

Board Policy 215: Teen Dating Violence

Implementation of this policy shall comply with all rules and regulations the Delaware Department of Education may promulgate to implement Title 14 Section 4112E of the Delaware Code. For more detailed explanations of terms and procedures, refer to the Guidelines for Responding to Teen Dating and Sexual Violence in Delaware Schools produced by the Child Protection Accountability Commission ("CPAC Guidelines").

DEFINITIONS

In this policy, "sexual/dating violence" refers to a situation where a Freire student is involved in one of the following:

SEXUAL ASSAULT

As used in this policy, "sexual assault" means any unwanted sexual behavior. Sexual assault may be committed by someone who is a stranger or is known to the victim. Behaviors that fall under this definition include but are not limited to the following, as defined under the Delaware criminal and judicial codes:

- Sexual harassment (see also Freire's Sexual Harassment Policy)
- Sexual contact
- Sexual intercourse
- Sexual penetration
- Child sexual abuse

TEEN DATING VIOLENCE

As used in this policy, "teen dating violence" means assaultive, threatening or controlling behavior that a 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. The abuser may cause fear, humiliation, or harm through harassment; stalking; or verbal, emotional, economic, sexual, or physical abuse. Bullying and cyberbullying, as defined in Freire's Bullying and Cyberbullying Policy and the Delaware Code, constitute dating violence in the context of a current or past relationship. See the CPAC Guidelines for a complete definition of Teen Dating Violence.

YOUTH-PRODUCED SEXUAL IMAGES

As used in this policy, "Youth-Produced Sexual Images" are nude, sexually suggestive, or explicit images possessed and/or transmitted by way of cell phone or internet with the intent to cause harm. The taking or sending of such photographs of someone under the age of 18 can be considered child pornography.

CONFIDENTIALITY

COUNSELORS, MENTAL HEALTH, AND MEDICAL PROFESSIONALS

Such professionals are bound by the Health Insurance Portability and Accountability Act (HIPAA) and required to maintain confidentiality except in the following situations:

- A student communicates an explicit and imminent threat to kill or seriously injure a clearly identified victim or victims (including themselves)

- Any suspicion of child abuse
- A student presents with serious burns, poisoning, or wounds from a weapon

OTHER SCHOOL EMPLOYEES

These employees are not bound by HIPAA, and if they know of or reasonably suspect an instance of sexual/dating violence against a student must immediately report it to the Assistant Head of School, Ruble Harris and the Co-Heads of School so that the school can investigate and keep the victim safe.

COMMUNICATION WITH MEDICAL PROFESSIONALS

Please see Communication with Outside Medical Providers in the Health Services section of Freire Charter School Wilmington's Student and Family Handbook for the School's policy on this topic.

REPORTING TO THE SCHOOL

Any Freire community member, including students and parents/guardians of students, may report incidents or suspicions of sexual/dating violence against a student to the Assistant Head of School, Ruble Harris and the Co-Heads of School. The reporting individual may request anonymity, in which case the School will keep the reporting individual's identity confidential to the greatest extent practical. While reporting information ensures that the School will thoroughly investigate the situation, it does not guarantee disciplinary action will be taken.

RETALIATION AND IMMUNITY

The School prohibits retaliation against any individual for reporting sexual/dating violence against a student. In addition, a school employee, school volunteer, or student is individually immune from a cause of action for damages arising from reporting sexual/dating violence against a student, unless the act of reporting constituted gross negligence and/or reckless, willful, or intentional conduct.

REPORTING TO LAW ENFORCEMENT AND OUTSIDE AGENCIES

When the School becomes aware of a potential incident of sexual/dating violence against a student, the Assistant Head of School, Ruble Harris will refer to the CPAC Guidance, "What Must be Reported and To Whom" and comply with the law. The Assistant Head of School, Ruble Harris or his designee will be responsible for making any required reports. Depending on the circumstances, the School may be required to report an incident to the Wilmington Police Department and/or the Delaware Division of Family Services (DFS). Incidents which also constitute bullying will also be reported in accordance with the Bullying and Cyberbullying Policy in the Code of Conduct found in Freire Charter School Wilmington's Student and Family Handbook.

An incident may meet the definition of sexual/dating violence and also the definition of a particular crime under state or federal law. Nothing in this policy prevents School officials from fulfilling all of the reporting requirements of 14 Del. Code § 4112, 16 Del. Code § 903 et seq., or any other reporting requirement under state or federal law.

Independent of and in addition to any penalties imposed under the law, the School may implement consequences of its own. Please see below.

DOCUMENTATION OF MANDATORY REPORTS

When a mandatory report is required, the School shall retain a record of the following in a Sexual/Dating Violence Complaint File that is kept separately from academic records:

- Basic facts about the incident, including names of the victim and alleged perpetrator, the nature of the incident, where and when it occurred, and the names of any known witnesses
- Schedules and extracurricular memberships of the victim and alleged perpetrator
- Response actions taken by the School (see School Response section below), including whether the victim accepts or declines supports offered by Freire
- Disciplinary measures implemented as a result of the incident
- Any related subsequent activity, such as victim's use of outside services and future status reports

SCHOOL RESPONSE

The School will take the following actions when an incident is reported or observed:

- Immediately separate the victim and the alleged perpetrator
- If the incident involves youth-produced sexual images, confiscate the cell phones of both the victim and the alleged perpetrator **without viewing the content of either phone**
- Support the victim in the following ways, and maintain documentation of whether the victim accepts or declines offers made by the School:
 - Contact parents to inform them of the incident or alleged incident
 - Refer for counseling and support services
 - Advise of legal options including filing charges or seeking an order of protection
 - Advise of the option to file a sexual harassment complaint if applicable
 - When legally permissible, offer the victim a "School-Based Stay-Away Agreement" (see below)
 - Encourage to seek medical care if appropriate
 - Create a safety plan, considering such factors as class schedule, transportation, and extracurricular activities
 - Monitor the victim's safety
- Increase supervision of the alleged perpetrator as needed
- Speak with witnesses or bystanders to get their accounts of the incident and encourage them to report future incidents
- Make every effort to protect the due process rights of the alleged perpetrator

SCHOOL-BASED STAY-AWAY AGREEMENT

This is a contract enacted by the School that is similar to an order of protection. It is generally to be used only if the offer is accepted by the victim. If sought as a result of an incident for which a mandatory report is required, it should not be implemented without approval of the investigating agency. The School may also wish to obtain the advice of legal counsel before offering such an arrangement. Under such an agreement, a student who is an alleged perpetrator of sexual/dating violence against another student may not approach, talk to, sit by, or have any contact with the victim at school, on school property, or at any school-sponsored event. Such an agreement must be administered in a conference between the School, the alleged perpetrator, and that student's parents and be signed by all parties. Such an agreement may require the alleged perpetrator to follow a modified schedule, use a different locker, or observe other similar changes.

MANDATORY REPORT REQUIRED

In a situation where the incident requires a report to law enforcement or DFS, **the School will not interview the alleged perpetrator until the School receives approval from the investigating agency.** If the agency gives School staff approval to meet with the alleged perpetrator, the School must contact the student's parents and advise both the student and his/her parents that any statements made may be used in future criminal or internal disciplinary proceedings. Once approval is received, the School will follow the procedures below under Consequences for Sexual/Dating Violence, subject to any changes advised by the investigating agency.

CONSEQUENCES FOR SEXUAL/DATING VIOLENCE

In a situation where a mandatory report is not required, or after receiving approval from the investigating agency in the event that a report is required, the School will conduct a full internal investigation. The School **will not** meet with the victim and alleged perpetrator together.

Depending upon the facts and circumstances, Freire Charter School Wilmington may define sexual/dating violence as a violation of the Nonviolence and Commitment to Peace Policy. In these cases, the School will observe the Hearing Procedures described in the relevant section of the School's Student & Family Handbook. The Culture and Discipline team may make a recommendation for expulsion, and in this case will review the reason for the decision with the student and parent; Assistant Head of School, Ruble Harris and the Co-Heads of School; and the Board of Directors.

If sexual/dating violence is substantiated but determined to **not** violate the Nonviolence and Commitment to Peace Policy, the following events will occur for the perpetrator:

- Suspension
- Reinstatement meeting with parent/guardian upon conclusion of the suspension
- Behavior Contract (if deemed appropriate by the School), which may include any or all of the following conditions:
 - A formal letter of apology written by the student(s) to the victim and the victim's family
 - A supervised project on sexual/dating violence
 - Counseling
 - Appearance before the Board of Directors for an official reprimand
 - Attendance at an appropriate seminar

STAFF TRAINING

Freire will ensure that administrators, school counselors, and the school nurse receive teen dating violence and sexual assault policies and protocol training during their first year of assignment and at least once in every three-year period thereafter. The School will use the training materials developed and provided by the Delaware Domestic Violence Coordinating Council.

HEALTH CURRICULUM

Freire will provide standard programming related to healthy relationships, based on the Health Standards adopted by the Delaware Department of Education in health education programs or related classes.

DOMESTIC VIOLENCE COORDINATING COUNCIL

Pursuant to 14 Del. Code § 4112E (d), The Domestic Violence Coordinating Council has the authority to review and advise on the implementation of this policy.

