

SMYRNA SCHOOL DISTRICT

POLICY

Section:	4000 Personnel	Office Responsible:	Human Resources
Policy:	4237 Adult Sexual Misconduct		
Related Policies:	4235 Title IX	Administrative Procedure:	N/A

I. Purpose

This policy outlines the school response to acts of adult sexual misconduct between students and school employees, contractors, coaches, and volunteers.

II. Authority

14 Del. C. § 4401
14 Del. C. § 4166

III. Definitions

Adult Sexual Misconduct: Any activity, physical, sexual, or otherwise, directed to a student with the objective of developing a romantic or sexual relationship.⁴

Alleged Perpetrator: School employee, contractor, coach, or volunteer who is suspected of committing an act of misconduct against a student.

Child Sexual Abuse: Any sexual act which is non-consensual or prohibited due to the ages of the child and perpetrator.

Inappropriate Sexual Conduct: Includes making any sexual contact with a student, such as genital contact, groping, fondling, kissing, touching, showing a child one’s genitalia or pornography, and participating in child exploitation conducted in online settings.⁵

Inappropriate Verbal Conduct: Includes making sexual comments and questions, jokes, taunting, and teasing; whether in person, by phone, or using electronic means.⁶

Inappropriate Physical Conduct: Includes making physical contact with a student such as kissing, hair stroking, tickling, and frontal hugging.⁷

Minimal Facts Question: Questions that help reporters obtain the information needed to make a clear and concise report of child abuse and neglect to the Division of Family Services, and it focuses reporters on the essential information – what, when, where, and who?

Parent: Natural parent, adoptive parent, or any person, agency, or institution that has custody or guardianship over a student.⁸

School Employee: Shall include all persons employed by a school district or charter school; subcontractors such as bus drivers or security guards; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property.⁹ This includes

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school-based wellness center staff, volunteers, and community agency staff.

School Environment: Within or on school property, and at school-sponsored or supervised activities, including, for example, on school buses, at functions held on school grounds, at school-sponsored extracurricular activities held on and off school grounds, and on field trips.

School Crimes: A school employee has reasonable suspicion that a student has been the victim of a violent felony, Assault III, or Unlawful Sexual Contact III and the offense was committed by another student as outlined in Title 14 *Del. C.* § 4112.

School Property: Shall include any building, structure, athletic field, or sports stadium that is owned, operated, leased, or rented by any school district or charter school; any motor vehicle owned, operated, leased, rented, or subcontracted by any school district or charter school;¹¹ or remote learning platform.

School Volunteer: A person 18 years of age or older who, without compensation, renders service to a school district or charter school. School volunteers include parents who assist in school activities or chaperone school functions.¹²

Title IX of the Education Amendments of 1972: Federal legislation that prohibits discrimination on the basis of sex in educational programs and activities. Complaints or inquiries concerning sexual harassment or discrimination on the basis of sex should be directed to the School District or Charter School's Title IX Coordinator.

Victim: Current student allegedly harmed by a school employee, contractor, coach, or volunteer.

IV. Policy Statement

A. Identification of Adult Sexual Misconduct

A school employee or volunteer may develop reasonable suspicion that a student has been the victim of adult sexual misconduct by a school employee, contractor, coach, or volunteer when:

- The incident is witnessed;
- A student makes a disclosure, even if it is minimal in detail; or,
- Indicators of possible adult sexual misconduct are known, such as the inappropriate interactions noted in Section 2.d. under the Procedures for Staff Interactions with Students.

B. School employees or volunteers shall not interview the victim or alleged perpetrator when adult sexual misconduct is suspected; only Minimal Facts Questions should be

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asked.

C. Immediate Response by School Employees and Volunteers

Separate Victim and Alleged Perpetrator

- Separate the victim and alleged perpetrator, keeping the victim in a location that allows for safety and confidentiality.

Assess Need for Medical or Mental Health Intervention

- Assess for injuries and need for medical or mental health intervention. Call 911 and the school Nurse for medical assistance and connect the victim with mental or emotional health resources.

D. Required Immediate Notifications

DFS Report Line

- The school employee or volunteer shall make an **immediate** report to the Division of Family Services (DFS) for any **adult sexual misconduct between a student and school employee, contractor, coach, or volunteer, regardless of where the offense occurred.** Call 1-800-292-9582.

Law Enforcement

- An **immediate** 911 report to law enforcement shall also be made by the School Principal or a Designee for any **adult sexual misconduct between a student and school employee, contractor, coach, or volunteer.** Notification to a School Resource Officer, if one is assigned to the school, fulfills the obligation to report to law enforcement. This report shall be made **regardless of where the offense occurred.**

DOE, School District Central Office, and Title IX Coordinator

- The school employee or volunteer, or the school administrator shall notify the Delaware Department of Education (DDOE), School District Central Office, and the Title IX Coordinator for the school. **Document the time, date, and method of notification to law enforcement and DOE in the Comment Section of the E-School Incident report.** The school shall not initiate its Title IX investigation until law enforcement concludes the evidence-gathering process of the criminal investigation. Schools should work closely with legal counsel to determine when to initiate the Title IX investigation.

Superintendent, Charter Head of School, or Designee at LEA Central Office

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- The school employee or volunteer, or the school administrator shall notify the Superintendent, Charter Head of School, or designee at the local education agency central office of the circumstances and provide the contact information for the DFS investigator and law enforcement officer.

E. Next Steps by School Employees and Volunteers

Protect Physical Evidence: Protect any physical evidence, whether related to the victim, suspect, or scene, which could be lost or destroyed prior to law enforcement arrival. Absent an urgent medical issue, the victim should **not** be examined for physical evidence or injury and should not bathe nor wash their hands. Any evidence, such as weapons or electronic devices, should be placed in a sealed envelope and secured in the school safe until delivered to law enforcement.

Do Not Conduct Interviews: School employees shall NOT interview the victim, witnesses, or alleged perpetrator or inform the alleged perpetrator of the pending criminal investigation.

Do Not Notify the Alleged Victim's or Perpetrator's Parents: DFS and law enforcement will be responsible for notifying parents.

Do Not Investigate: School employees shall NOT attempt to establish the credibility of a suspected incident of adult sexual misconduct and shall not request written statements from anyone.

Develop Safety Plan: Develop and implement a safety plan with the victim as indicated in the Teen's Guide to Safety Planning to increase, enhance, and monitor the victim's safety. Include IEP and 504 Teams as needed to ensure students with disabilities' needs are addressed appropriately.

Discuss Protection from Abuse Order: If applicable, inform the victim and caregivers of the right to file for a PFA, providing contact numbers and websites for resources to assist with filing for the PFA Order.

Inform Victim of Title IX Rights: Inform the victim of the right to file a complaint, when applicable, directly with the Title IX Coordinator. Refer victim to Title IX Coordinator as appropriate.

Maintain Complaints: Maintain adult sexual misconduct complaints in a file separate from the victim's academic records. This practice is recommended to prevent inadvertent disclosure of confidential information.

F. Immediate response by District Office Designee(s)

Ask the Minimal Facts Questions: Gather minimal information from the victim regarding the incident using **Minimal Facts Questions**. School Employees should be

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seeking information only to determine **what** is alleged to have happened, **when** it happened, **who** is the alleged perpetrator, and **where** it happened. No written statement should be sought from the victim or alleged perpetrator at any point. Document initial findings in Required DDOE Incident Report submitted via E-School Reporting Platform.

Document Victim’s Statement: Document the details of the victim’s disclosure being sure to include the victim’s exact words. Do not require victim or alleged perpetrator to write a statement.

Identify Potential Witnesses: Identify for law enforcement any potential witnesses who may have been present or involved. Law enforcement will conduct interview of witness(es). Do not require any witnesses to write a statement.

Protect Physical Evidence: Protect any physical evidence, whether related to the victim, suspect, or scene, which could be lost or destroyed prior to law enforcement arrival. Absent an urgent medical issue, the victim should not be examined for physical evidence or injury and should not bathe nor wash their hands. Any evidence, such as weapons or electronic devices, should be placed in a sealed envelope and secured in the school safe until delivered to law enforcement.

Consider Administrative Leave: Protect any physical evidence, whether related to the victim, suspect, or scene, which could be lost or destroyed prior to law enforcement arrival. Absent an urgent medical issue, the victim should not be examined for physical evidence or injury and should not bathe nor wash their hands. Any evidence, such as weapons or electronic devices, should be placed in a sealed envelope and secured in the school safe until delivered to law enforcement.

Request Information on Employment History: Request information about the alleged perpetrator’s current or past employment history at other schools and child venues. If the Superintendent or Charter Head of School has knowledge that the alleged perpetrator is currently employed by another school district/school or other child venue, they will share this information with the investigating law enforcement agency, and DFS if involved, immediately or as soon as practicably possible.

G. Follow-Up Actions by District Office Designee(s)

Administer Discipline: After law enforcement concludes or declines its involvement, administer disciplinary action to the alleged perpetrator for incidents of adult sexual misconduct per the district’s policies.

Promote School Recovery: After law enforcement concludes or declines its involvement, implement measures to address school recovery after an incident of adult sexual misconduct.

Maintain Complaints: Maintain adult sexual misconduct complaints in the alleged

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perpetrator's personnel file. Substantiated incidents of adult sexual misconduct will be reported in future reference checks for employment or volunteer work.

H. Response by Law Enforcement or School Resource Officers

The **Memorandum of Understanding for the Multidisciplinary Response to Child Abuse and Neglect** is the guiding document for the multidisciplinary response to child abuse and neglect, which includes the response to adult sexual misconduct. The procedures below are meant to serve as additional guidance for these incidents in the school environment.

Respond to School: If the investigating officer will not be the School Resource Officer present at the school, the officer shall respond to the school on the date the incident is reported.

Assess Need for Medical or Mental Health Intervention: Ensure the victim is in a location where the victim feels safe, and confidentiality is protected. Assess the victim's immediate safety and medical needs.

Cross-Report to DFS: Ensure a report to DFS has been made. If not, report any and all allegations to the DFS Report Line. Communicate and collaborate with the investigating DFS worker, **conducting a multidisciplinary team (MDT) investigation** for adult sexual misconduct requiring a DFS response.

Contact the Victim's Parents: Contact the victim's parents to inform them that there are allegations of adult sexual misconduct.

Utilize the Children's Advisory Center: Victims ages 3-12 and all suspected child victims of trafficking **shall** be interviewed at the Children's Advisory Center (CAC). All other victims **may** be interviewed at the CAC.

Interview Victim: If the victim is not being interviewed at the CAC, law enforcement will interview the victim in a confidential setting and shall be audio-recorded. Law enforcement will invite DFS to observe the interview.

Obtain Statements from Witnesses: Obtain statements from witness(es), when possible, including statements from persons observing the incident and persons providing corroborative details.

Identify Other Potential Victims: Consider the potential that other students may have been exposed to or victimized by the alleged perpetrator.

Collect Physical Evidence: Collect and document physical evidence, including any already collected by the school. For physical evidence needing to be collected from the victim, such as DNA or saliva evidence, the collection should occur at a local hospital by a forensic nurse examiner (FNE) or sexual assault nurse examiner (SANE). Law

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enforcement and DFS will determine the most appropriate setting to photograph the victim's injuries and the most appropriate person to take the photographs.

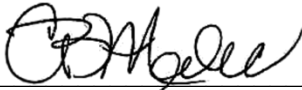
Discuss Protection from Abuse Order: If applicable, inform the victim and caregivers of the right to file for a PFA, providing contact numbers and websites for resources to assist with filing for the PFA Order.

Refer Victim to Services: Refer victim and caregivers to resources, ensuring police-based victim services are notified of this allegation.

Communicate Outcome to School: Communicate investigation progress and outcome to the School Principal or a Designee.

**Italics indicate Delaware Regulation Administrative Code Title 14 wording*

Board Approval Acknowledged by:



Christine Malec, President
Smyrna School District Board of Education

Policy Actions

Adopted: 08/28/2024

Revised: