

SMYRNA SCHOOL DISTRICT

District Policy

Article: 5000 Students

Title: Teen Dating Violence and Sexual Assault

Policy #: 5126

The Smyrna School District (the "District") recognizes that safe learning environments are necessary for students to learn and achieve high academic standards. The District strives to provide safe learning environments for all students.

1. Definitions

- a. **"Sexual Assault"** – as used in this policy, means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim, or who is known by the victim or related to the victim by blood, marriage, or civil union. Behaviors that fall under this definition include, but are not limited to:
 - i. *Sexual Harassment*: which includes when (1) A person threatens to engage in conduct likely to result in the commission of a sexual offense against any person; or (2) A person suggests, solicits, requests, commands, importunes or otherwise attempts to induce another person to have sexual contact or sexual intercourse or unlawful sexual penetration with the actor, knowing that the actor is thereby likely to cause annoyance, offense or alarm to that person.
 - ii. *Sexual Contact*: which is defined as (1) Any intentional touching by the perpetrator of the anus, breast, buttocks or genitalia of another person; or (2) Any intentional touching of another person with the perpetrator's anus, breast, buttocks or genitalia; or (3) Intentionally causing or allowing another person to touch the perpetrator's anus, breast, buttocks or genitalia which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature. Sexual contact shall also include touching when covered by clothing.
 - iii. *Sexual Intercourse*: which is defined as (1) Any act of physical union of the genitalia or anus of 1 person with the mouth, anus or genitalia of another person. It occurs upon any penetration, however slight. Ejaculation is not required. This offense encompasses the crimes commonly known as rape or sodomy; or (2) Any act of cunnilingus or fellatio regardless of whether penetration occurs. Ejaculation is not required.
 - iv. *Sexual Penetration*: which is defined as (1) The unlawful placement of an object (item, device, instrument, substance or any part of the body), inside the anus or vagina of another person; or (2) The unlawful placement of the genitalia or any sexual device inside the mouth of another person.
 - v. *Child Sexual Abuse*: means any act against a child that is described as a sex offense in 11Del. C§761(h).
- b. **"Teen Dating Violence"** as used in this policy, includes assaultive, threatening or controlling behavior, including stalking that 1 person uses against another person in order to gain or maintain power or control in a current or past relationship. The behavior can occur in both heterosexual and same sex relationships, and in serious or casual relationships. Stalking means when a person knowingly engages in a course of conduct directed at a specific person and that conduct would cause a reasonable person to: (1) Fear physical injury to himself or herself or that of another person; or (2) Suffer other significant mental anguish or distress that *may*, but does not necessarily, require medical or other professional treatment or counseling.
- c. **"School Function"** includes any field trip or any District sponsored event.
- d. **"School Property"** means any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by the District, or any motor vehicle owned, operated, leased, rented or subcontracted by the District.
- e. **"District Employee"** includes all persons employed by the District, subcontractors such as bus drivers, security guards, substitute employees, and persons hired by or subcontracted by other state agencies to work on District property.

- f. **“Principal”** means the building principal, or the equivalent of the building principal of any District school.
- II. **Prohibition of Teen Dating Violence and Sexual Assault**
To further these goals and as required by 14 Del. C§4112E, the District prohibits Sexual Assault and Teen Dating Violence by any person at any school function or on any school property.
- III. **Consequence for Offenses**
A student who commits the offenses of Teen Dating Violence or Sexual Assault is subject to disciplinary action up to expulsion in accordance with the Code of Conduct.
- IV. **Protocol for Responding to Incidents of Teen Dating Violence and Sexual Assault**
- a. **Procedure Regarding Initial Response**
 - i. If a student complains of Teen Dating Violence or Sexual Assault while it is happening, the District employee receiving the report will respond quickly and firmly to intervene, if safety permits. The District employee will provide the victim with a safe location separated from the alleged perpetrator.
 - ii. The District will investigate all allegations of Teen Dating Violence and/or Sexual Assault in as prompt and confidential manner as possible and will take appropriate corrective action when warranted.
 - b. **Procedure for Reporting Incidents of Teen Dating Violence and Sexual Assault when a Report is Required**
 - i. A District employee who has reliable information that would lead a reasonable person to believe that Teen Dating Violence or Sexual Assault has occurred or is occurring, shall immediately report it to the Principal. The report shall be followed by a written report to the Principal within 24 hours.
 - ii. The Principal shall immediately make reasonable efforts to notify the parents of any juvenile victim and shall immediately report the incident to the appropriate police agency. The report shall be made by telephone or in person immediately and shall be followed by a written report within 3 business days.
 - iii. If the police agency determines that probable cause exists to believe that a crime has been committed, or if the Principal later learns that a suspect has been arrested for the offense, the Principal must file a written report of the incident to the Department of Education within 5 days.
 - iv. Every reasonable effort shall be made to maintain the confidentiality of the victim.
 - c. **Procedure for the Documentation of Incidents**
 - i. The written report from the District employee to the Principal shall be reasonable specific as to actions giving rise to the suspicion of Teen Dating Violence and/or Sexual Assault and shall include:
 1. Persons involved, designating perpetrator and victim
 2. Time and place of the conduct and alleged number of incidents
 3. Potential student or staff witnesses; and
 4. Any actions taken
 - ii. The principal shall document the substance of the report made to the police agency.
 - d. **Procedure for Working with Victims**
Confidentiality of complainants and victims shall be maintained to the extent practicable. Student victims may have a parent or trusted adult with them, if requested, during any investigatory activities. The school counselor and school nurse shall be made available to the student if requested.
 - e. **Procedure for Working with Perpetrators**
All suspected perpetrators will be afforded due process in accordance with the Code of Conduct.
- V. **Training**
- a. All administrators, school nurses, and school counselors in the District serving students in grades 7 through 12 shall receive this policy and shall attend protocol training during the first year of assignment as an administrator, school nurse or school counselor, and at least once in every 3-year period thereafter pursuant to 14 Del C.§4112E. The training

materials and trainings shall be developed and provided by the Delaware Domestic Violence Coordinating Council. Any inservice training required by this section shall be provided within the contracted school year as provided in 14 Del. C. §1305(e).

- b. The District shall ensure existing health standard programming related to comprehensive healthy relationships, based on the Health Standards adopted by the Delaware Department of Education as approved by the State Board of Education, is provided in health education programs or related classes.

VI. **Immunity**

A District employee, District volunteer or student is individually immune from a cause of action for damages arising from reporting Teen Dating Violence and/or Sexual Assault in good faith and to the appropriate person or persons using the procedures specified in this policy, but there shall be no immunity if the act of reporting constituted gross negligence and/or reckless, willful or intentional conduct.

VII. **Relationship to School Crime Reporting Law**

An incident may meet the definition of Teen Dating Violence and/or Sexual Assault and also the definition of a particular crime under State or Federal law. Nothing in this policy shall prevent school officials from fulfilling all of the reporting requirements of 14 Del. C. §4112, or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under that section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 of the Delaware Code, or any other reporting requirement under State or Federal law.

VIII. **Policy Notification**

The policy shall appear in the student and staff handbook and if no handbook is available, or it is not practical to reprint new handbooks, a copy of the policy will be distributed annually to all students, parents, faculty and staff.

IX. **Rules and Regulations**

Implementation of this policy shall comply with all rules and regulations the Delaware Department of Education may promulgate to implement 14 Del. C. §4112E.

Approved by the Board of Education, March 17, 2015