



DoDEA ADMINISTRATIVE INSTRUCTION 1443.02

PROHIBITED SEXUAL, SEX-BASED, AND OTHER RELATED ABUSIVE MISCONDUCT REPORTING AND RESPONSE

Originating Division:	Investigations and Internal Review
Effective:	February 21, 2019
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Incorporates and cancels:	DoDEA Regulation 1800.02, "Prohibition of Adult-to-Student Sexual Abuse, Sexual Harassment, and Other Inappropriate Behavior or Conduct," June 15, 2015 DoDEA 18-DMEO-004, "Annual Policy Statement on Sexual Harassment," February 16, 2018 (hereby officially cancelled)
Approved by:	Thomas M. Brady, Director

Purpose: This Issuance defines terms and establishes policy regarding the identification of and response to prohibited sexual, sex-based, and other related abusive misconduct, such as sexual or gender-based harassment, sexual assault, problematic sexual behavior in children and youth, and other related abusive misconduct committed by or against students, employees, or other beneficiaries of DoDEA-conducted education and training programs and activities, implemented pursuant to Executive Order 13160. Complaints alleging sex discrimination based on a violation of this Issuance are to be handled in accordance with Volumes 1 and 2 of DoDEA Administrative Instruction 1443.01.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This Issuance applies to the DoDEA Headquarters Organization, the DoDEA Americas Region, the DoDEA Europe Region, the DoDEA Pacific Region, and to include all schools under the DoDEA authority, and when applicable, volunteers, students, support personnel, student teachers, contractors, and sponsors/parents.

b. This Issuance also applies to DoDEA volunteers, contractors, and any other individuals acting in their capacity as an agent of DoDEA, both on or off DoDEA premises.

c. This Issuance also applies to DoDEA students and other beneficiaries (See Glossary).

1.2. POLICY.

a. DoDEA does not condone or tolerate any form of **sexual harassment, sexual assault, problematic sexual behavior in children and youth (PSB-CY), and other related abusive misconduct** of, or by, employees, students, other beneficiaries, or anyone within DoDEA jurisdiction in DoDEA-conducted or sponsored education and training programs and activities, committed both on and off DoDEA premises, pursuant to Executive Order 13160, commonly known as and referred to in this Issuance as EO 13160.

b. Although DoDEA cannot guarantee every participant a school and work environment free from annoyances, petty slights, or minor offenses, DoDEA is committed to creating and maintaining a learning and work environment free from unlawful sex discrimination in accordance with Volume 1 and Volume 2 of DoDEA Administrative Instruction 1443.01 and will not tolerate hostile environments created by sexual harassment, sexual assault, PSB-CY, or other related abusive misconduct against a DoDEA student, employee, or other beneficiary.

c. Any DoDEA student, employee, or other beneficiary who reports that they, or someone they know, has been subjected to a violation of this Issuance has the right to prompt response and intervention by an appropriate DoDEA official to ensure the safety and welfare of those individuals involved. Upon notification of a violation of this Issuance, a DoDEA School Principal, Program Director, First-Line Supervisor, or other DoDEA appropriate Activity official (AAO), depending upon the circumstances, shall inquire to assess and attend to the safety and welfare of those involved, decide how to proceed based upon the facts of the case, and take appropriate steps to investigate and secure prompt and equitable resolution of the matter.

d. DoDEA shall take whatever action may be needed to prevent, correct, and, if necessary, discipline behavior which violates this Issuance, concurrent with or independent of any outside investigations and action that may be taken by appropriate external enforcement entities, where applicable.

1.3. INFORMATION COLLECTION. This Issuance may result in the collection of information due to its policy and procedures. Any collection of information must follow all applicable Federal, DoD, and DoDEA regulations, policies, and guidance.

SECTION 2: RESPONSIBILITIES

2.1. DODEA DIRECTOR. The DoDEA Director has overall responsibility for establishing Activity-wide policy for sexual harassment, sexual assault, PSB-CY, and other related abusive misconduct awareness, prevention, and response and for designating authority for the effective implementation of the responsibilities and obligations under this Issuance.

2.2. DODEA ASSOCIATE DIRECTOR FOR ACADEMICS. The DoDEA Associate Director of Academics is responsible for the effective implementation of this Issuance, to include designating an AAO within DoDEA Education/Student Services to ensure the effective tracking, monitoring, and trend analysis of violations of this Issuance involving DoDEA students, and the development and dissemination of age-appropriate educational materials for students and professional development materials for educator staff in accordance with this Issuance.

2.3. DODEA DIRECTORS FOR STUDENT EXCELLENCE AND REGION CHIEFS OF STAFF. Each DoDEA Director for Student Excellence and region Chief of Staff is responsible for overseeing the effective implementation of this Issuance within their region.

2.4. DODEA DISTRICT AND COMMUNITY SUPERINTENDENTS AND DIVISION AND BRANCH CHIEFS. Each DoDEA District and Community Superintendent and Division and Branch Chief is responsible for overseeing the effective implementation of this Issuance within their district, community, division, or branch, to include:

- a. Ensuring that all individuals under their authority have opportunity to be informed of their rights and responsibilities through outreach and training as developed under this Issuance.
- b. Ensuring that School Principals, Program Directors, First-Line Supervisors, or, in the event of a conflict of interest, other designated next-higher-level DoDEA AAO under their authority, accept reports of violation of this Issuance and investigate and take appropriate administrative and personnel action in accordance with this Issuance, as appropriate to the circumstances.

2.5. DODEA INVESTIGATIONS AND INTERNAL REVIEW DIVISION CHIEF. The DoDEA Investigations and Internal Review Division (I&IR) Chief is responsible for advising leadership on both case-specific and overall investigative and response strategies and advising DoDEA District and Community Superintendents, School Principals, Program Directors, Division and Branch Chiefs, and other supervisory personnel on appropriate local-level response, inquiry, and reporting strategies, as requested.

2.6. DODEA OFFICE OF THE GENERAL COUNSEL. The DoDEA Office of the General Counsel (OGC) is responsible for ensuring legal consultation on effective implementation of this Issuance, as requested.

2.7. DODEA LABOR MANAGEMENT AND EMPLOYEE RELATIONS CHIEF. The DoDEA Labor Management and Employee Relations (LMER) Chief is responsible for ensuring human resources consultation on effective implementation of this Issuance, as requested.

2.8. DODEA DIVERSITY MANAGEMENT AND EQUAL OPPORTUNITY DIVISION CHIEF. The DoDEA Diversity Management and Equal Opportunity Division (DMEO) Chief is responsible for ensuring DMEO consultation on effective implementation of this Issuance with regards to employment-related issues, to include ensuring designated DMEO staff are available to serve as points of contact (POC) within their region or districts for inquiries from employees and applicants for employment regarding their equal employment opportunity (EEO) and EO 13160 rights and complaint procedures.

2.9. DODEA HEADQUARTERS CIVIL RIGHTS PROGRAM MANAGER. The DoDEA Headquarters (HQ) Civil Rights Program Manager (CRPM) is responsible for:

a. Providing subject matter expertise in support of enforcement of this Issuance and DoDEA's commitment to provide a discrimination-free learning and work environment in its education and training programs and activities in accordance with EO 13160, to include serving as DoDEA Discrimination Complaints Processing (DCP) Lead Coordinator in accordance with Volume 2 of DoDEA Administrative Instruction 1443.01.

b. Providing technical assistance to all levels of personnel on the effective implementation of this Issuance.

c. Addressing inquiries from students, employees, and other beneficiaries on their EO 13160 rights and responsibilities under this Issuance.

d. Developing general education, training, and outreach materials (both directly and in collaboration with other stakeholders) to promote and support the enforcement of this Issuance.

2.10. DODEA SCHOOL PRINCIPALS, PROGRAM DIRECTORS, AND EMPLOYEE SUPERVISORS. Each DoDEA School Principal, Program Director, and Employee Supervisor is responsible for:

a. Creating and maintaining a learning and work environment in which all persons who participate in DoDEA-conducted education and training programs and activities can do so in an environment free from all forms of sexual harassment, sexual assault, PSB-CY, and other related abusive misconduct.

b. Recognizing and promptly responding to such prohibited acts, ensuring their staff are sufficiently trained to recognize and properly respond to such prohibited acts, and investigating and taking necessary action to ensure prompt and equitable resolution of reports of alleged violation of this Issuance.

c. Ensuring that all DoDEA employees and volunteers under their supervision are trained to be cognizant of, and responsible for, effectively implementing the sexual harassment, sexual assault, PSB-CY, and other related abusive misconduct identification and response established in this Issuance.

2.11. DODEA EMPLOYEES, STUDENTS, AND OTHER BENEFICIARIES. All DoDEA employees, students, and other beneficiaries are responsible for adhering to prohibitions against committing acts of sexual harassment, sexual assault, PSB-CY, and other related abusive misconduct established in this Issuance and cooperating with activities executed in accordance with this Issuance.

a. DoDEA students are responsible for cooperating truthfully, in an age and developmentally appropriate manner, with any inquiry or investigation concerning alleged incidents of sexual harassment, sexual assault, PSB-CY, and other related abusive misconduct and only during the course of regular school hours unless otherwise approved by their parent/guardian.

b. DoDEA employees are responsible for cooperating truthfully in any inquiry or investigation concerning alleged incidents of sexual harassment, sexual assault, PSB-CY, and other related abusive misconduct and will do so as part of their official duties.

c. Other beneficiaries alleged to have violated this Issuance may be subject to restriction of their participation in DoDEA-conducted or sponsored education and training programs and activities pending outcome of the ensuing investigation. Other beneficiaries found to have violated this Issuance may be subject to restriction in or revocation of their access to or participation in such programs and activities.

SECTION 3: PROHIBITED CONDUCT

3.1. SEXUAL HARASSMENT. Sexual harassment, as that term is used within the context of this Issuance, is conduct that is sexual in nature, unwelcome, and sufficiently serious that it denies or limits the ability of a DoDEA student, DoDEA employee, or other beneficiary to participate in or benefit from DoDEA education or training programs and activities.

a. Sexual harassment can take many forms, depending upon the victim, the harasser, and the circumstances. Such misconduct can consist of unwelcome sexual advances, requests for sexual favors, and other objectively offensive verbal, written, or physical conduct of a sexual nature that takes place under any of the following circumstances:

(1) When submission to such conduct is made, explicitly or implicitly, as a term or condition of employment, instruction, or participation in school or work activities.

(2) When submission to or rejection of such conduct by a victim is used by the harasser as the basis for making scholastic or personnel decisions affecting the victim.

(3) When such conduct has the effect of unreasonably interfering with the victim's academic and/or work performance or creating an objectively offensive hostile learning or work environment, commonly known as a **Hostile Environment**. A victim need not be the direct target of misconduct, but may suffer as a third party bystander from the adverse effects of an objectively offensive Hostile Environment created by the sexual or sex-based misconduct of others. There does not need to be a finding of psychological harm to constitute sexual harassment, but only a determination that a reasonable person under the same circumstances would feel, as the victim does, that the environment is hostile.

b. An individual of any sex, gender, or sexual orientation can be the victim of sexual harassment, and the harasser and victim can be of the same sex, gender, or sexual orientation, or not.

c. Students, employees, and other beneficiaries cannot be guaranteed an environment completely free of irritating, unpleasant, socially awkward, insensitive, or otherwise annoying behaviors by those around them. To have the effect of unreasonably interfering with a victim's academic and/or work performance or to create a hostile learning or work environment, conduct must be more than mere annoyances, petty slights, or a single unremarkable act, but consist of conduct that is objectively offensive under the Reasonable Person Standard and sufficiently **severe, persistent, or pervasive** (See Glossary). The following are some, but not all, examples of sexual harassment that could create a Hostile Environment if sufficiently severe, persistent or pervasive:

(1) Commenting, joking, or teasing about someone's sexuality, private body parts, or sexual development.

(2) Texting, instant messaging (IM), emailing, creating graffiti, or otherwise sharing sexually graphic material, both written and visual.

(3) Using sex or gender-related name calling, criticisms, judgments, or otherwise taunting anyone for not fitting sex or gender stereotypes or the harasser's idea of gender norms.

(4) Spreading sexual rumors or rating others according to their sexual activity, performance, or attractiveness.

(5) Sharing pictures or videos of private body parts, sexual activity, pornography, or other sexually-suggestive acts, such as on their cell phone, in a magazine, on a computer, or in an email, and includes production and/or sharing of youth-produced nude images.

(6) Pulling at someone's clothing, pulling down pants or shorts, flipping skirts, lifting up shirts, or grabbing at another person, or trying to, so they can expose or touch any private part of that person's body.

(7) Performing sexual gestures, touching their own or anyone else's private body parts, or intentionally exposing their private body parts for shock, annoyance, provocation, ridicule, or sexual gratification purposes.

(8) Blocking someone's path so they cannot get away from sexual harassment.

(9) Stalking someone in person, online, through third parties, or in any other manner, to pursue an unwelcome or unlawful sexual or romantic relationship.

(10) Unwelcome physical contact of a sexual or inappropriately familiar nature, from an unwanted pat, hug, or kiss, to groping or grabbing of another person's private body parts and, in extreme cases, sexual assault or rape. (A single act of rape may be considered sexual harassment, because it is objectively offensive conduct that is sufficiently "severe" enough to have the effect of interfering with a victim's academic and/or work performance or access to DoDEA programs and activities, or create a hostile learning or work environment.)

d. Legitimate nonsexual touching or conduct, generally, will not rise to the level of sexual harassment, such as contact demonstrated in an appropriate context or manner (e.g., hugging in celebration at a moment of triumph or patting someone on the back to congratulate or console), legitimate sports maneuvers, assistance in toileting a young student or person with disabilities within the bounds of normal operating procedures, or touching necessary to break up a fight or execute appropriate physical restraint necessary to prevent an immediate risk of injury to a student, employee, or other person.

(1) Evaluating whether or not conduct rises to the level of sexual harassment should include consideration of the nature and severity of the incident, the objective offensiveness of the conduct, the persistence and/or pervasiveness of the conduct, and the age, maturity, physical and intellectual capacity, and relationship of the individuals involved.

(2) When determining whether a student who is preadolescent or who has cognitive impairment has committed sexual harassment, it is important for educators and school administrators to use good judgment in differentiating PSB-CY, as defined in Section 3.3 of this Issuance.

3.2. SEXUAL ASSAULT. Sexual assault refers to physical contact of a clearly sexual nature acted on against a victim's will or where the victim is incapable of giving lawful consent (i.e., due to the victim's age or use of drugs, alcohol, or other mind-altering substance, or an intellectual or other disability that prevents the capacity to give consent).

a. Intentional unwelcome touching of another person's sexual body parts (e.g., genitals, anus, buttocks, or breasts) is classified as sexual assault, no matter how minor the touch may seem to an offender or witness or if it was meant as a joke or a tease.

b. An extreme form of sexual assault is rape, also referred to as a form of sexual violence, which is divided into the following types of sexually motivated violent acts, as defined by the Centers for Disease Control at www.cdc.gov/violenceprevention/sexualviolence:

(1) Completed or attempted forced or otherwise unlawful sexual intercourse or any other sexual penetration of the vagina, anus, or mouth of another person, with or without force, by a sex organ, other body part, or foreign object, without the lawful consent of the victim.

(2) Completed or attempted alcohol/drug-facilitated bodily penetration of a victim.

(3) Completed or attempted forced acts in which a victim is made or manipulated to bodily penetrate an offender or someone else.

(4) Completed or attempted alcohol/drug-facilitated acts in which a victim is made or manipulated to bodily penetrate an offender or someone else.

(5) Coerced bodily penetration which occurs after a person is pressured verbally, through deception, or through intimidation or misuse of authority to give in to performing such acts.

c. Incidents of sexual assault may raise immediate concern for the imminent physical safety of the victim and, under appropriate circumstances, may trigger the need to contact installation or other appropriate local law enforcement, the local DoD Family Advocacy Program (FAP) in cases of suspected child abuse, juvenile-on-juvenile sexual assault, or PSB-CY in accordance with DoDEA Administrative Instruction 1356.01 and DoD Instruction 6400.01, or other outside enforcement entity, depending upon the circumstances and in accordance with this Issuance. When determining whether a student who is preadolescent or who has cognitive impairment has the capacity to form the requisite intent to commit a sexual assault, it is important for educators and school administrators to use good judgment in differentiating PSB-CY, as defined in Section 3.3 of this Issuance.

d. Sexual assault can also include any unlawful sexual act defined in state, federal, or host nation law as misconduct or a crime, including rape, carnal knowledge, attempted rape, statutory rape, sexual assault and battery, child abuse, gratification of lust, contributing to the delinquency of a minor, or endangering the welfare of a child.

3.3. PROBLEMATIC SEXUAL BEHAVIOR IN CHILDREN AND YOUTH. In keeping with how these behaviors are identified by DoD FAP and defined in DoDEA Administrative Instruction 1356.01, DoDEA characterizes PSB-CY in children and youth as behaviors initiated

by individuals under the age of 18 (also known as juveniles) that involve sexual body parts (e.g., genitals, anus, buttocks, or breasts) in a manner that deviates from normative or typical sexual behavior (characterized by transient behavior easily modified or redirected) and is developmentally inappropriate and/or potentially harmful to the individual initiating the behavior or to others. PSB-CY may raise questions regarding a juvenile's capacity to form requisite intent to offend or to understand the nature of what they are doing or what is being done to them, or that are a manifestation of adverse underlying problems going beyond the incident at hand.

a. Motives and Origins: PSB-CY has a wide range of motives and origins and may or may not be related to sexual gratification or sexual stimulation, or may not neatly fit the criteria for sexual harassment or sexual assault due to questions regarding culpable intent or undue mitigating influences. In some cases, a juvenile may be too young and immature or subject to mental disabilities that impair their ability to understand or appreciate the inappropriateness or potential harmful nature of their actions. In other cases, they may be acting out their own exposure to sexual assault, child abuse, or other abuse happening in their lives that is motivating them to act upon, or passively accept, the inappropriate behaviors.

b. Range of Behaviors: PSB-CY may range from solitary self-stimulation or nonphysical behaviors (e.g., preoccupation with nudity or private body parts) to interactions with other children of a sexual nature that tend to simulate knowledge of typically adult sexual activity, behavior, or language beyond that appropriate to the juvenile's age or developmental level and that warrant corrective intervention and/or supportive services to resolve, such as counseling or special behavioral evaluation. Engaging in PSB-CY can be as a solitary self-inflicted act, or as an aggressor against a victim or involve mutual exchange of aggressive and receptive behaviors.

c. Recognizing PSB-CY: DoDEA administrators are encouraged to remain cognizant that when dealing with incidents of a sexual nature involving DoDEA students, a juvenile may lack the maturity or cognitive developmental capacity to understand or control certain prohibited conduct, or may be manifesting a more serious problem that goes beyond the incident at hand, in which case it may qualify as PSB-CY. For that reason, investigations and interventions must be in conjunction with FAP screening and recommendations, and any remedial measures tailored for the individual circumstances that are closely monitored over time to ensure effectiveness.

d. PSB-CY indicators that may trigger a need for specialized evaluation and intervention include, but are not limited to:

(1) Behaviors by juveniles that involve sexual body parts and are developmentally inappropriate, such as conduct reflecting more adult-like activity than child-like behavior (e.g., elementary school-age children simulating adult intercourse rather than exhibiting age or developmentally appropriate sexual curiosity).

(2) Repetitive and compulsive behavior that sexualizes non-sexual activity and/or does not respond to redirection or behavioral cues.

(3) Acts involving coercion, threats, or inducing fear in another juvenile and often, but not always, involving much younger victims.

(4) Causing emotional or physical pain in self or others.

e. Allegations or suspicions of PSB-CY in a juvenile are subject to mandatory local FAP screening and shall be responded to and reported in accordance with DoD and DoDEA policy governing PSB-CY and Section 4 of this Issuance.

3.4. OTHER RELATED ABUSIVE MISCONDUCT. Other related abusive misconduct involves conduct that does not meet the criteria for prohibited sexual harassment, sexual assault, or PSB-CY as defined in this Issuance, but that is, nevertheless, prohibited physical and/or emotional maltreatment of a sexual, sex-based, or inappropriate relationship-oriented motivation that has, or has the potential to have, an adverse impact on the victim or is designed to manipulate the victim to become receptive to engaging in prohibited activity, depending upon the circumstances.

a. Definition. Other related abusive misconduct refers to any behavior or conduct by a DoDEA participant that consists of physical and/or emotional maltreatment of a sexual, sex-based, or inappropriate relationship-oriented motivation that a reasonable person would consider is:

- (1) Expected to make a victim feel pressured, uncomfortable, physically threatened, in pain, embarrassed, or offended.
- (2) Wrongfully exploiting a position of authority or undue influence over a victim.
- (3) Giving the appearance of impropriety, regardless of whether or not the victim objects and/or the behavior is overtly sexual or criminal in nature.
- (4) Equivalent to any unlawful act similarly defined in state, Federal, or host nation law as misconduct or a crime, including, but not limited to, contributing to the delinquency of a minor, endangering the welfare of a child, indecent exposure or indecent acts with another, or producing, viewing, or trafficking in child pornography.

b. As Applies to Both Adults and Students. Examples of prohibited other related abusive misconduct as it applies to acts committed by or against any employee, student, or other beneficiary include, but are not limited to, the following:

- (1) Any act intended to inappropriately influence or threaten the rights or privileges of a victim by coercing or forcing a relationship against the victim's free will (e.g., an offender intimidating or pressuring a victim into being their boy or girl friend or threatening others to stay away from the victim because the victim "belongs" to them).
- (2) Lewd, vulgar, indecent, and/or obscene speech or writings (as those terms are defined by the U.S. Supreme Court) published, posted, emailed, texted, or otherwise shared with a DoDEA participant or participants without there being an administrator-approved legitimate school or work-related context.
- (3) Conversations or discussions with a victim that are sexually degrading or insulting, humiliating, pry inappropriately into a victim's personal business or medical history, or include

remarks, gestures, or innuendoes about a victim's sex, gender, body, appearance, sexual orientation, or sexual activity.

(4) Engaging in or condoning improper use (for reasons unrelated to approved legitimate work, instruction, or curriculum) of DoDEA computers and/or improper use of the Internet, including, but not limited to: accessing, downloading, or uploading youth-produced nude images or pornography/other obscene content; sharing such materials via e-mails, texts, IM, Snapchat or other messaging system; creating or maintaining web sites with sexual content or pictures of children in a sexual context.

c. As Expressly Applies to Adult-to-Student Conduct. Other related abusive misconduct also includes any inappropriate behavior or conduct that appears, or is perceived, to cultivate an inappropriate relationship between an adult and a DoDEA student that could reasonably be construed as meant to prepare a student to be receptive to sexual behavior (commonly known as “grooming”), or that is overtly related to sex, gender, or sexual orientation, or that is exploiting the adult’s position of influence or authority over the DoDEA student to promote illegal sexual or sex-based activity. (Other related abusive misconduct may overlap with child abuse and neglect, which is addressed in Section 3.4.d. of this Issuance and should be reported as such.)

(1) To constitute abusive misconduct, the prohibited acts are not required to be unwelcome by the student, as would be required to constitute sexual harassment.

(2) DoDEA does not recognize sexual interactions between any student and a DoDEA employee, or other adult agent of DoDEA, to ever be consensual, even if the student is of the lawful age of consent, as it involves a prohibited exploitation of the inherent position of power and influence over a student.

(3) Examples of prohibited adult-to-student other related abusive misconduct include, but are not limited to:

(a) Providing a student (or the parent/guardian of a student) with gifts, money, privileges, or other favors outside the customary school employee/student/parent relationship, and/or which are not provided equally to other students or parents/guardians or that are not otherwise associated with a legitimate independent relationship with the student or student's parent/guardian.

(b) Frequent personal communication with a student via cell phone, regular telephone, e-mail, text messaging, social networking, or other forms of electronic communication, or by letters or notes, or through third parties, for reasons unrelated to instruction or official school business.

(c) Participating in inappropriate personal discussions with students by means of email, Internet chat rooms, texts, IM, or any other form of on-line communications.

(d) Transporting a student or students in a personal vehicle without permission from their parent/guardian and the employee's supervisor, unless such transportation is an emergency necessary to protect against imminent harm to the student's health, safety, or welfare.

(e) Drinking alcohol in the presence of a student without the prior approval and/or presence of their parent/guardian and/or taking illicit drugs in the presence of a student.

(f) Providing alcohol or drugs to a student, or permitting a student to drink alcohol or take drugs (not lawfully prescribed for them) at school-sponsored activities or events, at the employee's residence, or in any school-related context on or off school premises.

(g) Inviting a student to travel or go somewhere alone with a school employee or official, volunteer, contractor, or other agent of DoDEA, for reasons unrelated to instruction or official school business without parent/guardian permission.

(h) Requesting or encouraging students to "model" for live display, creating artwork or other visual images, taking or distributing photographs of individual students, or promoting students on Web pages or through other means without parent/guardian permission, or where nudity, sexual abuse, harassment, or juvenile exploitation is expressed or implied.

(i) Participating in, or condoning, offensive physical pranks or unwelcome teasing of a student of a sexual nature.

(j) Organizing, participating in, or condoning, skits, assemblies, or productions that are sexually suggestive, sexually degrading, obscene, or that imply sexual motives or intentions (other than that approved by administrators as having a legitimate school-related context, such as a production of Shakespeare's *Romeo and Juliet*).

(k) Providing, paying for, attending, or concealing medical appointments or procedures for a student, such as tests for pregnancy or sexually transmitted diseases, giving birth, or having an abortion, unless the adult is a school nurse or other employee authorized to so assist a student with their personal health and wellness appointments.

(l) Viewing with a student sexually explicit movies, programs, games, or other visual content, or providing a student with a music or video recording containing sexually explicit lyrics and/or content outside the parameters of an administration-approved sex education program or other legitimate school-related context.

(m) Engaging in discussions with or questioning students about their own or anyone else's sexual experiences or exploits, sexual relationships, or about dates or sexual attitudes (unless occurring within the context of administration-approved sex education, sexual harassment and sexual assault awareness and prevention education, student counseling services, or pursuant to investigation into alleged sexual harassment, sexual assault, PSB-CY, or other related abusive misconduct in accordance with this Issuance).

(n) The use in the presence of students of inappropriate behavior or language, such as sexual innuendoes, sexual profanity, sexual slang, or other lewd, vulgar, or obscene language or behaviors of a sexual nature.

(o) Touching of students or physical displays of affection that are outside the customary employee-student school relationship.

(p) Offensive touching of a juvenile during their participation in a DoDEA program or activity, including shoving, pushing, grabbing, poking, slapping, jabbing, patting, pinching, brushing against a juvenile's body, or moving a juvenile against their will, regardless of whether the touching causes actual injury or the reason for the interaction (other than legitimate touching under the circumstances, such as that necessary to break up a fight or to prevent an immediate risk of injury).

(q) Cultivating a romantic, dating, or sexual relationship with a student, to include, but not limited to, making invitations or requests related to sexual activity or inappropriate intimacy, or sexual advances or gestures, even with a student of legal age of consent.

1. Any form of sexual, romantic, dating, or otherwise inappropriately intimate relationship between an employee, volunteer, contractor, vendor, or other adult agent of DoDEA and a student is prohibited. This includes behavior that is sexually suggestive, that implies sexual motives or intentions, that is overtly sexual, or sexually seductive, or that occurs in exchange for sexual favors, whether it occurs between individuals of the same or different sex, sexual orientation, or gender.

2. Prohibited conduct includes any act of a sexual nature committed with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of the adult and/or the student.

d. Separate Policy on Child Abuse. Separate from any direction contained within this Issuance, any DoDEA employee or volunteer who has reason to believe a child is being subjected to child abuse, either on or off school grounds, shall respond to and report such knowledge or suspicions immediately, in accordance with DoDEA Administrative Instruction 1356.01. Child abuse includes physical injury, sexual maltreatment, emotional maltreatment, deprivation of necessities, or any combination against a child wherein the child's welfare is harmed or threatened by an individual responsible for the child's welfare, as that term is defined in DoD Instruction 6400.01. Juvenile engagement in PSB-CY as either an aggressor or victim can be an indication of child abuse, as described in Section 3.3 of this Issuance. All DoDEA personnel and volunteers will support the identification of child abuse and protection of children.

SECTION 4: OPTIONS FOR A VICTIM OR WITNESS

4.1. WAYS TO RESPOND IN THE MOMENT. Anyone who is being sexually harassed, sexually assaulted, or impacted by PSB-CY or other related abusive misconduct, or who is witnessing it happening, should report it in accordance with Section 5 of this Issuance. DoDEA employees and volunteers are required to report allegations, suspicions or reason to believe, or actual knowledge of such incidents in accordance with Section 6 of this Issuance. This section, however, discusses ways a victim or witness may respond in the moment, prior to reporting. If a clear demand to stop does not work, or if addressing the offender is not a safe option, every effort should be made to get away from the threat as soon and safely as possible and tell someone who can help. Prior to reporting and depending upon the circumstances, the following steps may be considered in response and to obtain support prior to reporting:

a. Calmly Confront, if Safe and Want to Do So: Severe incidents of sexual assault, such as rape or other sexual violence, are serious crimes and warrant doing whatever can be done to stop it, seek safety, and report to authorities. In many instances, however, the situation may be too intimidating, serious, or dangerous to address at the time or to feel safe to report immediately. In contrast, lesser incidents of sexual or sex-based misconduct that are not sufficiently severe, persistent, or pervasive may be suitable for resolving directly with the offender right in the moment, with a command to stop or other corrective redirect that ends the behavior. The following options on how to respond may be considered in light of what a victim or witness believes is best for them at the time it is occurring:

(1) Sexual Harassment: Anyone who is being sexually harassed, or witnessing it happening to someone else, may confront the harasser's behavior directly and tell them to stop, if they feel they can do so safely and feel they want to do so. The victim may address the harasser on their own or request the help of a staff member (i.e., teacher, coach, or supervisor) to help them address the incident in the moment. Sometimes the harasser may not realize that what they are doing or saying is making the victim upset or uncomfortable. The harasser should be told that what they are doing is unwanted in a clear, calm manner and asked to stop. In certain circumstances, that will be enough for the behavior to end.

(2) Sexual Assault: Anyone being physically assaulted in a sexual way, or witnessing it happening to someone else, is strongly encouraged to immediately take action, if they can do so safely, and demand that the touching stop immediately. For example, "Please keep your distance," or "Stop touching me right now." Where there is fear of harm, anyone has the right to shout and demand, "Stop! Leave me alone!" or as a witness declare, "I see what you're doing and you need to back off, right now!" Acting to protect your own safety and welfare or that of another person being assaulted and any innocent bystanders is an acceptable response to sexual assault.

(3) Problematic Sexual Behavior in Children and Youth: Response to PSB-CY may follow the guidelines for sexual harassment in Section 4.1(a)(1) of this Issuance, but, even if the behaviors are resolved in the moment, the exhibited behaviors must be reported in accordance with Section 6 of this Issuance for appropriate evaluation, especially where more than one child is involved. Further screening in conjunction with the local DoD FAP may be warranted to

determine why a juvenile exhibiting indications of PSB-CY is acting on such impulses or accepting such behaviors, to evaluate the incident for signs of child abuse, exposure to domestic abuse, or any other need to undertake protective measures for either child (e.g., if either child is acting out sexual assault happening at home), and to take steps to ensure the juveniles involved receive instruction and/or services necessary to help them learn appropriate boundaries to maintain for themselves and with others.

(4) **Other Related Abusive Misconduct:** Response to other related abusive misconduct may follow the guidelines for sexual harassment in Section 4.1.(a)(1) of this Issuance, but, even if the behaviors are resolved in the moment, the exhibited behaviors should be reported in accordance with Section 6 of this Issuance. Abusive misconduct differs from sexual harassment or sexual assault in that it can sometimes be welcome behavior in instances where it is meant to deceptively prepare a DoDEA participant to be receptive to exploitative sexual behavior or to cultivate an inappropriate relationship between an adult and a student or a supervisor and subordinate, in which case the special attention is welcomed by the victim who may not wish to have it reported.

b. **Consider Reporting Even if Resolved in the Moment:** Sexual assault and PSB-CY must be reported by employees and volunteers in accordance with Section 6 of this Issuance. For minor incidents of sexual harassment and other related abusive misconduct, however, even if the misconduct can be successfully resolved in the moment by addressing the harasser directly, the incident should still be reported in accordance with Section 5 of this Issuance, so as to create a record in case the misconduct occurs again.

4.2. SEEK ASSISTANCE AND SUPPORT. DoDEA students, employees, and other beneficiaries are encouraged to confide in someone supportive, as soon as possible. Sexual harassment, sexual assault, PSB-CY, or other related abusive misconduct are not secrets worth keeping.

a. DoDEA Students and Other Beneficiaries. DoDEA students and other beneficiaries should tell someone they feel comfortable with and trust, such as their parent, teacher, nurse, or coach, or go to the school principal or program director, directly, at any time. It is extremely important that a student or other juvenile not suffer in silence and that they let an adult they trust know what is happening right away. DoDEA employees and volunteers are required to report knowledge of violations of this Issuance, however, with the possible exception of certain disclosures made during confidential communications not otherwise subject to mandatory reporting requirements in accordance with Section 4.2.a.(2) of this Issuance.

(1) Violations of this Issuance should not be ignored or dismissed, especially if a student is being sexually harassed, sexually assaulted, or subjected to other related abusive misconduct by any adult (welcome or unwelcome), or if anyone at all is touching or trying to touch a juvenile in a sexual way against their will or without lawful consent.

(2) Private confidential disclosures may also be made to a school counselor, who can provide confidential guidance and support services. School counselors should not be required to report incidents that may be a violation of this Issuance in a way that identifies the victim

without the consent of the victim (or parent/guardian, as appropriate), unless the information disclosed is subject to mandatory reporting as required by law, issuance, or regulation, and/or there is a reasonable need to protect the safety of the student or others.

b. DoDEA Employees. DoDEA employees who experience a violation of this Issuance should do the following:

(1) Promptly report the violation to their First-Line Supervisor (or their Second-Line Supervisor if their First-Line Supervisor has a conflict or is the alleged offender), but those who may not be ready or able to do so are encouraged to tell someone they trust for support. Taking advantage of supportive services is strongly encouraged.

(2) DoDEA employees may also contact their regional DoDEA DMEO for assistance. DoDEA DMEO staff are a neutral resource available to provide education and guidance as to an employee's rights to be protected from sex discrimination in the workplace (to include sexual harassment and sexual assault) and the options for addressing sexual or sex-based misconduct concerns in their workplace. Point of contact information is available at www.dodea.edu/Offices/DMEO.

(3) DoDEA employees may also take advantage of the DoDEA Employee Assistance Program for confidential supportive assistance from a licensed professional counselor available through Federal Occupational Health. Information is available at www.dodea.edu/Offices/HR/resources/hq/eop/benefits/eap.

c. DoDEA Civil Rights Program. Any DoDEA student, employee, or other beneficiary of DoDEA conducted or sponsored programs and activities may also contact the DoDEA HQ CRPM at Civil.Rights@hq.dodea.edu for general information and to learn more about their rights and options for reporting. More information is available online at www.dodea.edu/sexualHarassment.

4.3. CREATE A RECORD. Anyone being subjected to a violation under this Issuance, or witnessing it, is strongly encouraged to create a record of what has or is happening. Incidents should be written down, describing each act, including the date and time, what happened, and who was there. Even if the offender was told to stop and did, any offensive or upsetting notes, pictures, IM, texts, emails, recordings, videos, or other information demonstrating the behavior should be saved as part of a record that may be used to support a report or any subsequent investigation in the future.

4.4. REPORT TO DODEA OFFICIAL. All DoDEA students and employees are partners in cultivating a respectful learning and work environment free from sexual harassment, sexual assault, PSB-CY, and abusive misconduct. Violations of this Issuance need to be reported in accordance with Section 5 of this Issuance, so that appropriate action may be initiated to stop the behavior and prevent it from happening again. DoDEA officials cannot take action to stop harassing, assaultive, problematic, and abusive misconduct if they do not know it is happening.

SECTION 5: HOW TO REPORT

5.1. WHO MAY REPORT.

a. DoDEA Students, Employees, and Other Beneficiaries. Any DoDEA student, employee, or other beneficiary is entitled to report violations of this Issuance.

b. Anyone with Non-Privileged Knowledge. In addition to mandatory reporting obligations, anyone who has been subjected to, witnessed, or has reason to believe a DoDEA student, employee, or other beneficiary is being, or has been, subjected to prohibited sexual, sex-based, PSB-CY, or other related abusive misconduct in relationship to their participation in a DoDEA-conducted or sponsored education program or activity may report violations of this Issuance, provided the knowledge was not obtained or disclosed during confidential communications not otherwise subject to mandatory reporting requirements.

c. Anonymous Complaints and Request to Conceal Identity. Anonymous reports, or requests to keep a reporter's identity confidential during and/or after an investigation into a report, may be accepted. Not knowing or being able to reveal the identity of the person making the report, however, may hinder the investigation and reduce the ability to make valid findings and/or result in closure of the investigation without a final determination on the merits. A report may be made in confidence and retain the right to have the reporter's identity concealed during any subsequent investigation (except for those disclosures subject to mandatory reporting requirements). However, due process protections may mandate that the name of the person raising allegations be disclosed to an alleged offender so as to permit a fair and equitable opportunity to respond in their defense. Retaliation against anyone making a report or complaint is strictly prohibited and coming forward is strongly encouraged; nevertheless, an anonymous report is better than no report, at all.

5.2. WHO MAY ACCEPT A REPORT. Reports of alleged incidents of sexual harassment, sexual assault, PSB-CY, or other related abusive misconduct against and/or by a DoDEA student, employee, or other beneficiary may be made verbally or in writing to any one of the following persons for immediate action or forwarding to the DoDEA appropriate AAO for action:

a. Any DoDEA Employee or Volunteer. Any DoDEA employee or volunteer is authorized to accept a report of suspected or alleged violation of this Issuance. The person reporting may choose to report the information to the person within DoDEA with whom they feel most comfortable (e.g., a teacher, coach, counselor, psychologist, aide, etc.). Reports received by an employee or volunteer shall be forwarded to their DoDEA School Principal, Program Director, or DoDEA First-Line Supervisor, as applicable (or to the next-higher-level DoDEA official if the lower-level official is unavailable, is the alleged offender, or has an actual or perceived conflict of interest).

b. DoDEA School Principal or Program Director. A report may be submitted directly to the DoDEA School Principal or Program Director as the DoDEA AAO located at:

- (1) The DoDEA school or program that conducted or sponsored the education program or activity in which the alleged incident occurred.
- (2) The DoDEA school or office where an alleged DoDEA victim is enrolled or works.
- (3) The DoDEA school or office where an alleged DoDEA offender is enrolled or works.

c. DoDEA Employee First-Line Supervisor. DoDEA employees should submit a report directly to their First-Line Supervisor as the DoDEA AAO. When an alleged offender is also a DoDEA employee or volunteer, an employee may also submit a report to the DoDEA AAO with first-line supervisory authority over the alleged offender, or the office, program, or activity in which the incident allegedly occurred, for immediate action.

d. Next-Higher-Level DoDEA Superintendent or Employee Supervisor. When the applicable DoDEA School Principal, Program Director, or First-Line Supervisor is unavailable or has a perceived conflict of interest (e.g., they are the alleged offender), a report may be submitted to the next-higher-level DoDEA AAO, such as the District or Community Superintendent with authority over the alleged victim, alleged offender, or the school, program, or activity in which the incident occurred, or to the next-higher-level supervisor in an employee's chain of command, such as their Second-Line Supervisor or Branch Chief.

e. DoDEA Civil Rights Program Manager. The DoDEA CRPM can provide information on submitting school, district, region, or HQ-level complaints. Any DoDEA student, employee, or other beneficiary who believes that their report of a violation of this Issuance was not promptly and equitably resolved at the school or supervisor level may submit a report in writing to the DoDEA HQ CRPM at DoDEA-HQ as follows:

- (1) By email to: Civil.Rights@hq.dodea.edu.
- (2) By mail to:

DoDEA Civil Rights Program Manager
DoDEA Investigations & Internal Review Division
4800 Mark Center Drive
Alexandria, VA 22350-1400

5.3. WHAT TO INCLUDE IN A REPORT. Reports may be made verbally and in writing. There is no minimum amount of information required, but a report should include as much of the following as possible:

a. Name/Contact Information/Status.

- (1) Complainant (the person making the report): **Name, address, email, phone number**, and relationship to alleged victim (e.g., self, parent, friend, teacher, etc.).
- (2) Alleged Victim (if not the Complainant): **Name, address, email, and phone number**.

(3) Participation Status of Victim: **Student, Employee, or Other Beneficiary.**

b. Brief Description. A description of what happened, to include as much of the following information as possible:

(1) **Who is the alleged offender** or offenders, if known?

(2) **What happened?**

(3) **Where did it happen? Is it still happening?**

(a) Was it within a DoDEA school, bus, or work facility, or off DoDEA property?

(b) Did it happen during school or work related activity, or did it happen outside of school or work?

(4) **When** did it happen or when did you find out about it?

(5) **Are there any witnesses?** What are their names and contact information?

c. Request for Protections. It is helpful, but not mandatory, to include what specific protection and/or remedy is requested to protect the alleged victim. Corrective action that is within their authority is at the discretion of the DoDEA School Principal, Program Director, First-Line Supervisor, or other designated DoDEA AAO, as the case may be, authorized to respond to and resolve the report. Both the alleged victim and alleged offender (and their custodial parent or legal guardian, if applicable) shall have opportunity to be heard, however, and their interests considered in weighing what should be a proportionate and equitable outcome under the circumstances.

d. Use of Alternative Formats. DoDEA shall accept reports in alternative formats, in particular for people with disabilities or with limited English proficiency. For example, a report may be made using Braille, video, digital recording, or audiotape. Reports submitted in languages other than English should be translated and responded to in the language in which they were made, whenever possible. Every effort should be made to ensure that all individuals involved in the investigation of a report understand their rights and responsibilities, as well as the status of the investigation insofar as it may directly involve that individual.

SECTION 6: DODEA RESPONSE UPON NOTIFICATION

6.1. MANDATORY REPORTING TO OUTSIDE ENTITIES.

a. Referral to DoD FAP. DoDEA personnel must report all suspected and alleged incidents of child abuse, juvenile-on-juvenile sexual assault, and incidents of PSB-CY to the local DoD FAP office and also to their First-Line Supervisor, in accordance with DoDEA Administrative Instruction 1356.01 and this Issuance. (In some jurisdictions, referral of suspected child abuse to local child welfare services is also required.)

b. Referral to Law Enforcement. Any potential criminal activity shall be reported to law enforcement in accordance with this Issuance and other applicable DoDEA safety and personal security threat response policy, such as military police, local state or host nation law enforcement, other local child protective services required to be notified in addition to FAP, installation command, or any other outside enforcement agency with jurisdiction over the type and nature of incident reported.

6.2. INTERNAL DODEA NOTIFICATION.

a. DoDEA Assistant Principals, School Staff, and Volunteers. Any DoDEA Assistant Principal, school or program level employee, or volunteer, who receives a report alleging a violation of this Issuance, or who observes or suspects prohibited conduct, shall, within twenty-four (24) hours, notify all of the following:

(1) Their DoDEA School Principal or Program Director; and

(2) The local FAP office, if required in accordance with DoDEA Administrative Instruction 1356.01 and the matter has not already been reported.

b. All Other Non-Supervisory DoDEA Employees. Any non-supervisory DoDEA employee not working under the supervision of a school principal or program director who receives a report alleging a violation of this Issuance, or who observes or suspects prohibited conduct, shall, within twenty-four (24) hours, notify:

(1) Their First-Line Supervisor or next-higher level supervisor, if their First-Line Supervisor is unavailable or has a perceived conflict of interest (e.g., is the subject of the report).

(2) The local DoD FAP office, if required in accordance with DoDEA Administrative Instruction 1356.01 and the matter has not already been reported.

c. DoDEA School Principals, Program Directors, and First-Line Supervisors. Any DoDEA School Principal, Program Director, or First-Line Supervisor who receives a report in accordance with this Issuance, or who observes or suspects prohibited conduct, shall, within twenty-four (24) hours, notify all of the following:

(1) Their next-higher-level supervisor (e.g., DoDEA Community or District Superintendent, or Second-Line Supervisor, Branch, or Division Chief).

(2) The local DoD FAP office, together with any other local child welfare services that may be required in the jurisdiction, if required in accordance with DoDEA Administrative Instruction 1356.01 and the matter has not already been reported.

(3) Local law enforcement, if the allegations involve potential criminal offenses.

(4) The servicing representatives from DoDEA safety, personnel security, LMER, and OGC, if they believe the violation may violate Federal, State, local, or host nation law, or may pose a threat to the health and safety of an individual or the security of the installation.

(5) The installation commander or other military designee, as may be the case, in consultation with and upon concurrence from the local DoDEA OGC. Appropriate coordination with the host installation command shall be maintained to keep the command informed of DoDEA actions taken to ensure student safety and management of personnel and to obtain assistance from the command to coordinate and support the counseling and other supporting services the command and DoDEA are providing to affected DoDEA students and families. Notwithstanding the above, the installation commander shall be informed of substantiated reports of sexual assault and any other violations of this Issuance that raise concerns for or present potential threat to the safety and welfare of the military community.

6.3. HIGHER LEVEL ADMINISTRATIVE OVERSIGHT. Internal DoDEA coordination of administrative oversight upon receipt of a report shall be as follows:

a. The lowest level DoDEA AAO with authority to evaluate and resolve a report of violation of this Issuance shall be the DoDEA School Principal, Program Director, or employee/volunteer First-Line Supervisor with authority over the alleged victim and/or offender and/or the facility or program or activity within which the alleged incident occurred.

b. Where the lowest level DoDEA AAO is the subject of the allegations or has some other conflict of interest, the DoDEA next-higher-level DoDEA official in the DoDEA chain of command shall serve as DoDEA AAO.

c. Alleged violations of this Issuance raised against DoDEA senior officials shall be submitted to the Inspector General of the Department of Defense in accordance with DoD Directive 5505.06.

6.4. PRELIMINARY PROTECTIONS AND RESPONSE. Upon notification, the DoDEA School Principal, Program Director, First-Line Supervisor, or other DoDEA AAO with authority to respond and resolve the report, as the circumstances require, shall do all of the following:

a. Welfare Check and Safety Plan. Take any immediate crisis intervention measures that may be necessary under the circumstances to obtain a welfare check on the alleged victim, stop any imminent threat of physical or mental injury, and establish a safety plan to protect against

any continuing threat, pursuant to DoDEA Administrative Instruction 2500.14; DoDEA Administration Instruction 2510.01; DoDEA Administrative Instruction 6055.01; and/or any other applicable safety, personnel security, and crisis management policy, regulation, or manual.

b. DoDEA Incident Reporting and Documentation of Record.

(1) Ensure the alleged incident is entered into the appropriate electronic DoDEA incident reporting database and all relevant DoDEA officials are alerted, pursuant to DoDEA Regulation 4700.04.

(2) Where there are multiple jurisdictions involved, ensure independent notification to any other respective DoDEA School Principal(s), Program Director(s), First-Line Supervisors, and/or other DoDEA AAO(s) who should be involved and coordinate jurisdiction and incident report updating going forward.

(3) Update the DoDEA incident report(s) periodically to document the progress of the response, from acceptance and provision of interim protections through to and including the incorporation of fact-findings and final corrective actions taken.

(4) Upon substantiated findings of a violation of this Issuance involving a DoDEA student as the offender, a record of the incident together with the findings made and any disciplinary or other corrective and remedial action taken involving that student shall be entered into the student's education record in accordance with DoDEA student recordkeeping policies.

c. Notification of Parents or Legal Guardians.

(1) For alleged incidents of sexual, sex-based, PSB-CY, or other related abusive misconduct **involving serious physical harm or threat to physical safety**, ensure verbal and/or electronic notification (e.g., text or email) to the custodial parents or legal guardians of any alleged DoDEA student victim and alleged DoDEA student offender, if known, as soon as practical, but **no later than the end of the day**.

(2) **For all other alleged incidents** of sexual, sex-based, PSB-CY, or other abusive misconduct involving a DoDEA student or juvenile other beneficiary, ensure verbal and/or electronic notification to the custodial parents or legal guardians, if known, **within twenty-four (24) hours of receiving a report**.

(3) As soon as practicable (e.g., within three (3) business days of first notification), **follow up in writing with preliminary details** on any actions taken to report the incident to the local DoD FAP, installation command, and/or law enforcement, points of contact for further information, and guidance on what to expect next.

(4) **Maintain close communication** with the parents of affected DoDEA students and inform them generally of the actions being taken to ensure their child's safety and provide such counseling and other supportive services as are appropriate and available to the affected students and their families.

d. Due Process and Opportunity to Be Heard. Ensure that anyone making a report regarding alleged violation of this Issuance is treated with respect and provided an opportunity to be heard in a confidential, safe, collaborative environment. Both an alleged victim and alleged offender has the right to be treated with respect in a fair and equitable manner and afforded the benefits of due process, to include the right to be heard and to provide evidence in their favor prior to any fact-finding determinations or imposition of final disciplinary action against them.

e. Interim Protections and Supportive Services. Pending evaluation of the allegations and final resolution, a DoDEA School Principal, Program Director, First-Line Supervisor, and/or other DoDEA AAO shall arrange, within the scope of their authority, interim protections and supportive services for those directly involved utilizing the various resources available at or through the school(s) and/or other DoDEA affiliates.

(1) Interim protections may include:

- (a) Counseling.
- (b) Extensions of time or other course or work-related adjustments.
- (c) Modifications of class, work, or bus/transportation schedules.
- (d) Campus or facility escort services.
- (e) Restrictions on contact between the alleged offender, alleged victim, and key witnesses.
- (f) Changes in class, work, or housing locations, although an alleged victim shall not be required to relocate or otherwise modify their activities.
- (g) Suspension of access or leave of absence.
- (h) Increased security and monitoring of certain areas and/or activities.
- (i) Other similar accommodations as may be available at the school.

(2) Interim protections may necessitate taking action to remove an alleged offender from having opportunity for contact with an alleged victim and/or any other DoDEA students, staff, or volunteers, as necessary.

(3) The supervisor of a DoDEA employee or volunteer alleged to have violated this Issuance may initiate such administrative action as is necessary to remove the employee or volunteer from contact with students in order to protect the health and safety of any student and the school community pending the completion of any investigation, which includes contacting DoDEA Personnel Security. The DoDEA School Principal of any DoDEA student, and DoDEA supervisor of any DoDEA employee or volunteer, alleged to be the offender must ensure cooperation with such temporary preventive efforts pending investigation.

(4) Interim protections to protect the interests of the alleged victim that adversely impact the alleged offender may be taken, but such action should reflect the following:

- (a) A presumption of innocence.
- (b) An objective nondiscriminatory assessment of threat level.
- (c) Modifications to the alleged offender's school or work experience that involve no more than the minimum necessary to achieve the objective during the investigative stage.
- (d) Compliance with other applicable DoDEA policies and due process entitlements regarding the alleged offender's rights.

(5) If an alleged DoDEA student victim, student offender, or student witness receives Individualized Education Program services pursuant to DoD Instruction 1342.12, has a 504 Accommodation Plan pursuant to DoDEA Administrative Instruction 2500.14, or has an English Language Learner plan, the appropriate school subject matter experts must be consulted for guidance on how best to proceed in a compliant manner that does not exploit or unduly aggravate the special needs of those involved.

6.5. EVALUATION OF ALLEGATIONS AND CORRECTIVE ACTION. The DoDEA School Principal, Program Director, First-Line Supervisor, and/or other DoDEA AAO with authority over the alleged victim, alleged offender, and/or facility, program, or activity in which the offense allegedly occurred shall:

a. Cooperate and not interfere with or unduly compromise external local DoD FAP or other child welfare services assessments and/or law enforcement investigations, which may take priority when appropriate under the circumstances.

b. Conduct a concurrent DoDEA-led inquiry to evaluate the allegation(s) to the extent they violate DoDEA policy. The findings of any external FAP/child welfare services and/or law enforcement action should be incorporated and adopted into the DoDEA AAO's evaluation and findings, when appropriate and reasonable to do so and time permits, under the circumstances.

c. Where allegations are substantiated by a preponderance of credible evidence, take reasonable steps to implement appropriate corrective action, to include:

(1) Taking into consideration the totality of the circumstances, including the context within which the incident(s) occurred, the age(s) and developmental capacity of the individuals involved, and any mitigating PSB-CY, cultural, ethnic, or linguistic factors that may have played a role.

(2) Imposing student or employee discipline as may be necessary and equitable, in accordance with DoDEA policy and in consultation with DoDEA special education or other behavioral subject matter experts and local DoDEA LMER and OGC representatives, as applicable.

(3) Addressing the potential short- and long-term effects on the victim, offender, witnesses, and any affected participants in the learning or work environment by providing supportive services and making changes or accommodations as may be appropriate and available.

(4) Taking reasonable steps to prevent recurrence of the same or similar incidents.

6.6. PROTECTION AGAINST REPRISAL AND FALSE REPORTS. Retaliation against an individual who reports, either verbally or in writing, an allegation or suspicion of violation of this Issuance, or who participates in or cooperates with an investigation of such report or suspicion, is strictly prohibited, as is the making of knowingly false reports.

a. Federal employee reporting of an allegation of sexual harassment is a protected activity under Part 1614.103 of Title 29, Code of Federal Regulations. Any DoDEA employee who believes they have been retaliated against due to their reporting of a violation under this Issuance, or cooperation with an investigation into any such report, may initiate a complaint by contacting DoDEA DMEO EEO staff within forty-five (45) calendar days of the occurrence. More information and points of contact can be found at the DoDEA DMEO web page located at www.dodea.edu/Offices/DMEO/compliance or by contacting the DoDEA Resolution and Compliance Branch Chief, by email at EEO.Complaints@hq.dodea.edu.

b. Knowingly false reports, statements, and evidence are prohibited. Any DoDEA student, employee, or volunteer may be subject to disciplinary action or other appropriate applicable consequences for reporting a violation of this Issuance they know to be false and/or putting forth supporting evidence they know to be false.

SECTION 7: OUTREACH

7.1. PROMOTIONAL MATERIALS. Promotional outreach materials shall be disseminated throughout DoDEA to ensure that all individuals involved in DoDEA-conducted education and training programs and activities are aware of their rights under this Issuance and advised as to the proper procedures for reporting and responding to allegations of violation.

a. DoDEA shall create, maintain, and disseminate outreach materials, to include a dedicated DoDEA Sexual Harassment Awareness and Prevention (SHAP) webpage, designed to provide individuals with specific information, including, but not limited to, how to recognize violations under this Issuance, the general antidiscrimination mandates of EO13160, how to obtain a copy of Volumes 1 and 2 of DoDEA Administrative Instruction 1443.01 and this Issuance, and the points of contact and offices to which inquires and reports regarding sexual harassment, sexual assault, PSB-CYs, and other related abusive misconduct should be directed.

b. Outreach materials also should be age-appropriate, easy to find, and use language that is simple to understand.

c. A copy of this Issuance shall be posted on the DoDEA Policy webpage and available by link on DoDEA's SHAP, Civil Rights Program, and DMEO webpages. Links to the outreach information should be made available on the DoDEA website footer and the home page of any regional, district, or local DoDEA websites, along with promoted on DoDEA social media resources to the extent that they are supported or used by the DoDEA students, parents, legal guardians, sponsors, employees, and the public.

d. Information on sexual harassment, sexual assault, PSB-CY, and other related abusive misconduct awareness, prevention, and reporting should be provided as part of any orientation program conducted for DoDEA students and parents/legal guardians, employees, volunteers, contractors, and other agents of DoDEA and included in any student, parent, and employee handbooks or other advisory materials regarding issues of conduct within DoDEA-conducted education and training programs and activities.

7.2. TRAINING AND EDUCATION. DoDEA shall provide professional development training to all levels of staff and age-appropriate education to all enrolled students regarding:

a. What actions, policies, practices, and conduct constitutes a violation of this Issuance and best practices for preventing violations.

b. How an individual may respond to and obtain help when targeted, witnessing, or made aware of incidents in violation of this Issuance.

c. Procedures for staff in responding to, reporting, accepting, investigating, and resolving allegations of sexual harassment, sexual assault, PSB-CY, and other related abusive misconduct and the various rights and responsibilities enforced under this Issuance, together with Volumes 1 and 2 of DoDEA Administrative Instruction 1443.01.

d. Training for supervisory staff should include, but not be limited, to:

(1) Review of the applicable laws, policies, and reporting/documentation/tracking obligations.

(2) Duties, responsibilities, and potential liabilities as school administrators and workplace managers when dealing with the diverse categories of incidents that may involve sexual harassment, sexual assault, PSB-CY, and other misconduct.

(3) Guidelines for responding to reports, investigating reports depending upon the type of alleged victim and offender, and for providing adequate follow-up supportive services.

7.3. TREND ANALYSIS. Periodically throughout the fiscal year (FY), violations of this Issuance shall be evaluated with regards to the number, nature, and resolution of reported violations for the purpose of monitoring the effectiveness of response and resolution and facilitating ongoing recommendations for improvements.

a. Civil Rights Program Tracking. The DoDEA HQ CRPM shall review cases within the DoDEA incident reporting database involving a violation of this Issuance, together DoDEA DCP reporting and complaints, to monitor the number, nature and effectiveness of response to violations of this Issuance against any DoDEA participants, generally, and identify any indications of possible systemic deficiencies in meeting DoDEA's responsibility to ensure a discrimination-free learning and work environment. At a minimum, the DoDEA HQ CRPM shall incorporate tracking of violations of this Issuance into the annual DoDEA Civil Rights Program trend analysis report to the DoDEA executive leadership, conducted within thirty (30) days of the end of each FY, and highlight any identifiable trends, strengths, and deficiencies regarding reported incidents of and response to violations of this Issuance, together with recommendations for improvements. Additional presentations shall be made throughout the year on matters requiring early intervention, as needed.

b. Education/Student Services Tracking. The DoDEA Associate Director for Academics shall designate an appropriate DoDEA official to ensure the tracking and monitoring of reported violations of this Issuance involving DoDEA students to monitor the number, nature, and effectiveness of response to violations of this Issuance involving DoDEA students and identify any indications of possible patterns involving particular offenders, victims, or systemic deficiencies requiring further intervention. At a minimum, an annual trend analysis report shall be presented to the DoDEA executive leadership within thirty (30) days of the end of each FY, highlighting any identifiable trends, strengths, and deficiencies regarding reported incidents of and response to violations of this Issuance involving DoDEA students, together with recommendations for improvements. Additional presentations shall be made throughout the year on matters requiring early intervention, as needed.

7.4. PUBLIC AFFAIRS.

a. Media Inquiries and Public Disclosures. All media queries regarding sexual assault or sex discrimination issues or DoDEA's compliance with EO 13160, generally, or any incidents of

alleged violation of this Issuance, specifically, should be referred to DoDEA Public Affairs at (571) 372-0614/0613. No public statements, verbal or written, or release of information regarding discrimination issues shall be made or released without prior consultation with an appropriate representative of DoDEA Public Affairs.

b. Freedom of Information Act. Section 552 of Title 5, United States Code, also known as “The Freedom of Information Act,” and also known and referred to in this Issuance as “FOIA,” gives the public a right of access to certain information in the records of federal agencies, including DoDEA. In responding to requests for information, DoDEA may be required to make available to the public any information concerning alleged violation of this Issuance, the release of which is not explicitly exempted under “FOIA” or otherwise prohibited by federal law.

c. The Privacy Act. Section 552a of Title 5, United States Code, also known and referred to in this Issuance as “The Privacy Act of 1974, as amended,” regulates the collection, maintenance, use, and dissemination of certain personal information in federal agency files. It is the policy of DoDEA to comply with “The Privacy Act of 1974, as amended” and redact information accordingly.

GLOSSARY

G.1. ACRONYMS.

AAO	appropriate Activity official
CRPM	Civil Rights Program Manager
DCP	Discrimination Complaints Processing
DMEO	Diversity Management and Equal Opportunity
EEO	Equal Employment Opportunity
EO	Executive Order
FAP	Family Advocacy Program
FOIA	Freedom of Information Act
FY	fiscal year
HQ	headquarters
I&IR	Investigations and Internal Review
IM	instant messaging
LMER	Labor Management and Employee Relations
POC	point of contact
PSB-CY	problematic sexual behavior in children and youth
OGC	Office of General Counsel
SHAP	Sexual Harassment Awareness and Prevention

G.2. DEFINITIONS. Unless otherwise noted, these terms and their definitions are for the purpose of this Issuance.

AAO. The appropriate DoDEA official with lowest-level supervisory authority to address an alleged violation of this Issuance involving a DoDEA participant or alleged to have occurred within a DoDEA conducted or sponsored educational program, activity, division, branch, office, policy, or practice over which they have authority.

adult. An individual eighteen (18) years old or older who is not in a student status in a DoDEA school.

DoDEA jurisdiction. Locations that are DoDEA-controlled property or subject to DoDEA control and influence, such as DoDEA-conducted or sponsored educational or training programs and activities no matter where they occur (both in-person and through the use of technology, such as by phone, email, or online).

Family Advocacy Program (FAP). The DoD program designated to address child abuse, domestic abuse, and PSB-CY in military families and child maltreatment in DoD-sanctioned activities in cooperation with civilian social service agencies and military and civilian law enforcement agencies.

harasser. A person alleged to be subjecting one or more other individuals to sexual harassment or sexual assault, or who, after a fair and impartial investigation by an appropriate DoDEA official, has been determined to have committed such acts.

Hostile Environment. A Hostile Environment is an environment created by discriminatory harassment, including sex-based, that is so sufficiently severe, persistent, or pervasive that it adversely alters the conditions of the educational or training program or activity for a participant such that it denies, limits, or negatively affects their equal access to educational, work, or training opportunities and benefits. A Hostile Environment may be the result of directly inflicted discriminatory harassment or from being a third-party witness to discriminatory acts. Hostility created by non-discriminatory personal or labor-management disputes or other non-discriminatory conflict does not meet the definition of a Hostile Environment under this Issuance and is to be addressed in accordance with the respective student and/or employee conduct and disciplinary policy that applies.

juvenile. Person under the age of 18 years old.

juvenile other beneficiary. An “other beneficiary” who is a juvenile (under eighteen (18) years of age), such as a student from a non-DoDEA school participating in a DoDEA-sponsored interscholastic event.

objectively offensive. Something evaluated as being offensive under the Reasonable Person Standard (what any similarly situated person in the same set of circumstances would likely feel or believe if they were in the victim’s place).

offender. Someone alleged to have committed a prohibited act under this Issuance, or who, after a fair and impartial investigation by a DoDEA AAO, has been determined to have committed such act(s).

other beneficiary. An individual entitled to participate in a discrimination-free DoDEA learning and work environment under EO 13160 who is not a DoDEA student or employee, such as a student’s family member attending a school event, a non-DoDEA federal employee invited to attend a DoDEA-conducted training event, DoDEA volunteers, contractors, vendors, or other lawful visitors or participants.

participant. A student, employee, or other beneficiary entitled to EO 13160 protections in relationship to a DoDEA conducted or sponsored education and training program or activity.

persistent. An unwelcome action or behavior that continues unabated even after the offender has been given clear notice the action or behavior is unwelcome.

pervasive. An unwelcome harassing action or behavior that spreads widely and that is not discriminatory as a single, isolated act by one harasser, but becomes discriminatory if the act or behavior by the harasser spreads to targeting multiple people, or the offending act or behavior spreads in that it is repeated by others, as well. An example would include when one student or employee calls another student or employee by an offensive nickname a single time, but then other students or employees begin to use the same nickname for that person, or the offending person's own behavior spreads to calling multiple other people by different objectively offensive nicknames.

private body parts. A person's sexual body parts routinely required to be covered when in public according to school and work dress codes (e.g., genitals, anus, buttocks, or breasts).

PSB-CY. Sexual behavior initiated or engaged in by children and youth under the age of 18 that involve private body parts in a manner that deviates from normative or typical sexual behavior and are developmentally inappropriate and/or potentially harmful to the individual initiating the behavior or to others.

Reasonable Person Standard. What any similarly situated person (e.g., another student or employee of the same age, grade, abilities, background, etc.) in the same set of circumstances would likely feel or believe if they were in the alleged victim's place.

severe. An unwelcome action or behavior that, as evaluated under the reasonable person standard, is sufficiently serious in its adverse impact upon a victim that a single occurrence may be considered sufficient to unreasonably interfere with the victim's academic and/or work performance or to create a hostile learning or work environment.

sex-based. Misconduct that is based on or motivated by a victim's sex, sexual orientation, or gender, including stereotypes based on sex, sexual orientation, or gender.

sexual activity. A variety of acts of a sexual nature done either alone or with/directed towards another person that results, or is intended to result, in sexual arousal and physiological changes in the aroused person, some of which are pronounced and others more subtle. Sexual activity may or may not involve direct contact, characterized by conduct and activities intended to arouse the sexual interest/participation of another or to enhance a person's sex life, including direct contact such as sexual intercourse, oral sex, stroking/fondling/other physical contact, as well as strategies to find, attract, or seduce a sex partner, such as taking or showing pictures/videos that contain nudity, depictions of sexual activity, or other sexually provocative content, or attempting to incapacitate a target to sexually exploit them.

sexual harassment. Conduct that is sexual in nature, unwelcome, and sufficiently serious that it denies or limits the ability of a student, employee, or other beneficiary to participate in or benefit from DoDEA conducted or sponsored educational or training programs and activities.

sexual nature. Refers to a range of conduct or behaviors that are an expression of sexuality or that have sexual connotations.

sexual orientation. An individual's enduring pattern of sexual attraction in relationship to the sex and/or gender to which they are attracted, including, but not limited to, heterosexuality, homosexuality, bisexuality, pansexuality, or asexuality.

student, DoDEA. Any individual, ages three (3) to twenty-one (21), inclusive, enrolled full-time or part-time in a DoDEA school or program.

volunteer. Any individual performing services for a DoDEA school or program who does not receive financial compensation for the services, including student teachers.

youth-produced nude image. The visual depiction of a juvenile represented nude, or partially nude exposing private body parts, created by a juvenile, even if created, possessed, and/or distributed by, or with the support of, the juvenile depicted, but that does not involve depiction of sexual activity.

REFERENCES

- Centers for Disease Control and Prevention, “Sexual Violence: Definitions,”
<https://www.cdc.gov/violenceprevention/sexualviolence/definitions.html>
- Code of Federal Regulation, Title 29, Part 1614.103
- DoD Directive 5505.06, “Investigation of Allegations Against Senior DoD Officials,” June 6, 2013
- DoD Instruction 1342.12, “Provision of Early Intervention and Special Education Services to Eligible DoD Dependents,” June 17, 2015
- DoD Instruction 6400.01, “Family Advocacy Program (FAP),” February 13, 2015, as amended
- DoDEA Administrative Instruction 1356.01 “DoDEA Family Advocacy Program Process for Reporting Incidents of Suspected Child Abuse and Neglect,” November 5, 2018
- DoDEA Administrative Instruction 1443.01, Volume 1, “Executive Order 13160 Administration: Compliance Requirements and Appeals,” February 22, 2019
- DoDEA Administrative Instruction 1443.01, Volume 2, “Executive Order 13160 Administration: Discrimination Complaints Program,” February 21, 2019
- DoDEA Administrative Instruction 2500.14, “Nondiscrimination and 504 Accommodation on the Basis of Disability in DoDEA Conducted Education Programs and Activities,” April 29, 2009, as amended
- DoDEA Administrative Instruction 2510.01, “Student Behavior Interventions,” July 6, 2015
- DoDEA Administrative Instruction 6055.01, “DoDEA Safety program,” November 27, 2017
- DoDEA Regulation 4700.04, “Serious Incident Reporting,” June 20, 2016
- Executive Order 13160, "Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs," June 23, 2000
- United States Code, Title 5, Section 552 (also known as “The Freedom of Information Act” or “FOIA”)
- United States Code, Title 5, Section 552a (also known as “The Privacy Act of 1974, as amended”)