Resources to build and implement an online reporting system will need to be allocated and FCPS will need to determine whether they delegate these resources internally or to a third party. Additionally, should FCPS address the recommendations for equity in the advising of both parties, a criteria must be developed and used to find suitable advisors for parties during the investigative process.

What criteria are you using to determine if your policy is successful?

_____ This policy is successful if Regulation 2118 becomes more survivor friendly and FCPS students and parents have increased knowledge and resources regarding FCPS Title IX and sexual harassment policies. Specifically, if the response to the question, "If I observed or was a victim of sexual discrimination, including sexual harassment or sexual violence, I would know who to report that information to" on the Fairfax County Youth Survey had a higher percentage of responses for the "Strongly Agree" or "Agree" answer choices. Additionally, if the response to the question, " I would feel comfortable reporting sexual discrimination or sexual harassment or assault to school faculty or staff" also achieved greater responses in the "Strongly Agree" or

“Agree” categories. However, the recommendations in this proposal cannot only be determined successfully by numbers, just as the School Board cannot determine the success of current policy with survey responses; but rather, as a step towards a cultural change led by the School Board as committed to in the “Fairfax County School Board Resolution on Sexual Misconduct.”

What would happen with the problem if no action is taken and the problem were to continue on unchanged and undisturbed?

_____ Title IX and Sexual Harassment policy that employs survivor friendly language not only helps victims and some of the burden and retraumatization off of the reporting and grievance process, it also signals to the community-at-large how the School Board views the issue. An accessible reporting system, emphasis on non-Title IX sexual harassment being distinct from bullying, and clarification of certain definitions and protocols will allow FCPS to continue to be committed to tackling peer-to-peer Sexual Harassment even while adverse federal rules are in place.

CONCLUSION

The pervasiveness of Sexual Harassment in K-12 schools is often overlooked by researchers, federal law, school administrators, and teachers; however, studies suggest that the vast majority of students will experience it at some point between kindergarten and high school graduation. Sexual Harassment can cause victims to feel a lower sense of self esteem, a decline in academic performance, and isolation from their peers. The importance of a culture of intolerance of Sexual Harassment backed by policy that encourages victims to come forward and investigations that are transparent, prompt, and fair is imperative to tackling an issue that affects so many students. The new Title IX rules issued by the Department of Education that went into effect in August of 2020 have been condemned by survivor and Title IX advocacy groups for their survivor unfriendly language, undermining of the reporting and grievance procedures, and implementation during a school year that is already beginning during extraordinary times due to the COVID-19 pandemic. It is now more important than ever that the School Board is able to provide safe and inclusive schools that are conducive to learning for every student.

The SHARE Recommendations include changes to Regulation 2118 that include more survivor friendly language and clarification of certain terms used throughout the Regulation. Additionally, recommendations are made to create an online reporting system that is abundantly accessible and create equity in the grievance process through school appointed advisors. Furthermore, it is recommended that due to the circumstances of distance learning during SY 2020-21, language is added to Regulation 2118 that explicitly addresses harassment that may occur virtually.

It is clear that the School Board is committed to ending sexual misconduct in schools; robust anti-Sexual Harassment education in classrooms and the 2018 adoption of a resolution denouncing sexual misconduct are evidence. However, an ever-evolving education landscape and changes to federal law are reason for the School Board and FCPS to be progressive in their approach to re-evaluating their policy and approach to ending Sexual Harassment.

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General Recommendations

- Define sexual harassment clearly and thoroughly on district webpages and student handbooks; including examples of how inappropriate conduct would play out in a K-12 setting.
- Emphasis that Sexual Harassment is distinct from bullying and is thus handled differently (Title IX vs SR&R violation).
- Add name of Title IX Coordinator to [Title IX statement webpage](#)
- Make the email available on the Title IX statement web page accessible to the public
- Add the link to Regulation 2118 on the Title IX statement webpage
- Request that an online reporting system be made available on the district website

Changes to [Regulation 2118](#)

- **Section II: Definitions**
 - B. Address sexual coercion in the definition of consent.
 - I. Add that finding the Respondent responsible does not constitute Retaliation.
 - J. Explicitly include virtual classes in the definition of “education program or activity”.
 - L. Include any alumni, drop-out, or transfer that is participating in an FCPS educational program in the definition of ‘Student’.
 - O. Include the name of the Title IX coordinator on the FCPS Title IX statement webpage.
- **Section III: Reporting Guidelines**
 - B. Include that while prompt reporting is encouraged, the time of a report will not affect the scope and rigor of an investigation.
 - C. Add that Students who choose not to report Sexual Harassment will not be punished.
- **Section IV: Reporting Sexual Harassment to School Officials**
 - A.1. Change “suspected Sexual Harassment” to “alleged Sexual Harassment”
 - B.1. Change “not later than one workday” to “not later than one workday or as soon as practicable”
- **Section V: Grievance Process Procedures**
 - B. Clarify that supportive measures are not unreasonably burdensome to the other party.

- C.2. Addition of an online reporting system to the current methods of reporting Sexual Harassment
 - D.1. Eliminate the written statement given to both parties that the Respondent is not presumed responsible throughout the investigation.
 - D.1. If one party has an advocate and the other doesn't, the district will provide that party an advocate to ensure equitable representation through the investigative process.
 - F. 7. The decision-maker or the Title IX Coordinator must provide both parties what constitutes "good cause" in sufficient detail in their notice of dismissal or extension of an investigation.
- **VIII: Annual Notification and Training for Employees**
- A. Clarify the frequency of training for The Title IX Coordinator, Title IX Investigator, and Decision-makers