

Preventing and Addressing Student on Student Acts of Sexual Assault, Sexual Harassment, and Dating Violence at Breakthrough Montessori Public Charter School

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Introduction

The School Safety Omnibus Amendment Act of 2018 (SSOAA) requires schools to adopt and implement a policy that prevents and addresses student-on-student acts of sexual harassment, sexual assault, and dating violence. It also requires schools to provide training for staff at the time of hiring and at a minimum every two years thereafter on student-on-student acts of sexual harassment, assault, and dating violence. Additionally, schools must provide information for parents/guardians on recognizing the warning signs of student-on-student sexual harassment, sexual assault, and dating violence, as well as effective, age-appropriate methods for discussing such topics with students.

Breakthrough Montessori's policy includes requirements for preventing student-on-student acts of sexual harassment, sexual assault, and dating violence as well as procedures for responding to allegations of such acts. For a list of definitions of key terms used throughout this policy, please consult Appendix A.

Situations that involve allegations of student-on-student acts of sexual harassment, sexual assault, and dating violence are highly sensitive and often complex. Schools should always contact the Metropolitan Police Department (MPD) at 911 or the Child and Family Services Agency (CFSA) hotline at (202) 671-SAFE if they are uncertain about how to proceed with a situation, including if the school is unsure whether a situation rises to the level of criminal or mandatory reporting requirements under District of Columbia law. CFSA and MPD are available to consult with schools and a student's identity may be kept anonymous during consultations. MPD and CFSA collaborate closely to ensure the proper response and protection of students.

Scope of Policy

This policy applies to all schools within Breakthrough Montessori Public Charter School and to all students enrolled in Breakthrough Montessori Public Charter School, regardless of sexual orientation or gender identity. All employees, contractors, and agents of Breakthrough Montessori Public Charter School and all students enrolled in schools in Breakthrough Montessori Public Charter School shall adhere to this policy. The policy applies to all actions that occur at school, during school events and activities regardless of their location, and during travel time to and from school, school events, and activities. It may also include contact over social media that has an impact on student safety or performance in school. The policy shall apply to all incidents involving at least one student who is enrolled at Breakthrough Montessori Public Charter School.

Prohibition of Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

Breakthrough Montessori Public Charter School prohibits student-on-student acts of sexual harassment, sexual assault, and dating violence and takes seriously all allegations of such actions. When the school knows or reasonably should know that such an act has occurred, then the school shall take immediate and appropriate action to investigate. The procedures outlined in this policy shall be completed regardless of whether or not the student who was harassed or assaulted files a complaint or otherwise asks the school to take action. If someone other than the student who is the recipient of the alleged harassment or assault files the complaint, then the school shall inform the identified student of the complaint so that safety planning can occur.

Key Considerations

As noted above, the policy applies to all actions that occur at school, during school events and activities regardless of their location, and during travel time to and from school, school events and activities. It may also include contact over social media that has an impact on student safety or performance in school. The school shall follow the Breakthrough Montessori Public Charter School student discipline policies, as required by DC Official Code § 38-236.01 et. seq, to determine actions that fall within the school's responsibility to address as discipline matters. Regardless of whether an action occurs within the school's scope of responsibility to address as a disciplinary matter, school staff shall always report any information of suspected criminal conduct to MPD by calling 911 or suspected abuse or neglect of a child within the child's home to CFSA by calling (202) 671-SAFE. If younger children are involved, it may be necessary to determine the degree to which they are able to recognize that certain sexual conduct is that to which they can or should reasonably object and the degree to which they can articulate an objection. It may be necessary to consider the degree to which younger children are engaging in activities that are considered typical versus problematic. The CFSA hotline (202) 671-SAFE is available to talk with school staff to determine if behavior is developmentally appropriate or indicative of abuse.

Preventing Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

Informing the School Community About the Policy

At least once per school year, schools shall provide students, families, and school personnel with this policy and information about where complaints may be filed. In order to ensure that students and families are adequately informed about the policy and procedures, the school shall make this policy available in the following locations: on the school's website, in the main office, in the school health suite, in the office of the school social worker, and in the parent and student handbooks. Schools shall inform students about this policy in a developmentally appropriate manner. Schools are encouraged to use health curricula as a means to open conversations related to sexual harassment, sexual assault, and dating violence. This policy shall also be included in the Breakthrough Montessori Public Charter School Employee Handbook.

Training

Breakthrough Montessori Public Charter School recognizes the importance of educating its employees and students regarding the prevention of student-on-student acts of sexual harassment, sexual assault, and dating violence. Information on recognizing the warning signs of student-on-student acts of sexual harassment, sexual assault, and dating violence, as well as effective age-appropriate methods for discussing such topics with students, shall be made available for parents/guardians. Additionally, school staff shall receive training utilizing evidence-based standards on student-on-student acts of sexual harassment, sexual assault, and dating violence upon hiring and biennially thereafter. Staff training shall include instruction on the following:

- Identifying, responding to, and reporting student-on-student acts of sexual harassment, sexual assault, or dating violence, including any mandatory reporting requirements under District or federal law which may be triggered by such incidents;
- Communicating universal prevention techniques to students that increase their ability to set and communicate about appropriate boundaries, respect boundaries set by others, and build safe and positive relationships; and
- Receiving reports and disclosures from students regarding student-on-student acts of sexual harassment, sexual assault, or dating violence in a supportive, appropriate, and trauma-informed manner.

Addressing Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

Reporting Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

Student, Parent, and Guardian Reporting

Students, parents, guardians, and other individuals are encouraged to file complaints as soon as possible after the alleged act. No time limit shall be placed upon when a complaint may be filed. Complaints, including anonymous complaints, may occur through any form of communication, including in writing, via telephone, or via in-person conversation. Complaints shall be filed with the Breakthrough Montessori Title IX Coordinator: Ino Okoawo, Director of Operations (ino@breakthroughmontessori.org / 6923 Willow St. NW, Washington DC 20012 / (202) 864-1979). The name, office address, and contact information for the Title IX Coordinator shall be available in the main office. If a student, parent, guardian, or other individual files a report with a school staff member other than the Title IX Coordinator, then that school staff member shall immediately follow mandated reporter requirements to alert MPD by calling 911. The staff member shall then report the information to the Title IX Coordinator.

Reporting students, parents, guardians, or other individuals may choose to simultaneously alert MPD by calling 900. Even if MPD is investigating, the school shall continue its own investigation, as legal standards for criminal investigations are different from the standards under Title IX. Schools shall not delay their investigation while the MPD investigation occurs. However, schools shall refrain from interviewing any involved parties until after MPD has conducted its interviews.

If a reporting student decides against filing a formal complaint, the school shall still investigate and take appropriate steps to resolve the situation and ensure the safety of all students. Furthermore, the school shall investigate any incidents of misconduct involving direct observation by school staff, regardless of whether the student files a report or requests any action. If the school begins an investigation, the school shall inform the identified student so that safety planning can occur. In an effort not to compromise the integrity of the law enforcement and child protective services investigation, the timing and manner of the school's investigation shall be coordinated with both of those entities.

In cases of discrimination, a student may also choose to file a complaint with the US Department of Education [Office for Civil Rights \(OCR\)](#) or the District of Columbia [Office of Human Rights \(OHR\)](#)

US Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave. SW
Washington, DC 20202-1100
Phone: (800) 421-3481
Fax: (202) 453-6012; TDD: (800) 877-8339
Email: OCR@ed.gov

DC Office of Human Rights
441 4th Street NW, Suite 570 North
Washington, DC 20001
Phone: (202) 727-4559
Fax: (202) 727-9589
TTY: 711
Email: ohr@dc.gov

Mandated Reporting

All school staff have the duty to report the complaint to appropriate school officials. Additionally, all mandated reporters of Breakthrough Montessori Public Charter School are required to report any information of neglect and abuse of a child to MPD by calling 911 or to CFSA by calling (202) 671-SAFE. For more information on mandated reporter requirements, consult CFSA's [Mandated Reporter Training](#). CFSA shall only be contacted if the alleged perpetrator of the abuse is the student's parent, guardian, or custodian. In all other cases, the school staff member shall file the report with MPD by calling 911.

The report shall include as much of the following information as possible:

- The name, address, age, and gender of the student;
- The individual allegedly perpetrating the sexual misconduct against the student;
- The nature and extent of the sexual misconduct, as the individual knows it – and any previous sexual misconduct that the individual may know about; and
- Any additional information that may be helpful.

There is no requirement that the reporter determine whether the report is substantiated. It is not the responsibility of school staff to prove that the student has been a victim of sexual misconduct or to determine whether the student is in need of protection. Criminal/child abuse and neglect investigations are the responsibility of CFSA and MPD. As such, such interviews with the student or suspected abuser shall not be conducted by school staff or school district employees. Notes of voluntary or spontaneous statements by the student shall be made and given to the investigating agency. Interviews conducted for the purposes of determining criminal

conduct or determining child abuse by anyone other than the investigating agency (MPD or CFSA) could jeopardize proper handling of a child abuse or neglect case. Interviews conducted subsequent to the end of the investigating agencies' investigation for purposes of compliance with existing law are not prohibited.

School staff shall cooperate with CFSA and MPD personnel authorized to investigate reports of sexual misconduct, including by preserving any video footage, providing access to students, providing space for CFSA or MPD to conduct interviews, and allowing for the student to be interviewed without school staff present. The school shall also provide access to the school for sexual assault victim advocates or sexual assault youth victim advocates, who may be present during the MPD interview, consistent with DC Official Code § 23-1908 and the Sexual Assault Victims' Rights Amendment Act of 2019. The school shall limit communication about the investigation to only those individuals who are required to know.

Any person making reports in good faith in an investigation of sexual misconduct between school staff and students is immune from any civil or criminal liability that otherwise might arise from those actions.

Upon making the report to CFSA or MPD, school staff shall then promptly deliver the report to the Title IX Coordinator and the head of school.

Confidentiality

The school shall discuss confidentiality standards and concerns with the reporting student. Some reporting students may wish to remain anonymous. The school shall inform the reporting student that a confidentiality request may limit the school's ability to respond. If the reporting student continues to request to remain anonymous, then the school shall take all reasonable steps to investigate and respond to the complaint consistent with the reporting student's request, as long as doing so does not prevent the school from responding effectively to the complaint and preventing the action from recurring with other students. Steps that the school may take to limit the effects of alleged misconduct and prevent its recurrence without initiating formal action include, but are not limited to, the following:

- Providing increased monitoring, supervision, or security at the locations or activities where the misconduct occurred;
- Providing training and education materials for students and employees;
- Revising and publicizing the LEA's policies on sexual misconduct; and
- Conducting student, parent, and employee climate surveys regarding sexual misconduct.

The school shall also consider the confidentiality needs of the accused student. Publicized accusations, if ultimately found to be false, may nevertheless irreparably damage the reputation of the accused student.

Retaliation

Retaliation against any person who has filed a complaint, or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this policy is prohibited, and therefore, subject to disciplinary action. Retaliation may include, but is not limited to, harassment, threats, taunting, spreading rumors, unauthorized disclosure of the details of an investigation, ostracism, assault, destruction of property, or any negative conduct toward participants in response to an investigation and the events causing it. Anyone found to have engaged in retaliation will be subject to disciplinary action. Participants in an investigation, including victims, respondents, and witnesses, should report to the Title IX Coordinator any conduct that might reasonably constitute retaliation. If the Title IX Coordinator is the source of the retaliation, then the person alleging retaliation should contact the head of school.

Responding to Allegations of Student-on-Student Acts of Sexual Harassment, Sexual Assault, and Dating Violence

The school shall adhere to the following procedures when responding to allegations of student-on-student acts of sexual harassment, sexual assault, and dating violence.

Immediate Steps

In cases of criminal conduct or suspected abuse in the home, the school shall begin the following protocol after a report has been filed with CFSA or MPD and the Title IX Coordinator. In all other cases, the following protocol shall begin immediately after a report is made to the Title IX Coordinator.

Acknowledgment of Receipt of Complaints

Within a reasonable number of days, but in no case more than three business days, of receipt of the complaint, the school's Title IX Coordinator shall acknowledge in writing receipt of the complaint and inform the reporting student, parent, guardian, or staff member of the steps of the investigatory process.

Interim Measures to Protect the Safety of the Reporting Student

Upon becoming aware of any allegation of student-on-student acts of sexual harassment, sexual assault, or dating violence, the school shall take immediate actions to interrupt or stop the occurrence, prevent its recurrence, and address its effects. These actions shall occur regardless of whether the incident is the subject of a criminal investigation. Responsive

measures shall be designed to minimize, as much as possible, the burden on the reporting student. In order to protect, as much as possible, the confidentiality of the reporting student, responsive measures shall only be shared with school staff who are actively involved in their implementation. The school shall formalize the actions it is taking in a written action plan. These actions may include the following:

- Altering the reporting student's and/or the accused student's schedule to minimize or eliminate contact between them. Preference shall always be given to maintaining the reporting student's schedule and modifying the accused student's schedule;
- Changing cubby locations;
- Allowing the reporting student to withdraw from a class or classroom activity without penalty;
- Providing an escort to ensure that the reporting student feels safe throughout the school building;
- Providing academic support, such as tutoring, for the reporting student;
- Considering steps to ensure safe passage to and from school for the student;
- Providing access to the school's behavioral health team;
- Providing referrals to community-based services; and
- Administration of appropriate discipline procedures for the accused student in accordance with the Breakthrough Montessori Family Handbook, as required by DC Official Code § 38-236.01 et. seq.

Legal Protections for Reporting Students

Upon filing a complaint, the reporting student shall be informed of their rights under the following laws:

- Title IX of the Education Amendments of 1972, approved June 23, 1972;
- The Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act of 2004, approved October 30, 2004;
- The Human Rights Act of 1977 effective December 18, 1977; and
- The DC Crime Victims' Rights Act.

Impartial Procedures for Investigating Complaints

Throughout the investigation process, every effort shall be taken to protect the confidentiality of reporting students in accordance with Title IX of the Education Amendments of 1972 and the DC Crime Victims' Rights Act. Within four (4) business days of receipt of the complaint, the designated school personnel shall begin investigating the alleged acts. The investigation may include interviewing. In an effort not to compromise the integrity of the law enforcement and child protective services investigation, the timing and manner of the school's investigation shall be coordinated with MPD and CFSA. Both the reporting student and the accused student shall have the opportunity to present witness[es] and other evidence. Every effort shall be taken to prevent disclosure of the names of all parties involved, including the reporting student,

witness(es), and the accused student. This process shall not last longer than ten (10) business days.

Both the reporting student and the accused student shall have the opportunity to have others present during any school disciplinary proceedings, including the opportunity to be accompanied to any proceeding by an advisor or advocate of their choice. The school may establish restrictions regarding the extent to which an advisor or advocate may participate in proceedings, as long as the restrictions apply equally to both parties.

When talking with students about alleged incidents, the school shall inform students that they may have their parent/guardian present. Schools shall consider the student's age when determining whether it is appropriate to contact the parent/guardian prior to talking with the student. The school shall consider the safety of the student when encouraging the student to disclose the report to their parent/guardian. For example, students who identify as LGBTQ may not be comfortable disclosing dating violence to their parent/guardian, if the parent/guardian is not aware and supportive of the student's sexual identity, gender identity, or gender expression.

The investigatory process shall be conducted by a school official or agent who receives at least annual training on the following:

1. Issues related to student-on-student acts of sexual harassment, sexual assault, or dating violence; and
2. How to conduct an investigation that protects the safety of reporting students and promotes accountability.

Schools shall use the preponderance of evidence standard in order to determine if the alleged acts occurred, meaning that the allegations are more likely to be true than to be untrue based on the evidence.

Mediation is never appropriate in cases of sexual harassment, sexual assault, or dating violence. The school shall not institute any actions that require the reporting student and the accused student to work out an issue.

Within one (1) business day of the completion of the investigation, the school shall notify both the reporting student and the accused student contemporaneously in writing of the following:

1. The results of any school disciplinary proceedings that arise from the allegation (e.g., whether the disciplinary proceedings found that student-on-student sexual harassment, sexual assault, or dating violence did occur). The Family Educational Rights and Privacy Act (FERPA) does not prohibit a student from learning the outcome of their complaints. Under FERPA, a school cannot release information to a complainant regarding disciplinary action imposed on a student found to have committed an act of sexual harassment, sexual assault, or dating violence if that information is contained in a student's education record, unless the information directly relates to the reporting

student (e.g., an order requiring the accused student not to have contact with the reporting student) or the harassment involves a crime of violence;

2. The school's procedures for the reporting student and the accused student to appeal the result of the institutional disciplinary proceedings, if such procedures are available;
3. Any change to the result of the disciplinary proceeding; and
4. When the results of the disciplinary proceeding become final.

Resources for Affected Students and Families

The [DC Victim Hotline](#) is available 24/7 by telephone, text, or online chat. Through a partnership with the Mayor's Office of Victim Services and Justice Grants (OVSJG) and the National Center for Victims of Crime, the hotline provides comprehensive information, resources, and referrals in the District of Columbia. The DC Victim Hotline represents a collaboration of service providers in the District who are working to seamlessly connect victims of crime to free resources and to help them navigate the physical, financial, legal, and emotional repercussions of crime. To contact the Hotline, dial or text 1-844-4HELPDC (1-844-443-5732) or access the online chat at www.DCvictim.org/Chat.

Additionally, the school's behavioral health team is available to provide support for students, which may include individual counseling and referral for community-based services.

Please consult the following for lists of appropriate resources, services, and information for students and families affected by student-on-student acts of sexual harassment, sexual assault, and dating violence.

- [Department of Behavioral Health's \(DBH\) Behavioral Resource Directory](#);
- [MPD's Sexual Assault Resources List](#);
- [MPD's Victim Specialists Unit](#); and
- [OSSE's Supporting Mental Health in Schools Resources List](#).

Counseling and Intervention for the Accused Student

As mandated reports, school staff who know or have reasonable cause to believe that a student is a victim of sexual abuse must report that knowledge or belief to CFSA by calling (202) 671-SAFE or to MPD by calling 911. If the accused student's behavior indicates that they may be the victim of child sexual abuse or child abuse, then school staff shall follow [Mandated Reporting Guidelines](#). Please note: CFSA shall only be contacted if the alleged perpetrator of the abuse is the student's parent, guardian, or custodian. In all other cases, the school staff member shall file the report with MPD.

As mandated reports, school staff who know or have reasonable cause to believe that a student is a victim of sexual abuse must report that knowledge or belief to CFSA by calling (202) 671-SAFE or to MPD by calling 911. If the accused student's behavior indicates that they may be the victim of child sexual abuse or child abuse, then school staff shall follow [Mandated](#)

[Reporting Guidelines](#). Please note: CFSA shall only be contacted if the alleged perpetrator of the abuse is the student's parent, guardian, or custodian. In all other cases, the school staff member shall file the report with MPD.

Students who are alleged to have committed acts of student-on-student sexual harassment, sexual assault, or dating violence shall also be connected with appropriate counseling and intervention strategies, beginning with the school's behavioral health team. The school's behavioral health team may determine that the student should be connected with other resources, which may include resources from the Department of Behavioral Health's (DBH) [Behavioral Health Resource Link](#) or OSSE's [Supporting Mental Health in Schools Resources List](#).

Appendix A: Definitions

The following key terms and definitions apply throughout this policy to prevent and address student-on-student sexual harassment, sexual assault, and dating violence.

Accused Student: The accused student is the student or students who are alleged to have committed the act resulting in the complaint.

Consent: Consent means words or overt actions indicating a freely given agreement to a physical act within the course of an interpersonal relationship. Consent to a physical act or contact may be initially given but withdrawn at any time. Lack of verbal or physical resistance or submission by the victim due to their mental or physical incapacitation or impairment, or the use of force, threats, or coercion shall not constitute consent. Past words or actions indicating freely given agreement to a past physical act or contact shall not constitute consent to a future physical act or contact.

As appropriate, Breakthrough Montessori will consider the age of the student (including the legal age of consent in the District of Columbia, as applicable), the nature of the conduct involved, and other relevant factors in determining whether a student had the capacity to consent to the sexual conduct. A student's participation in or acceptance of the conduct does not mean that they consented to the conduct. Some students may lack the ability to consent due, for example, to their age, intellectual or other disability, or incapacitation from the use of drugs or alcohol.

Dating Partner or Intimate Partner: A dating partner, or an intimate partner, is any person who is involved in a relationship with another person that is primarily characterized by social interaction of a sexual, romantic, or intimate nature, whether casual, serious, or long-term.

Dating Violence or Intimate Partner Violence: Dating violence, or intimate partner violence, is abusive or coercive behavior where a dating partner or intimate partner uses threats of, or

actually uses, physical, emotional, economic, technological, or sexual abuse to exert power or control over a current or former dating partner or intimate partner.

Reporting Student: The reporting student is the student who logs a complaint. A parent/guardian or a school staff member may also make a report on behalf of a student.

Sexual Assault: Sexual assault means any of the following offenses:

- **First degree sexual abuse:** Engaging in or forcing another person to engage in or submit to a sexual act in the following manner:
 - By using force against that other person;
 - By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;
 - After rendering that other person unconscious; or
 - After administering to that other person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.
- **Second degree sexual abuse:** Engaging in or causing another person to engage in or submit to a sexual act in the following manner
 - By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or
 - Where the person knows or has reason to know that the other person is:
 - Incapable of appraising the nature of the conduct;
 - Incapable of declining participation in that sexual act; or
 - Incapable of communicating unwillingness to engage in that sexual act.
- **Third degree sexual abuse:** Engaging in or causing sexual contact with or by another person in the following manner:
 - By using force against that other person;
 - By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;
 - After rendering that person unconscious; or After administering to that person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.
- **Fourth degree sexual abuse:** Engaging in or causing sexual contact with or by another person in the following manner:
 - By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or
 - Where the person knows or has reason to know that the other person is:
 - Incapable of appraising the nature of the conduct;
 - Incapable of declining participation in that sexual contact; or

- Incapable of communicating unwillingness to engage in that sexual contact.
- Misdemeanor sexual abuse: Engaging in a sexual act or sexual contact with another person when one should have knowledge or reason to know that the act was committed without that other person's permission.
- Attempts to commit sexual offenses: Attempting to commit any offense defined above.

Sexual Harassment: Sexual harassment is any unwelcome or uninvited sexual advances, requests for sexual favors, sexually motivated physical conduct, stalking, or other verbal or physical conduct of a sexual nature that can be reasonably predicted to:

- Place the victim in reasonable fear of physical harm to their person;
- Cause a substantial detrimental effect to the victim's physical or mental health;
- Substantially interfere with the victim's academic performance or attendance at school;
or
- Substantially interfere with the victim's ability to participate in, or benefit from, the services, activities, or privileges provided by a school.