

VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND

Title IX – Prohibition Against Discrimination, Harassment and Retaliation Policy Number: G036

I. POLICY

The Virginia School for the Deaf and the Blind (VSDB) Board of Visitors (Board) is committed to maintaining an educational and residential environment and workplace that is free from harassment and discrimination on the basis of gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information, pregnancy, childbirth or related medical conditions, status as a veteran or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity. The VSDB Board is an equal opportunity employer and provides equal educational opportunities for all students, without regard to gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information, pregnancy, childbirth or related medical conditions, status as a veteran or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity. Educational programs and services, including but not limited to health, physical education, music, and career and technical education, will be designed to meet the varying needs of all students and will not discriminate against any individual on the basis of gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information, pregnancy, childbirth or related medical conditions, status as a veteran or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity.

In accordance with federal and state laws, regulations, policy, the Board prohibits discrimination, harassment, and retaliation by individuals subject to its control or supervision against gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information, pregnancy, childbirth or related medical conditions, status as a veteran or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity.

It is a violation of this policy for any student or school personnel to engage in discrimination and/or harassment against a student or school personnel based on gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored

activity or any other status protected by law. Further, it is a violation of this policy for any school personnel to tolerate discrimination or harassment based on a student's or employee's gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information, pregnancy, childbirth or related medical conditions, status as a veteran or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity, by students, school personnel or third parties participating in, observing or otherwise engaged in school sponsored activities. It is also a violation of this policy to retaliate against students or school personnel who report discrimination and/or harassment or participate in any related proceedings. For the purpose of this policy, school personnel includes the VSDB Board, school employees, interns, volunteers, contractors, or other persons subject to the supervision and control of the School.

Questions of discrimination, harassment, and/or retaliation will be addressed in accordance with this Policy and the complaint and investigation procedures (below). VSDB shall promptly investigate all formal complaints of discrimination and/or harassment prohibited by this policy and take appropriate action to stop any discrimination and/or harassment, including retaliation against any student or school personnel who reports alleged discrimination and/or harassment.

VSDB provides equal opportunities to employees and applicants for employment and for students and applicants for admission, consistent with Title IX of the Education Amendments of 1972 (Title IX). Title IX prohibits discrimination based on gender (including sexual harassment and sexual violence) in educational programs which receive federal financial assistance. Questions regarding discrimination prohibited by Title IX of the Education Amendments of 1972, or other applicable federal and state laws, may be referred to the Compliance Officers/Title IX Coordinators:

Tessy Schlemmer	
PO Box 2069 Staunton, VA 24401 540-332-9065 Tessy.Schlemmer@vsdbs.virginia.gov	

Questions and complaints may also be made to the Assistant Secretary the of United States Department of Education's Office for Civil Rights:

U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Telephone: 1-800-421-3481
FAX: 202-453-6012; TDD: 1-800-877-8339
Email: OCR@ed.gov

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

II. DEFINITIONS

Discrimination

Inequitable and unlawful treatment based on an individual's protected characteristics or statuses – basis of gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information, pregnancy, childbirth or related medical conditions, status as a veteran or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity or any other status protected by law – that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a VSDB program or activity. This includes failing to provide reasonable accommodations, consistent with state and federal law, to persons with disabilities.

Harassment

A form of discrimination in which unwelcome verbal, written, or physical conduct is directed towards an individual on the basis of his or her protected characteristics or statuses by any member of the VSDB community. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment violates this policy when it creates a hostile environment.

Harassment Based on Gender, Sexual Orientation, and Gender Identity

For the purposes of Title IX, sexual harassment is conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo); or
- Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

Examples of conduct which may constitute harassment based on gender, sexual orientation, and/or gender identity include:

- sexual assault
- unwelcome sexual physical contact
- unwelcome ongoing or repeated sexual flirtation or propositions, or remarks
- unwelcome sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
- graphic comments about an individual's body
- sexual jokes, notes, stories, drawings, gestures, or pictures
- spreading sexual rumors
- unwelcome touching an individual's body or clothes in a sexual way
- displaying sexual objects, pictures, cartoons or posters
- impeding or blocking movement in a sexually intimidating manner
- sexual violence
- display of written materials, pictures, or electronic images
- unwelcome acts of verbal, nonverbal, written, graphic, or physical conduct based on gender or gender stereotyping
- sex/gender-based harassment involving persons of the same or different sexes,
- sex/gender-based harassment directed towards stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes

Harassment Based on Race, National Origin, Disability or Religion

Harassment based on race, national origin, disability, or religion consists of physical or verbal conduct, which may include use of cell phones or the internet, relating to an individual's race, national origin, disability or religion when the conduct:

- creates an intimidating, hostile or offensive working or educational environment;
- substantially or unreasonably interferes with an individual's work or education; or
- otherwise is sufficiently serious to limit an individual's employment opportunities or to limit a student's ability to participate in or benefit from the education program.

Examples of conduct which may constitute harassment based on race, national origin, disability or religion include:

- graffiti containing racially offensive language
- name calling, jokes or rumors
- physical acts of aggression against a person or his property because of that person's race, national origin, disability, or religion
- hostile acts which are based on another's race, national origin, religion, or disability
- written or graphic material which is posted or circulated, and which intimidates or threatens individuals based on their race, national origin, disability or religion

Hostile Environment

Created by oral, written, graphic or physical conduct that is sufficiently severe, persistent or pervasive and objectively offensive that it interferes with limits or denies the ability of an individual to participate in or benefit from the VSDB's educational programs, services, opportunities, or activities or the individual's employment access, benefits, or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent, and pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (4) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct, and (3) the nature of the VSDB's educational and residential program.

Retaliation

Includes intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging discrimination, harassment or any person cooperating in the investigation of allegations of discrimination, harassment to include testifying, assisting or participating in any manner in an investigation pursuant to this policy and the Complaint Procedures is strictly prohibited by this policy. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of discrimination, intimidation, threat, or coercion against a Compliance Officer/Title IX Coordinator for the purpose of interfering with his or her job responsibilities.

Additional Prohibited Behavior

Behavior that is not unlawful or does not rise to the level of illegal discrimination, harassment, or retaliation may nevertheless be unacceptable for the educational environment or the workplace. Demeaning or otherwise harmful actions are prohibited, particularly if directed at personal characteristics including, but not limited to, socioeconomic level, sexual orientation, gender identity, or perceived sexual orientation or gender identity.

III. COMPLAINT PROCEDURES

a. Reporting Prohibited Conduct

Any person may report prohibited conduct, including discrimination and/or harassment, to a Compliance Officer/Title IX Coordinator designated in this policy, or to any school personnel. The alleged discrimination and/or harassment should be reported as soon as

possible. Further, any student or school personnel who has knowledge of conduct which may violate this policy should report the conduct to a Compliance Officer/Title IX Coordinator or to any school personnel. Personnel shall immediately forward any report of alleged prohibited conduct, including discrimination and/or harassment, to a Compliance Officer/Title IX Coordinator. The reporting party should use the form, Report of Discrimination/Harassment (see Appendix I). Verbal reports and other written reports shall also be accepted and may be in person, by mail, by telephone, or by electronic mail, using the contact information listed for a Compliance Officer/Title IX Coordinator, or by any other method that results in a Compliance Officer/Title IX Coordinator receiving the person's report. Any report that involves a Compliance Officer/Title IX Coordinator or principal shall be reported to the Superintendent.

Upon receipt of a report of alleged prohibited conduct, including discrimination and/or harassment, the Compliance Officer/Title IX Coordinator will promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. Supportive measures are non-disciplinary, non-punitive services that may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules or locations, mutual restrictions on contact between the parties, etc.

The Compliance Officer/Title IX Coordinator shall determine whether additional administrative action is appropriate. The report, and identity of the complainant and respondent, will be disclosed by VSDB only to the extent necessary to investigate the allegations and only when disclosure is required or permitted by law. If the alleged prohibited conduct may also constitute child abuse, then it must be reported to Law Enforcement and the Department of Social Services in accordance State Child Abuse and Neglect Reporting laws.

If a complainant wishes to remain anonymous or declines to file a formal complaint, VSDB will inform the complainant that this will limit its ability to investigate and respond to the complaint. A complainant may also request to withdraw a formal complaint or any allegations therein by written notice to the Compliance Officer/Title IX Coordinator. VSDB will make every effort to respond to prohibited conduct and meet its Title IX obligations while respecting the wishes of the complainant.

b. Investigation Procedures

All employees shall cooperate with any investigation of alleged discrimination and/or harassment conducted under this Policy or by an appropriate state or federal agency.

Upon receipt of a formal complaint, the Compliance Officer/Title IX Coordinator shall acknowledge receipt of the complaint by providing written notice of the complaint to the parties in an accessible format and immediately authorize or undertake an investigation. The written notice shall include information on VSDB's Complaint Procedure. The written notice shall also include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Complaint Procedure. The written notice shall also inform the parties that they have the right to be accompanied by an advisor of their choosing, including an attorney, and to review relevant evidence. The written notice shall inform the parties that knowingly making false statements or knowingly providing false information during the grievance procedure shall result in disciplinary action.

If a formal complaint is dismissed, including at the written request of the complainant, the Compliance Officer/Title IX coordinator shall promptly provide written notice of the basis of the dismissal, simultaneously to the parties.

The investigation into a formal complaint shall be completed as soon as practicable, which generally should be no later than twenty (20) school days after receipt of the report by the Compliance Officer/Title IX Coordinator. Upon receiving the complaint, the Compliance Officer/Title IX Coordinator shall acknowledge receipt of the complaint by giving written notice in a format accessible to the student or school personnel that the complaint has been received to both the person complaining of discrimination and/or harassment, via email, if known, and/or hard copy document.

The investigation may consist of personal interviews with the complainant, the respondent, and any others who may have knowledge of the alleged discrimination and/or harassment or the circumstances giving rise to the complaint. The investigator will provide sufficient advance written notice of any investigative interviews or meetings to a party whose participation is invited or expected and, if applicable, their advisor.

The investigator will afford an equal opportunity for the parties to present witness. The investigation will consider witnesses and evidence from both the respondent and the complainant. The investigator will conduct an objective evaluation of all relevant evidence, inculpatory and exculpatory, and make credibility determinations without regard to a person's status as a complainant, respondent, or witness.

The investigation may also consist of the inspection of any other documents or information deemed relevant by the investigator. The investigator shall not rely upon or seek disclosure of information protected by a legally recognized privilege, unless the person holding the privilege waives it. Where appropriate, the investigator may request written authorization to access a party's confidential treatment records.

The investigator will provide the parties and their advisors an equal opportunity to examine and review any evidence obtained as part of the investigation that is directly

related to the allegations raised in the complaint. Neither party may redisclose or distribute otherwise confidential records provided for review, including treatment records. The investigator will provide no fewer than 10 days for the parties to submit a written response for consideration before completing the investigation report.

c. Investigation Report

Upon completion of the investigation, the investigator and/or the Compliance Officer/Title IX Coordinator shall provide a written report summarizing the relevant evidence to the Superintendent, the parties, and, if applicable, their advisors.

d. Action by the Superintendent

Upon receiving the Compliance Officer's/Title IX Coordinator's report and before make a determination, the Superintendent or designee shall afford the parties no fewer than 10 days to review and respond, including the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The Superintendent may, after notice to the party proposing the questions, exclude questions that are not relevant to the investigation, including questions prohibited by rape shield protections.

After providing the parties the opportunity to respond and to submit questions, the Superintendent or designee will make a written determination regarding responsibility. The determination must be provided simultaneously to the parties. The written determination must

- Identify the allegations potentially constituting prohibited conduct, including Title IX sexual harassment
- Describe the procedural steps taken from the receipt of the formal complaint through the determination
- Findings of fact supporting the determination
- Conclusions regarding the application of this policy and any applicable code of conduct to the facts
- A statement of, and rational for, the result for each allegation, including the determination regarding responsibility, any disciplinary action imposed on the respondent, and whether remedies designed to restore or preserve equal access to the program or activity will be provided to the complainant
- Information on the appeal procedures

The ultimate determination regarding a complaint is made by the Superintendent or appropriate designee. This authority cannot be delegated to the Title IX Coordinator or

staff or persons assigned to investigate the complaint. Determinations are made by applying a preponderance of the evidence standard.

If the Superintendent or designee determines that it is more likely than not that prohibited discrimination and/or harassment occurred, the VSDB shall take prompt, appropriate action to address and remedy the violation as well as prevent any recurrence. Such action may include any disciplinary action, up to and including expulsion or discharge. Whether or not the Superintendent or designee determines that prohibited harassment occurred, the Superintendent or designee may determine that school-wide training be conducted or provide supportive measures.

e. Appeal Procedures

Superintendent or designee's determination may be appealed to the VSDB Board of Visitors within 5 school days of receiving the written determination. A written notice of appeal must be filed with the Superintendent. The Superintendent shall provide written notification of the appeal to the other party and forward the record to the Chair of the VSDB Board of Visitors. If no notice of appeal is received by the Superintendent within 5 school days, the determination of responsibility is considered final on the following school day.

Both parties may appeal if the dismissal of a formal complaint or a determination regarding responsibility, including on the following bases: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or had a conflict of interest or bias of the Title IX coordinator or those investigating or making determinations regarding responsibility that affected the outcome of the matter.

The Executive Committee of the VSDB Board of Visitors shall make a determination within thirty (30) calendar days of receiving the record. The Executive Committee of the VSDB Board of Visitors will provide both parties the opportunity to submit written statements supporting, or challenging, the determination of responsibility. The Executive Committee may also request oral or written argument from the Superintendent and any other individual the Executive Committee deems relevant.

Written notice of the Executive Committee's determination, including the result of the appeal of the rationale for the result, will be provided simultaneously to both parties.

If the Superintendent or designee determines that prohibited harassment occurred and discipline is imposed, the disciplined person may appeal the disciplinary action in the same manner as any other such action would be appealed. Employees may choose to pursue their complaints under this policy through the relevant employee grievance procedure instead of the complaint procedure in this policy.

f. Informal Procedures

If the complainant and respondent agree, the Compliance Officer/Title IX coordinator may arrange for them to resolve the complaint informally with the help of a counselor, teacher, or administrator. After a complaint is filed, the Compliance Officer/Title IX coordinator may arrange for informal resolution upon the voluntary, informed, and written agreement of both the complainant and the respondent. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance procedure with respect to the formal complaint. Informal resolution procedures cannot be used to resolve allegations that an employee sexually harassed a student. The Compliance Officer/Title IX coordinator shall notify the complainant and the respondent in writing when the complaint has been resolved.

II. Timeframes

The Compliance Officer/Title IX Coordinator may allow for the temporary delay or extension of timeframes for good cause. The complainant and respondent shall be notified in writing of the delay or extension, including the reasons for the action.

III. Conflicts of Interest

The Compliance Officer/Title IX Coordinator, Superintendent, Investigator, or other designated individuals shall promote impartial investigations and adjudications of discrimination and/or harassment. The Compliance Officer/Title IX Coordinator, Superintendent, Investigator, or other designated individuals shall carry out their duties in an unbiased manner and promptly report any conflicts of interest. If a Compliance Officer/Title IX Coordinator, Superintendent, Investigator, or other designated individual is the respondent or alleged perpetrator of discrimination and/or harassment or is found to have a conflict of interest, then an appropriate designee must be appointed. If the Investigator or Compliance Officer/Title IX Coordinator is involved in the complaint or is found to have a conflict of interest, the Superintendent shall appoint an appropriate designee. If the Superintendent is involved in the complaint or is found to have a conflict of interest, the Executive Committee of the VSDB Board of Visitors shall appoint an appropriate designee.

IV. COMPLAINT OFFICER/TITLE IX COORDINATOR

The VSDB Board of Visitors has designated the following Compliance Officer/Title IX Coordinators:

Tessy Schlemmer	
PO Box 2069 Staunton, VA 24401 540-332-9065 Tessy.Schlemmer@vsdbs.virginia.gov	

The Compliance Officer/Title IX Coordinator is responsible for identifying, investigating, preventing and remedying prohibited discrimination and harassment. Complaints of discrimination and/or harassment may also be made to any school personnel.

The Compliance Officer/Title IX Coordinator shall:

- Receive reports or complaints of discrimination and/or harassment;
- Conduct or oversee the investigation of any alleged discrimination and/or harassment;
- Assess the training needs of VSDB in connection with this policy;
- Arrange necessary training to achieve compliance with this policy; and
- Ensure that any discrimination and/or harassment investigation is conducted by an impartial investigator who is trained in the requirements of equal employment/education opportunity and has the authority to carry out the requirements of this policy.

V. NOTICE OF POLICY, COMPLAINT PROCEDURES, AND COMPLIANCE OFFICER/TITLE IX COORDINATOR

This policy shall be:

- displayed in prominent areas of each building in a location accessible to students, parents and school personnel,
- included in the student and employee handbooks;
- sent to parents of all students within thirty (30) calendar days of the start of school

Notice of this policy and the names and contact information of the Compliance Officers/Title IX coordinators shall be provided upon application for admission or employment and annually to all students, parents/guardians, employees, and any unions or professional organizations with whom VSDB holds a collective bargaining or professional agreement.

VI. TRAINING ON POLICY AND COMPLAINT PROCEDURES

Training to prevent discrimination and/or harassment based on gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information, pregnancy, childbirth or related medical conditions, status as a veteran should be included in employee and student orientations as well as employee in-service training. VSDB will post training materials online and/or make them available to the public upon request.

VII. FALSE CHARGES

Students or school personnel who knowingly make false charges of discrimination and/or harassment shall be subject to disciplinary action and could be subject to civil or criminal legal proceedings.

Rescission:	Revised: September 2015
	Approved: BOV 9/22/15
	Revised: BOV Approved 12/10/15
	Approved: BOV 9/24/20
	Revised: June 8, 2022

APPENDIX I
REPORT OF DISCRIMINATION/HARASSMENT

Name of Reporter: _____

For Students, Grade Level: _____

For Employees, Position and Location: _____

Address, Phone Number and Email Address:

Date(s) of Alleged Incident(s): _____

Name of person(s) you believe discriminated and/or harassed you or others:

If the alleged discrimination and/or harassment was toward another, please identify that person: _____

Please describe in detail the incident(s) of alleged discrimination and/or harassment, including where and when the incident(s) occurred. Please note any witnesses that may have observed the incident(s). Please include a description of any past incidents that may be related to this complaint. Attach additional pages if necessary.

I certify that the information provided in this report is true, correct and complete to the best of my knowledge:

Signature

Date

Received By: _____

Date _____