

## **TITLE IX SEX DISCRIMINATION / HARASSMENT: COMPLAINT PROCEDURES**

These procedures (“Title IX Procedures”) apply to instances of alleged or reasonably suspected discrimination or harassment, based on gender, against any person under the control of the School according to the School's Title IX Non-discrimination/Harassment Policy (“Title IX Policy”). The School reserves the right to interpret and apply these procedures (“Title IX Procedures”) consistent with the Title IX Policy and subject to the law.

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## I. GENERAL PRINCIPLES AND REQUIREMENTS

### General Information and Assistance

Any individual who believes they are a victim of gender-based discrimination or harassment under the School's Title IX Policy is encouraged to contact the School's Title IX Coordinator:

### Key Terms and Designations

The following terms and role designations apply to these procedures:

- **Complainant:** A person filing a complaint according to these procedures. (Any reference to a Complainant may include the Complainant's parent, advisor, or other assisting person)
- **Respondent:** The alleged perpetrator of prohibited conduct under the School's Title IX Policy. (Any reference to a Respondent may include the Respondent's parent, advisor, or other assistant to the Respondent.)
- **Title IX Coordinator (or T.IX Coordinator):** A School employee assigned the responsibility to coordinate the complaint process.
- **Investigator / Preliminary and Final Investigative Reports:** An Investigator is a person assigned to investigate a valid complaint on behalf of the School and to issue both Preliminary and Final Investigative Reports (or "Preliminary Report" and "Final Report") for the Adjudicator's consideration. The Investigator is not a decision-maker in the complaint process but may present recommended findings of fact, conclusions, and corrective actions in the Reports. The **Preliminary Report** is the initial draft report prepared by the Investigator following investigation of the complaint, and issued to the parties for their review and responses, to be considered by the Investigator before preparing the **Final Report**.
- **Adjudicator / Initial Determination:** The person assigned, on behalf of the School, to review the Final Investigative Report and supporting record, make further inquiry as needed, and determine the validity of the complaint in the form of a written **Initial Determination**.
- **Appeal Officer/Panel / Appeal Determination:** The person or panel of persons assigned, on behalf of the School, to review (1) an appeal challenging an Initial Dismissal Decision by the Executive Director (or designee); or (2) an appeal challenging an Initial Determination by an Adjudicator. If an appeal is granted, the Appeal Officer/Panel will issue to the parties, as the respective circumstances require, a written Appeal Decision (as

to the Initial Dismissal Decision) or Appeal Determination (as to the Initial Determination), upholding, modifying, or reversing the prior decision or determination, respectively.

- **Standard of Evidence / Clear and Convincing Evidence:** The degree of proof required to uphold allegations of a Respondent's misconduct and culpability. The School requires that all Report findings and recommendations and all Determinations of culpability be supported by **Clear and Convincing Evidence** to overcome the presumption of the Respondent's non-culpability.

### **Interim Support Measures**

In response to a formal or informal complaint, the School shall offer Supportive Measures available to the Complainant and the Respondent.

The Title IX Coordinator will provide a written explanation of interim support measures available and inquire to determine what corrective actions the Complainant may be seeking. If the Complainant identifies an interim support measure not already provided by the School, the School will consider whether it can provide such measure with minimal burden to the Respondent or others.

The following are examples of interim support measures:

- Academic accommodations, including change in classes, testing, or assignments
- Medical and mental health services, including counseling
- Modifications to education conditions (for students) including extracurricular activities, field trips, on or off-campus activities, or (for employees) work conditions
- A “no contact” directive pending the outcome of an investigation; such a directive serves as notice to both parties that they must not have verbal, electronic, written, or third-party communication with one another
- Providing an escort to ensure that a student Complainant can move safely between school programs and activities
- Transportation accommodations
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services

### **Privacy Protections**

The School will never use or allow questions or evidence protected by a legally recognized privilege (e.g., attorney-client, doctor-patient), unless the person waives the privilege in writing, or such use is otherwise required, legally.

The School cannot unilaterally access or consider a party's records if those records are made or maintained by a physician, psychiatrist, or other recognized professional and made to provide treatment to the party. These records can only be accessed with a party's voluntary written consent. The School must keep confidential the identity of Complainants, Respondents, and witnesses, except as required by FERPA, or as required by law, or as necessary to carry out a Title IX proceeding.

During the complaint process, questions or evidence about the Complainant's prior sexual behavior – even with the Respondent accused of sexual harassment, and even in the cases where the Respondent already possesses evidence about sexual history -- are not deemed relevant.

### **Informal Resolution**

After a formal complaint is filed, the School may, in its discretion, offer and facilitate informal resolution options if the parties mutually agree. However, informal resolution may not be offered or allowed when involving student complaints against an employee Respondent. A party has the right to withdraw from informal resolution and resume the complaint process.

### **Complaint Dismissals**

The law *requires* the School to dismiss a complaint when the alleged misconduct

- fails to meet the definition of sexual discrimination or harassment (per the Title IX Policy);
- did not occur in a School educational program or activity; or
- did not occur in the United States

When a complaint is dismissed, the School may still address the alleged misconduct in a separate proceeding if it may have violated some other law or school policy.

The School, in its discretion, *may* dismiss a complaint when

- the Complainant notifies the Title IX Coordinator in writing of a request to withdraw the complaint
- the Respondent is no longer enrolled in (if a student) or employed by (if an employee) the School; or
- Specific circumstances prevent the School from gathering the necessary evidence to sufficiently investigate and determine an outcome.

If the Title IX Coordinator believes there is substantial reason to dismiss a complaint, the Coordinator shall make a written request to the Executive Director (or designee) to review it. The Executive Director will decide whether to dismiss the complaint. If the complaint is initially

dismissed, the Title IX Coordinator shall, on behalf of the Executive Director, promptly notify the parties in writing of the initial dismissal and the reasons.

Either party may appeal an initial dismissal decision by submitting a written request for appeal to the Title IX Coordinator within five (5) days of that initial decision. If the initial dismissal is not appealed in a timely or proper manner, the dismissal decision shall become final.

The Title IX Coordinator shall forward a timely request to a designated Appeal Officer or Panel, according to the Appeal process set forth further below in these procedures. Furthermore, the Target Deadlines in these procedures (set forth below) shall be calculated based on the date of the complaint filing, shall be adjusted by adding ten (10) additional days to the calculations.

### **Complaint Process Officials: Fairness / Conflicts of Interest**

All officials involved in the complaint process (“Complaint Officials”) shall be objective, neutral, fair, and adequately trained and skilled in the conduct of their respective duties. No Complaint Official may serve in more than one role in any single complaint process.

A complaint official shall not serve in a complaint process if s/he has an actual, apparent, or potential conflict of interest; this includes being a subordinate or close colleague of an employee who is a party or is a family relative of a party. A Complaint Official (or prospectively appointed official) is duty-bound to notify the T.IX Coordinator of any such conflict. The Executive Director (or designee) shall serve in the T.IX Coordinator’s place if the conflict of interest involves the T.IX Coordinator.

In any instance where a Complaint Official or potential Complaint Official has a conflict of interest or is a party in the complaint process, the T.IX Coordinator shall appoint a qualified alternate for such role. The Executive Director (or designee) shall serve in place of the regular T.IX Coordinator when the Coordinator has a conflict of interest.

Whenever the Executive Director has a conflict of interest or is a named party in a complaint process, the Board Chairperson (or designee) shall serve in the Executive Director's place, as needed. In such instances, the T.IX Coordinator shall serve under the close supervision of the Executive Director (or designee) in carrying out the Coordinator duties. (This measure is necessary to avoid undue influence or bias if the T.IX Coordinator is a subordinate of the Executive Director.)

### **Content of Investigative Reports and Determinations**

Any conclusions or determinations made in the complaint process, whether in the Investigator's Reports or Adjudicator or Appeal Determinations (including a Final Determination), should include the following elements (in whatever form and scope deemed appropriate):

- a. **An executive summary** of the primary allegations, applicable school policies allegedly violated, conclusions drawn regarding culpability, and recommended corrective actions if necessary.
- b. **Complaint procedures** completed at that point in time, including a summary of primary investigative measures
- c. **Findings of fact** relative to the allegations
- d. **Analysis and conclusions** relative to the allegations and school policies violated or not violated.
- e. **A summation** regarding the ultimate determination of culpability
- f. **Any recommended or required corrective actions**; these include remedies for the Complainant or disciplinary sanctions for Respondent (if the Respondent is culpable). Any remedies should address how the Complainant's access to education (in the case of a student) or workplace equity (in the case of an employee) will be restored or preserved, as necessary, with an accompanying rationale
- g. **Any applicable and subsequent procedural rights of the parties** within the complaint process

## II. COMPLAINT PROCESS STEPS

### Process Overview, Target Deadlines, and Extensions/Delays

**Timing / “Days.”** The following chart provides a step-by-step overview of the complaint process stages, with detailed descriptions indicated below. All steps should be completed as promptly as possible, but no later than a target deadline, unless there is good cause for delaying a deadline. The decision to postpone a deadline may be made by the Title IX Coordinator or the complaint official presiding over the current process stage. Reference to a “day” or number of days shall refer to a School business day unless otherwise noted. In the timeline chart below, a deadline marked with an asterisk indicates a calculation based on a calendar day, not a School business day. The date the School received actual notice of a complaint (formal or informal) constitutes the “Complaint Date” (Day 0). Target Deadlines calculated from the complaint date shall be adjusted by **adding ten (10) days when a party appeals an initial dismissal decision.**

Complaint Stage	Target Deadlines**
Date of complaint filing (i.e., the date that the School has actual notice of the complaint)	Complaint Date (“C”) C+0
T. IX Coordinator meets with Complainant to discuss the complaint, review rights, policies, processes, supportive measures, how to formalize the complaint, etc.	C+1 (Day)
Formal complaint finalized and signed <i>if, after initial discussions and review, Complainant or T.IX Coordinator believe grounds exist to proceed with Complaint. (Note: The Complainant shall have the right to formalize a Complaint even if T. IX Coordinator believes the matter should be referred for dismissal determination.)</i>  T.IX Coordinator evaluates if grounds to dismiss Complaint <i>may</i> exist and whether to forward the Complaint for a dismissal determination by the Executive Director. <i>(Such referral and determination may also occur subsequently, as appropriate.)**</i>	C+3
<i>If applicable, dismissal referral (by T. IX Coordinator) and Determination by Executive Director (Note: referral for and dismissal may also occur later in process as new information</i>	C+7

<i>arises or circumstances allow; the right to appeal any dismissal shall be made within 10 days of a Dismissal Determination.**) **</i>	
Assignment of Investigator, Adjudicator, Initial Notice of Complaint to Parties	
Final Investigation Report issued. Adjudication process initiated	C+30*
Adjudicator review of Final Investigative Report, the opportunity for parties to submit questions, further inquiry (as needed), Initial Determination issued	C + 45*
Right to Request Appeal	Adjudicator Determination + 5
Appeal Determination	C + 60*

**\*\*If a Complaint is referred for dismissal, initially dismissed, appealed, and the initial dismissal is overturned on appeal and allowing the Complaint to proceed, all timelines shall be adjusted based on the number of days required for the dismissal and appeal process.**

Complaint process target deadlines may be postponed for good cause. In such instances, the parties and other affected persons shall be notified of the postponement and its reasons. Good cause for a delay may include such things as an excusable absence of a party or witness due to illness, an unavoidable scheduling conflict; a law enforcement process affecting the complaint process; the need to provide accommodation; instances when students or non-administrative employees are not at the School and such individuals are necessary to but not available in the Complaint process (e.g., teacher workdays, summer vacations, other breaks in classes and workdays).

**Detailed Process Stages and Requirements**

**1. Filing and Formalizing a Complaint**

Any person who believes s/he is a victim of prohibited conduct under the T.IX Policy (the "Complainant") is urged to report the matter to the T.IX Coordinator promptly.

Once the School has actual knowledge of misconduct under its Title IX Policy, it shall respond as promptly as feasible, normally within one day. Actual knowledge means notice of or allegations received by the Title IX Coordinator, a school official with authority to institute corrective measures or any school employee.

Complaints may be informal and formal. An informal complaint is any notice to the School, by any reasonable means of communication (e.g., email, personal communication, written notice), of an allegation of misconduct under the Title IX Policy. A formal complaint is a detailed description of an informal complaint set forth in a standardized form provided by the School, completed by and signed by the Complainant or the Complainant's parent/guardian or advisor, or signed by the Title IX Coordinator.

## **2. Initial Response / Meeting with Complainant**

When the complaint is filed, the T.IX Coordinator shall meet promptly with the Complainant. The Coordinator will inform the Complainant of the right to file a formal complaint and how to do so, review the complaint process, answer the Complainant's questions, and provide Complainant with a copy of the T.IX Policy and Procedures.

## **3. Investigator and Adjudicator Appointment**

The Title IX Coordinator shall appoint an objective, trained, competent, and unbiased Investigator and Adjudicator to the matter within seven days.

## **4. Notice of Complaint**

The Title IX Coordinator will provide written notice of the complaint filing to the relevant parties and the Investigator. Such notice shall include the following:

- a. The names of the Complainant and the Respondent
- b. A brief summary of the essential allegations of wrongdoing
- c. A more detailed account of the relevant allegations and facts, including critical dates, actions, witnesses, and individuals with relevant knowledge
- d. The presumption of non-culpability of the Respondent
- e. The range of possible remedies and disciplinary sanctions following any determination of culpability
- f. The standard of evidence that will apply to investigative findings, recommendation, and any determination
- g. Notice of any School code of conduct provision prohibiting the making or facilitating any false statements or evidence in a grievance or complaint process
- h. That the parties may
  - have an advisor of their choice;
  - request to inspect and review the available evidence and a copy of the relevant code of conduct;

- participate, by mutual written agreement, in informal resolution when not involving a student allegation against an employee; and
- appeal an initial complaint dismissal or Initial Determination

## **5. Investigation / Preliminary and Final Investigation Report**

The Investigator shall begin to investigate the complaint as promptly as practicable, but normally no more than ten (10) working days from the date the School receives notice of the complaint. The Title IX Coordinator and Investigator shall have the complete cooperation of all persons during the investigation.

The investigation should be completed as promptly as possible, but no later than thirty (30) calendar days from the date the School has notice of the complaint, unless there is good cause for a delay.

The Investigator shall meet with all individuals reasonably believed to have relevant information, including the Complainant, Respondent, and any witnesses to the alleged misconduct conduct, or other persons who may have relevant knowledge or information. The Investigator shall not interview the Respondent without giving the Respondent reasonable time to prepare for such an interview, following initial notice of the complaint.

The investigation shall be carried out as discreetly and confidentially as possible. The Investigator will objectively evaluate all relevant evidence and make all necessary credibility determinations.

Following a reasonably thorough investigation, the Investigator will prepare a Preliminary Report and simultaneously issue to the parties copies of the Report and evidence on which it relies. The Investigator shall notify the parties that they may have up to ten (10) days to submit to the Investigator written responses to the Initial Report, including any questions they wish the Investigator to ask of the other party or consider. The Investigator will promptly provide a copy of each party's response to the other party after s/he receives both responses or after the ten-day response period, whichever comes first. The Investigator shall objectively, equitably, and diligently consider and address the parties' written responses.

The Investigator shall prepare a Final Investigative Report, modifying the Initial Report as warranted by any party responses or other relevant considerations. The Final Report will be provided simultaneously to the parties, the Title IX Coordinator, and the Adjudicator within thirty (30) calendar days from the complaint notification date, unless good cause requires a postponement.

The Investigator's Preliminary and Final Reports' shall address the required Report elements previously set forth in these procedures.

**Adjudicator Determination.** The complaint shall be resolved in a written Initial Determination issued by the School's appointed Adjudicator, no sooner than ten (10) days after the Investigator issues the Final Report. The Initial Determination may reasonably adopt or incorporate any portion of the Investigator's Final Report and address the required Determination elements previously set forth in these procedures.

## 6. Appeals

**Initial Dismissal Decision Appeals.** A party has the *right* to appeal an Initial Dismissal Decision by the Executive Director. In such instances, the matter shall be handled according to the procedures set forth previously. (See "Complaint Dismissals")

**Initial Determination Appeals.** A Party also has a right to appeal any Initial Determination by the Adjudicator, but only in the following circumstances and by showing with reasonable evidence,

- (1) a substantial procedural irregularity that affected the determination outcome;
- (2) new and relevant evidence that was not reasonably available when the determination was made; or
- (3) the Title IX Coordinator, Investigator, or Adjudicator had a demonstrable conflict of interest or bias that affected the outcome

An appeal of an Initial Determination may also be *allowed in the discretion of the Executive Director* (or designee) if s/he believes other compelling reasons require such appeal.

An appeal request must be submitted in writing to the Title IX Coordinator within five (5) days following the Initial Determination, as the case may be, and shall clearly and concisely set forth the basis for a right to appeal, including all supporting evidence. Failure to submit a timely and substantively compliant appeal request shall constitute a waiver of any right to appeal.

The T.IX Coordinator will appoint an Appeal Officer or Panel to serve as an impartial decision-maker. The Hearing Officer/Panel shall review the parties' appeal submissions, the existing complaint process record, and any other relevant and available information deemed appropriate.

The Appeal Determination shall be issued as promptly as possible, but no later than sixty (60) calendar days from the original complaint date, subject to any postponement for good cause. The Appeal Determination shall address the required Determination elements previously set forth in these procedures. There shall not be a right to any live, in-person hearing unless the Appeal Officer/Panel believes circumstances compel such a live hearing.

Upon receipt of a proper Initial Determination Appeal request, the Title IX Coordinator will issue a written notice to each of the parties that includes the following:

- A copy of the appeal request and supporting documents
- The applicable appeal procedures, including the identity and role of the Appeal Officer/Panel
- The right of the parties (a) to submit to the Appeal Officer/Panel and written, relevant questions a party wishes to address to the other party or a witness, (b) to receive the answers to questions submitted, and (c) to allow for additional, limited follow-up questions from each party.
- Relevant questions include only those that address whether grounds for appeal exist and their implications for the appeal determination
- A party is entitled to an explanation for any rejection of the party's submitted question.

**Corrective Actions.** In cases involving a determination of Respondent's culpability, the School shall take appropriate corrective actions to designed to prevent the misconduct from recurring, and restores and preserves the Complainant educational or workplace rights (as the case may be). Corrective actions include (a) appropriate remedies for the Complainant and (b) any appropriate disciplinary sanctions. Examples of such corrective actions are as follows.

**a. Remedies.** Remedies for a Complainant may include, but are not limited to, the following:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring the Complainant and perpetrator do not share classes or extracurricular activities;
- Moving the Respondent or Complainant (if the Complainant requests to be moved) to a different classroom or location;
- Providing services including medical, counseling, and academic support services, such as tutoring; or
- Training or retraining school employees on the School's responsibilities to address allegations of misconduct and how to conduct Title IX investigations;
- Developing materials on sexual discrimination and harassment, which should be distributed to all staff and students;
- Conducting bystander intervention and sexual discrimination and harassment prevention programs with students or staff;

- Conducting a School climate check to assess the effectiveness of efforts to ensure that the School is free from sexual misconduct, and using that information to inform future proactive steps that the School might take;
- Targeted training for a group of students if, for example, the sexual harassment created a hostile environment (i.e., on an athletic team);
- When the School cannot conduct a full investigation into a particular incident (i.e., when it received a general report of sexual violence without any personally identifying information), it should consider remedies for the broader student population in response.

**b. Disciplinary Sanctions.** Disciplinary sanctions against a culpable student or employee Respondent may include the following:

- **For Student:** verbal warning, written warning, interim suspension, restitution, suspension, expulsion, required training, counseling, required completion of a probationary period without additional infractions, or requiring the Respondent to stay away from and not communicate with the Complainant in and during any School setting or activity.
- **For the employee:** verbal or written warning or reprimand, placement on a closely supervised action plan or probationary status, change of duties, salary penalty or reduction, suspension without pay, dismissal, reporting to law enforcement (in instances of illegal or potentially illegal activity related to the misconduct).

**c. The T.IX Coordinator Oversight.** The T.IX Coordinator is responsible for facilitating and documenting (a) the implementation of any remedy and (b) disciplinary sanctions carried out by appropriate School officials. If the Coordinator suspects or know of a failure to implement required remedies and sanctions fully, the Coordinator will submit a written notice of concerns to the Executive Director.