

## **Title IX Grievance Procedures**

### Procedures

Any student or visitor who believes that s/he has been subjected to unlawful sexual discrimination or harassment may seek resolution of his/her complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful sex discrimination or harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) school days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful sex discrimination or retaliation with the United States Department of Education Office for Civil Rights or Equal Employment Opportunity Commission ("EEOC") or local law enforcement agencies.

### *Informal Complaint Procedure*

Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature and disciplinary action is not required to remedy the situation. The goal of the informal complaint procedure is to stop quickly inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student or visitor who believes s/he has been unlawfully discriminated or harassed against. This informal procedure is not required as a precursor to the filing of a formal complaint. The informal process is only available in those circumstances where the parties (the alleged target of the sex discrimination/retaliation and individual(s) alleged to have engaged in the discrimination) agree to participate in it.

Students or visitors who believe that they have been unlawfully sexually discriminated or harassed against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving Academy staff or any other adult member of the Academy community against a student will be formally investigated.

An individual who believes s/he has been unlawfully discriminated or harassed against may make an informal complaint, either orally or in writing: (1) to a building administrator; (2) directly to the Title IX Coordinator; and/or (3) to the School Leader or other Academy official.

All informal complaints must be reported to the Title IX Coordinator who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

The Academy's informal complaint procedure is designed to provide students or visitors who believe they are being unlawfully sexually discriminated or harassed against with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and

the wishes of the individual claiming unlawful discrimination or harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate his/her concerns to the person who allegedly engaged in the discriminatory or harassing behavior.
- B. Distributing a copy of the Non-Discrimination policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works.
- C. If both parties agree, the Title IX Coordinator may arrange and facilitate a meeting between the individual claiming discrimination or harassment and the individual accused of engaging in the misconduct to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the Title IX Coordinator or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) school days of receiving the informal complaint.

Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Title IX Coordinator

#### *Formal Complaint Procedure*

If a complaint is not resolved through the informal complaint process, if one of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process shall be implemented.

An individual who believes s/he has been subjected to unlawful sexual discrimination or harassment (hereinafter referred to as the "Complainant"), may file a formal complaint, in writing, with the School Leader, the Title IX Coordinator, or other Academy official. Due to the sensitivity surrounding complaints of unlawful sexual discrimination and harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs.

The Complainant may obtain a Complaint Form from the Title IX Coordinator, School Leader, or the Academy website.

If a Complainant informs the School Leader or other Academy official, either orally or in writing, about any complaint of sexual discrimination or harassment, that person must report such information to the Title IX Coordinator within two (2) school days.

Throughout the course of the process, the Title IX Coordinator should keep the parties informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, the sexual discriminatory or harassing

conduct; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Title IX Coordinator shall ask for such details in an oral interview. In the event the Complainant is a student with disabilities, the Title IX Coordinator will carefully review the reporting student's IEP or 504 plan to determine what specific accommodations that child should have to aid in their reporting.

Thereafter, the Title IX Coordinator will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Title IX Coordinator will consider whether any action should be taken in the investigatory phase to protect the Complainant from further sex discrimination or retaliation, including, but not limited to, a change of schedule for the Complainant and/or the person who allegedly engaged in the misconduct. In making such a determination, the Title IX Coordinator should consult the Complainant to assess his/her agreement to the proposed action.

If the Complainant is unwilling to consent to the proposed change, the Title IX Coordinator may still take whatever actions s/he deems appropriate in consultation with the School Leader.

Within two (2) school days of receiving the complaint, the Title IX Coordinator designee will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful sex discrimination/retaliation.

Simultaneously, the Title IX Coordinator will inform the individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "Respondent"), that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant policies and/or administrative guidelines. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) school days.

Although certain cases may require additional time, the Title IX Coordinator or a designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) school days of receiving the formal complaint. The investigation will include:

- A. Interviews with the Complainant;
- B. Interviews with the Respondent;
- C. Interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. Consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Title IX Coordinator or the designee shall prepare and deliver a written report to the School Leader that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful sex

discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful sex discrimination/retaliation. The Title IX Coordinator's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used.

The School Leader shall consider the totality of the evidence and determine whether the preponderance of the evidence establishes that the alleged discrimination occurred (i.e., it is more likely than not that discrimination/sexual harassment/sexual violence occurred).

Absent extenuating circumstances, within five (5) school days of receiving the report of the Title IX Coordinator or the designee, the School Leader must either issue a final decision regarding whether the charges have been substantiated or request further investigation. A copy of the School Leader's final decision will be delivered to both the Complainant and the Respondent.

If the School Leader requests additional investigation, the School Leader must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) school days. At the conclusion of the additional investigation, the School Leader must issue a final written decision as described above.

If the School Leader determines the Complainant was subjected to unlawful sex discrimination/retaliation, the School Leader shall make recommendations to immediately end the discriminatory conduct, recommend ways to remedy the discriminatory effects on the complainant and identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the sex discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

#### *Appeal*

A Complainant or Respondent who is dissatisfied with the final decision of the School Leader may appeal through a signed written statement to the Board within five (5) school days of his/her receipt of the School Leader's final decision.

In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives at the next regularly scheduled board meeting after the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) school days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful sex discrimination/retaliation regardless of whether the student/visitor alleging the unlawful discrimination/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The Complainant may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, local

law enforcement agencies or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If a party is not satisfied with the Board's decision, above, the party may file a complaint with the Office of Civil Rights ("OCR") in Cleveland, Ohio. More information is available at the United States Department of Education, Office of Civil Rights, 1350 Euclid Avenue, Suite 325. Cleveland, OH 44115.

#### *Privacy/Confidentiality*

The Academy will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with its legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Requests for confidentiality, therefore, will be evaluated in the context of the Academy's responsibility to provide a safe and nondiscriminatory environment for all students, and the request will be weighed against whatever factors the Academy deems relevant, including, without limitation:

- A. the complainant's age;
- B. circumstances that suggest there is an increased risk of future acts of harassment and/or sexual violence under similar circumstances; and
- C. whether the Academy possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Title IX Coordinator or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that s/he learns and/or provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of discrimination/retaliation will be maintained by the Title IX Coordinator in accordance with the Academy's records retention policy.

#### *Sanctions and Monitoring*

The Academy shall enforce its prohibitions against unlawful sex discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action. When imposing discipline, the School Leader shall consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Academy may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Academy procedures and policies.

#### *Retaliation*

Retaliation against a person who makes a report or files a complaint alleging unlawful sex discrimination/retaliation, or participates as a witness in an investigation is prohibited. Specifically, the Academy will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

#### *Reporting to Local Law Enforcement*

Nothing in these Procedures should in any way be deemed to discourage the Complainant from reporting acts subject to these Procedures, including acts of sexual violence, to local law enforcement. In the event that the Complainant files a criminal complaint, the Title IX Coordinator and School Leader should not wait for the conclusion of a criminal investigation or criminal proceeding to begin the Academy's own Title IX investigation.

Although the Academy may need to delay temporarily the fact-finding portion of a Title IX investigation while local law enforcement officials are gathering evidence, the Academy will take interim measures to protect the Complainant in the educational setting. The Academy should also continue to update the parties on the status of the investigation and inform the parties when the Academy resumes its Title IX investigation

#### *Interim Measures Pending Final Determination of The Complaint*

Title IX requires the Academy to take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. The Academy should take these steps promptly once it has notice of a sexual harassment or sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. The Title IX Coordinator should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities as appropriate. The Title IX Coordinator should also ensure that the complainant is aware of his or her Title IX rights and any available resources, such as victim advocacy, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to local law enforcement.

The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. The Title IX Coordinator should consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the complainant; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same class, transportation, or extra-curricular activities; and whether other judicial measures have been taken to protect the complainant (e.g., civil protection orders).

#### **Complaint Investigation**

When a school knows or reasonably should know of possible sex-based harassment, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. In the case of alleged sexual assault, the Academy should make it clear that the complainant has a right to file a criminal complaint.

The Academy should not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation, and must take immediate steps to protect the student. The Academy may delay its investigation while the law enforcement gathers evidence, but once notified that law enforcement's investigation is complete, the Academy must promptly resume its Title IX investigation.

The investigator should consider:

- severity of the alleged conduct and whether the accused poses a danger to others
- whether previous complaints have been filed against the same individual
- ages of the complainant and the accused
- whether alcohol or drugs were involved in cases of alleged sexual assault

During a Title IX investigation, the parties must have an equal opportunity to present relevant evidence and witnesses. The complainant and the alleged perpetrator must be afforded similar and timely access to any information that will be used at the hearing. While it is not required, if the Academy chooses to allow the parties to have attorneys participate in the proceedings, it must do so equally for both parties. It also recommended that the Academy provide an appeal process. In addition, the Academy must provide due process to the alleged perpetrator.

Both parties must be notified, in writing, about the outcome of both the complaint and any appeal. It is the recommendation that the Academy provide notice of the final outcome to the complainant and alleged perpetrator concurrently. FERPA permits the Academy to disclose to the harassed student information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student.

The Academy must maintain documentation of all proceedings, including, but not limited to, written findings, transcripts and audio recordings.

### **Remedies and Enforcement**

If an investigation reveals that the harassment created a hostile environment, the school must take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent the harassment from recurring, and, as appropriate, remedy its effects. Title IX requires the Academy to take steps to protect the complainant as necessary, including taking interim steps before the final outcome of the investigation. In addition the Academy must be aware that complaints of sexual harassment or violence may be followed by retaliation by the alleged perpetrator.

Depending on the specific nature of the problem, remedies for the complainant might include, but are not limited to:

- Ensuring that the complaining and the alleged perpetrator do not attend the same class;
- Providing counseling services;
- Providing academic support, such as tutoring;
- Providing an escort to ensure that the complaining can move safely between classes and activities

### **Exceptions**

The Department's Title IX regulations do not prohibit schools from grouping students in physical education classes and activities by ability as assessed by objective standards of individual performance

developed and applied without regard to sex or using requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

The Department's Title IX regulations identify the following categories for which a school may intentionally separate students by sex:

(a) contact sports in physical education classes;

(b) classes or portions of classes in elementary and secondary schools that deal primarily with human sexuality; and

(c) non-vocational classes and extracurricular activities within a coeducational, non-vocational elementary or secondary school if the following criteria are met.

1. to improve its students' educational achievement through its overall established policy to provide diverse educational opportunities or to meet the particular, identified educational needs of its students. The single-sex nature of each class must be substantially related to achievement of the important objective and the school must implement its important objective in an evenhanded manner.
2. enrollment in a single-sex class must be completely voluntary and the school must provide a substantially equal coeducational class in the same subject to all students, and may be required to provide a substantially equal single-sex class for students of the excluded sex.
3. conduct a periodic evaluation of the class and the original justification behind the class at least every two years.

### **Retaliation**

Retaliation against an individual because the individual filed a complaint alleging a violation of Title IX; participated in a Title IX investigation, hearing, or proceeding; or advocated for others' Title IX rights is prohibited. The school should ensure that individuals are not intimidated, threatened, coerced, or discriminated against for engaging in such activity.