



## **SEXUAL HARASSMENT AND SEXUAL ASSAULT INFORMATION GUIDE**

### **District Title IX Coordinators:**

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### **District Policies Related to Sexual Harassment and Sexual Assault:**

*Policy 1662 Summary: All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. Walden Green will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and gender identity), disability, age, religion, height, weight, marital or family status, military status, ancestry, or genetic information that are protected by Federal civil rights laws, and encourages those within the WGM community, who feel aggrieved to seek assistance to rectify such problems. Walden Green will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, WGM will take (or cause to be taken) immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.*

*Policy 2266 Summary: Walden Green prohibits Sexual Harassment/Assault that occurs within its education programs and activities. When WGM has actual knowledge of Sexual Harassment/Assault in its education program, it shall promptly respond in a manner that is not deliberately indifferent. Pursuant to its Title IX obligations, WGM is committed to eliminating Sexual Harassment/Assault and will take appropriate action when an individual is determined responsible for violating this policy. WGM will provide persons who have experienced Sexual Harassment/Assault ongoing remedies as reasonably necessary to restore or preserve access to Walden Green's programs.*

The complete policies on 1662 and 2266 are attached below (pages 6-31).

The policies prohibit adverse action against a person for reporting sexual harassment and sexual assault.

# SEXUAL HARASSMENT AND SEXUAL ASSAULT INFORMATION GUIDE



## What is Sexual Harassment?

Sexual harassment is unwanted sexual remarks or behaviors. It can be verbal, physical, or visual. Here are a few examples of sexual harassment.

### Verbal:

- Making sexual jokes, comments, or spreading rumors targeted at someone (in person or online)
- Making sexual jokes or comments about students’ bodies or how they look or act
- Making jokes or comments about students’ masculinity or femininity and/or who they are attracted to or love



### Physical:

- Pulling at or touching someone’s clothing in a sexual manner (like pulling down someone’s pants or snapping a bra strap)
- Touching, pinching, or grabbing someone in a sexual way
- Brushing up against someone’s body on purpose



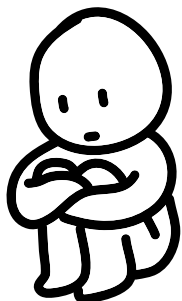
### Visual:

- Posting or sharing sexual comments, pictures, or videos
- Pressuring someone to take or send sexual pictures or videos (“nudes”)



### **Sexual harassment can make someone feel many emotions**

You may feel scared, uncomfortable, upset, embarrassed or angry.



When it comes to sexual harassment, what matters is how the action makes a person think or feel--not the intention of the person who did it.

Sexual harassment can happen anywhere or to anyone. It can take place in person or online. But no matter where sexual harassment happens, it is never OK. It is wrong and it is against the law.



# What is Sexual Assault?

Sexual assault is any sexual act that one person chooses to do to another person without consent (permission) through physical force, threats, or pressure (verbal or emotional).

Here are a few examples of sexual assault:

- Touching someone's genitals, breast, or butt without their permission (consent) over or under clothes
- Unwanted kissing
- Physically forcing someone to perform a sexual act
- Threatening or pressuring a person to do any sexual act
- Unwanted vaginal, oral, or anal penetration with a body part or object (also known as rape)

**Sexually assaulting another person is wrong and it is against the law. In Michigan statute, this is called “Criminal Sexual Conduct.”**

## About Consent

- Consent means that each person agrees or gives permission.
- Anyone can change their mind at any time.
- Consent means each person understands what is going on and agrees to all of it.
- Someone needs to get consent every single time.
- Just because someone said “yes” before, does not mean “yes” now.
- It is not OK to use threats, emotional pressure, or the fact that another person is drunk or high to get what you want.

**If someone doesn't consent to sexual acts it is sexual assault.**



# What if This is Happening to Me?

It is not your fault. You are not alone.

- No one has the right to sexually harass or assault anyone else.
- You have the right to feel safe and respected.
- If you feel like you won't be harmed, tell them this is not okay and to stop.
- Consider telling a trusted adult if any of these behaviors happen to you. If the trusted adult is a teacher, coach, or school staff, they may have to tell someone else (like a principal, parents, etc.). If you're not sure if you are ready or want to tell a trusted adult at your school, you can talk to them without saying it happened to you ("I have a friend who...").
- If the first person isn't helpful, keep trying until you find someone who is.
- Speaking up is a brave thing to do. Don't be afraid to seek help from someone you trust.
- Resources listed on page 4 are available 24/7 to support you.

Scientific research tells us that people who experience traumatic events like sexual harassment and sexual assault have many different responses in their brains, bodies, feelings, and behaviors. However YOU respond to trauma is OK and is normal.

## What if This is Happening to Someone I Know?

Believe. Listen. Support.



- Believe them! If someone tells you that someone has sexually harassed or assaulted them, know that it is very hard to tell someone about this and that person trusts and respects you enough to share this information. Let them know that what happened is not their fault and you are there to support them.
- Listen without judgment. Give them space and time to tell you what they feel comfortable sharing.
- Ask how you can support them. What you would need might differ from what your friend needs, so always ask. Let your friend decide who else can know.



# Resources

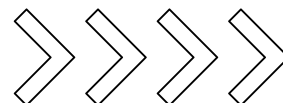
## There is Help.

You can call or chat with any of the resources below 24/7. People who are trained are there to listen and support you no matter what. **You don't have to tell them your name.** They can connect you with people and organizations nearby who can help you with questions or needs.

### Michigan's Sexual Assault Hotline (VOICES4)

**Text:** 866-238-1454 **Call:** 855-864-2374

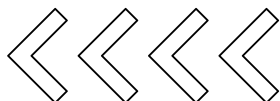
**Chat:** <https://mcedsv.org/sexual-violence-hotline-chat/>



### Michigan's Domestic/Dating Violence Hotline (VOICEDV)

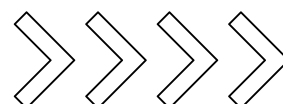
**Text:** 877-861-0222 **Call:** 866-864-2338

**Chat:** <https://mcedsv.org/hotline-domestic-violence/>



### Youth Resources Web Page

<https://mcedsv.org/resources>



### School Title IX Coordinator

If someone sexually assaulted or sexually harassed you at school or at a school event, you can choose to talk to your School District's Title IX Coordinator. Part of their responsibilities is to prevent and respond to sexual assault, sexual harassment, and discrimination based on sex and gender. Note: If you report to a Title IX Coordinator, they are required by law to follow up and may conduct an investigation.

If you report a sexual assault or sexual harassment incident, the policies forbid someone from retaliating or doing something to get back at you. See page 5 for your school's Title IX information and other related policies.

Book	Board Policies
Section	1000 BP - Administration
Title	ANTI-HARASSMENT
Code	1662 BP
Status	Active
Adopted	March 16, 2015
Last Revised	March 18, 2019

## **ANTI-HARASSMENT**

### Reference:

Titles VI and VII of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.  
 20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)  
 29 U.S.C. 621 et seq, Age Discrimination in Employment Act of 1967  
 29 U.S.C. 6101, The Age Discrimination Act of 1975  
 42 U.S.C. 2000e et seq.  
 42 U.S.C. 1983  
 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
 29 C.F.R. Part 1635  
 Title IX of the Educational Amendments of 1972, 20 U.S.C. 1681 et seq.  
 29 U.S.C. 794, Rehabilitation Act of 1973, as amended  
 42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended  
 The Handicappers' Civil Rights Act, M.C.L.A. 37.1101 et seq.  
 The Elliott-Larsen Civil Rights Act, M.C.L.A. 37.2101, et seq.  
 Policies on Bullying, Michigan State Board of Education, 7-19-01  
 Model Anti-bullying Policy, Michigan State Board of Education, 09-2006  
 National School Boards Association Inquiry and Analysis – May 2008

### **General Policy Statement**

It is the policy of the Board of Directors to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all Academy operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on Academy property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and gender identity), disability, age, religion, height, weight, marital or family status, military status, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as "unlawful harassment"), and encourages those within the Academy community as well as Third Parties, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate or cause to be investigated all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take or cause to be taken immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action either from the Board or by recommendation of the Board to the Educational Service Provider.

### **Other Violations of the Anti-Harassment Policy**

The Board will also take or cause to be taken immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### **Definitions**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

**Academy community** means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

**Complainant** is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

**Respondent** is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

**Third Parties** include, but are not limited to, guests and/or visitors on Academy property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Academy community at academy-related events/activities (whether on or off Academy property).

**Day(s)**: Unless expressly stated otherwise, the term "day" or "days" as used in this policy means a business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).

### **Bullying**

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;

- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or Academy employee that:

- A. places a student or Academy employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits, or an employee's work performance; or
- C. has the effect of substantially disrupting the orderly operation of the Academy.

### **Sexual Harassment**

For purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964 "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of any gender against a person of the same or another gender.

Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs, activities, or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions , including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.



- E. Sexually suggestive objects, pictures, graffiti, videotapes, posters, audio recordings or literature, placed in the work or educational environment, that may reasonably embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities;
- H. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship;
- J. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin;
- K. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- L. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- M. Inappropriate boundary invasions by an Academy employee or other adult member of the Academy community into a student's personal space and personal life.
- N. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

### **National Origin/Ancestry Harassment**

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disability, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

### **Anti-Harassment Compliance Officers**

The following individual(s) shall serve as the Academy's Anti-Harassment Compliance Officer(s) (hereinafter, "the Compliance Officer(s)"):

School Director  
17339 Roosevelt Rd.  
Spring Lake, MI 49456  
(616) 842-4523

Business Manager  
17339 Roosevelt Rd.  
Spring Lake, MI 49456  
(616) 842-4523

The names, titles, and contact information of these individuals will be published annually on the Academy's web site and in each handbooks.

The Compliance Officer(s) are responsible for coordinating the Academy's efforts to comply with applicable Federal and State laws and regulations, including the Academy's duty to address in a prompt and equitable manner any inquiries or complaints regarding harassment.

The Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the Academy community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Compliance Officers shall accept reports of unlawful harassment directly from any member of the Academy community or a Third Party or receive reports that are initially filed with an administrator, supervisor, or other Academy official. Upon receipt of a report of alleged harassment, the Compliance Officer(s) will contact the Complainant and begin either an informal or formal complaint process (depending on the request of the Complainant or the nature of the alleged harassment), or the Compliance Officer(s) will designate a specific individual to conduct such a process. The Compliance Officer(s) will provide a copy of this policy to the Complainant and Respondent. In the case of a formal complaint, the Compliance Officer(s) will prepare recommendations for the Educational Service Provider and School Director or will oversee the preparation of such recommendations by a designee. All Board and Educational Service Provider employees must report incidents of harassment that are reported to them to the Compliance Officer within two (2) days of learning of the incident.

Any Board or Educational Service Provider employee who directly observes unlawful harassment is obligated, in accordance with this policy, to report such observations to the Compliance Officer(s) within two (2) days. Additionally, any Board or Educational Service Provider employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board or Educational Service Provider employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer(s) or designee must contact the Complainant, if age eighteen (18) or older, or Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

### **Reports and Complaints of Harassing Conduct**

Members of the Academy community along with Third Parties are encouraged to promptly report incidents of harassing conduct to the Academy's Anti-Harassment Compliance Officer so that the Academy's Anti-Harassment Compliance Officer may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other Academy official who receives such a report shall file it with the Compliance Officer within two (2) days of receiving the report of harassment.

Members of the Academy community and Third Parties who believe they have been unlawfully harassed by another member of the Academy community or a Third Party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 – Bullying and Other Forms of Aggressive Behavior, the School Director believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the School Director will report the act of bullying, aggressive behavior and/or harassment to the Compliance Officer(s) who shall investigate the allegation in accordance with this policy. If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be handled in accordance with the grievance process and procedures outlined in Policy 2266. While the Compliance Officer investigates the allegation, or the matter is being addressed pursuant to Policy 2266, the School Director shall suspend the Policy 5517.01 investigation to await the Compliance Officer's written report or the determination of responsibility pursuant to Policy 2266. The Compliance Officer shall keep the School Director and Educational Service Provider informed of the status of the 1662 investigation and provide Educational Service Provider and School Director with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Educational Service Provider and School Director with the determination of responsibility that results from the Policy 2266 grievance process.

### **Investigation and Complaint Procedure (See Form 1662 F1)**

Except for Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Program or Activities, any employee or other member of the Academy community or Third Party (e.g., visitor to the Academy) who believes that they have been subjected to unlawful harassment may seek resolution of the complaint through either the procedures described below. The formal complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) 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 harassment or retaliation with the United States Department of Education Office for Civil Rights and/or Equal Employment Opportunity Commission ("EEOC").

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to promptly stop inappropriate behavior and to facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student, other member of the Academy community, or Third Party who alleges unlawful harassment or retaliation.

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 Complainant and the Respondent mutually agree to participate in it.

The Complainant 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 a Board or Educational Service Provider employee, any other adult member of the Academy community, or a Third Party and a student will be formally investigated.

As an initial course of action, if a Complainant feels comfortable and safe in doing so, the individual should tell or otherwise inform the Respondent that the alleged harassing conduct is unwelcome and must stop. The Complainant should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. A Complainant who is uncomfortable or unwilling to directly approach the Respondent about the allegedly inappropriate conduct may file an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A Complainant may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) directly to one of the Compliance Officers; and/or (3) to the School Director.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

The Board's informal complaint procedure is designed to provide employees, other members of the Academy community, or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the Complainant, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant about how to communicate the unwelcome nature of the behavior to the Respondent.
- B. Distributing a copy of this policy as a reminder to the individuals in the school building or office where the Respondent works or attends.
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer/designee is directed to attempt to resolve all informal complaints within fifteen (15) days of receiving the informal complaint. If the Complainant is dissatisfied with the informal complaint process, the Complainant may proceed to file a formal complaint and, as stated above, either party may request that the informal process be terminated at any time to move to the formal complaint process.

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or the Complainant, from the outset, elects to file a formal complaint, or the CO determines the allegations are not appropriate for resolution through the informal process, the formal complaint process shall be implemented.

The Complainant may file a formal complaint, either orally or in writing, with a teacher, Principal, the Compliance Officer, School Director, or other Academy official. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, Principal, School Director, or other Academy official, either orally or in writing, about any complaint of harassment or retaliation, that employee must report such information to the Compliance Officer/designee within two (2) business days.

Throughout the course of the process, the Compliance Officer should keep the parties reasonably informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); 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 Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer 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 Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the Compliance Officer should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions deemed appropriate in consultation with the School Director.

Within two (2) business days of receiving the complaint, the Compliance Officer/designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. The Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the Respondent that a formal 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, including the Board's Anti-Harassment Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) days.

Although certain cases may require additional time, the Compliance Officer/designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) 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 Compliance Officer/designee shall prepare and deliver a written report to the School Director that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Respondent engaged in unlawful harassment/retaliation of the Complainant. The Compliance Officer's recommendations must be based upon the totality of the circumstances. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used.

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer/designee, the School Director must either issue a written decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the School Director's final decision will be delivered to both the Complainant and the Respondent.

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

The decision of the School Director shall be final.

The Board reserves the right to cause a complaint or report of unlawful harassment/retaliation to be investigated regardless of whether the member of the Academy community or third party alleging the unlawful harassment/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 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, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

### **Privacy/Confidentiality**

The Academy will employ all reasonable efforts to protect the rights of the Complainant, the Respondent, and the witnesses as much as possible, consistent with the School Director's 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 and related administrative guidelines shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.

During the course of a formal investigation, the Compliance Officer or designee will instruct all members of the Academy community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that is learned or provided during the course of the investigation.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action by the Board and/or Educational Service Provider up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the School Director shall consider the totality of the circumstances involved in the matter. In those cases where unlawful harassment is not substantiated, the Board consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies.

Where the Board becomes aware that a prior remedial action has been taken against a member of the Academy community, all subsequent sanctions imposed by the Board and/or School Director shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects.

### **Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce 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 report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, 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 and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any Academy teacher or Academy employee who knows or suspects that a child under the age of eighteen (18) or that a person with a disability receiving services as a student from the Academy regardless of age has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county



children's services agency. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge must be made in accordance with State law and Board Policy. This policy shall also apply to employees of an Educational Service Provider.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the School Director.

### **Education and Training**

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The School Director shall provide appropriate information to all members of the Academy community related to the implementation of this policy shall provide training for Academy students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and harassment in general, will be age and content appropriate.

### **Retention of Investigatory Records and Materials**

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation, which may include but not be limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/ complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by Academy personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the Academy's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;

- L. copies of the Board policy and/or procedures/guidelines used by the Academy to conduct the investigation, and any documents used by the Academy at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks );
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- N. documentation of any training provided to Academy personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all Academy personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the Academy's records retention schedule.



Book	Board Policies
Section	2000 BP - Program
Title	NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES
Code	2266 BP
Status	Active
Adopted	August 4, 2020
Last Revised	June 3, 2021

## **NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES**

### Reference:

20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972 (Title IX)  
 20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)  
 42 U.S.C. 2000c et seq., Title IV of the Civil Rights Act of 1964  
 42 U.S.C. 2000d et seq.  
 42 U.S.C. 2000e et seq.  
 42 U.S.C. 1983  
 34 C.F.R. Part 106  
 OCR's Revised Sexual Harassment Guidance (2001)  
 20 U.S.C. 1092(F)(6)(A)(v)  
 34 U.S.C. 12291(a)(10)  
 34 U.S.C. 12291(a)(8)  
 34 U.S.C. 12291(a)(30)

### **Introduction**

The Board of Directors of the Walden Green Montessori (hereinafter referred to as "the Board" or "the Academy") does not discriminate on the basis of sex (including sexual orientation or gender identity), in its education programs or activities, and is required by Title IX of the Education Amendments Act of 1972, and its implementing regulations, not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The Board is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.

The Board prohibits Sexual Harassment that occurs within its education programs and activities. When the Academy has actual knowledge of Sexual Harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.

Pursuant to its Title IX obligations, the Board is committed to eliminating Sexual Harassment and will take appropriate action when an individual is determined responsible for violating this policy. Board and Educational Service Provider employees, students, third-party vendors and contractors, guests, and other members of the Academy community who commit Sexual Harassment are subject to the full range of disciplinary sanctions set forth in this policy. The Board will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the Academy's education programs and activities.

### **Coverage**

This policy applies to Sexual Harassment that occurs within the Academy's education programs and activities and that is committed by a member of the Academy community or a Third Party.

This policy does not apply to Sexual Harassment that occurs off school grounds, in a private setting, and outside the scope of the Academy's education programs and activities; such Sexual Misconduct/Sexual Activity may be prohibited by the Student Code of Conduct if committed by a student, or by Board policies and administrative guidelines, applicable State and/or Federal laws if committed by a Board or Educational Service Provider employee.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in the Academy's education programs or activities. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student, or by Board policies and administrative guidelines, applicable State and/or Federal laws if committed by a Board employee.

## **Definitions**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Sexual Harassment: "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:

- A. A Board or Educational Service Provider employee conditioning the provision of an aid, benefit, or service of the Academy on an individual's participation in unwelcome sexual conduct (often called "*quid pro quo*" harassment);
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively denies a person equal access to the Academy's education program or activity; or
- C. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)A(v), or "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

"Sexual assault" means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, and the "nonforcible" sex offenses of Incest and Statutory Rape. Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.

1. Rape is the carnal knowledge of a person (i.e., penetration, no matter how slight, of the genital or anal opening of a person), without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
2. *Sodomy* is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
3. *Sexual Assault with an Object* is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.
4. *Fondling* is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
5. *Incest* is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law.

6. *Statutory Rape* is sexual intercourse with a person who is under the statutory age of consent as defined by State law.
7. *Consent* refers to words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent.
8. *Incapacitated* refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep.

D. "Domestic violence" includes felony or misdemeanor crimes of violence committed by:

1. a current or former spouse or intimate partner of the victim;
2. a person with whom the victim shares a child in common;
3. a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
4. a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred; or
5. any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.

E. "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

F. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

Complainant: "Complainant" means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

Respondent: "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

Formal Complaint: "Formal Complaint" means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the Academy investigate the allegation(s) of Sexual Harassment. At the time of filing a Formal Complaint with the Academy, a Complainant must be participating in or attempting to participate in the Academy's education program or activity. A "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal that the Board provides for this purpose) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or a party to the Formal Complaint and must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Actual Knowledge: "Actual knowledge" means notice of Sexual Harassment or allegations of Sexual Harassment to the Academy's Title IX Coordinator, or any Academy official who has authority to institute corrective measures on behalf of the Board, or any Board and/or Educational Service Provider employee. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the Academy. "Notice" includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator. This standard is not met when the only Academy official with actual knowledge is the Respondent.

Supportive Measures: "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the Academy's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Academy's educational environment, or deter Sexual Harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school/campus escort services, mutual restrictions of contact between the parties, changes in work locations), leaves of absence, increased security and monitoring of certain areas of the campus (including academy buildings and facilities), referral to Employee Assistance Program, and other similar measures.

Education Program or Activity: "Education program or activity" refers to all operations of the Academy, including but not limited to in-person and online educational instruction, employment, extracurricular activities, athletics, performances, and community engagement and outreach programs. The term applies to all activity that occurs on academy grounds or on other property owned or occupied by the Board. It also includes locations, events and circumstances that take place off-academy property/grounds over which the Board exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs.

Academy community: "Academy community" refers to students and Board and Educational Service Provider employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties: "Third Parties" include, but are not limited to, guests and/or visitors on Academy property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with the Board, and other individuals who come in contact with members of the Academy community at academy-related events/activities (whether on or off Academy property).

Inculpatory Evidence: "Inculpatory evidence" is evidence that tends to establish a Respondent's responsibility for alleged Sexual Harassment.

Exculpatory Evidence: "Exculpatory evidence" is evidence that tends to clear or excuse a Respondent from allegations of Sexual Harassment.

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays),

Eligible Student: "Eligible Student" means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education.

### **Title IX Coordinator(s)**

The Board of Directors designates and authorizes the following individual(s) to oversee and coordinate its efforts to comply with Title IX and its implementing regulations:

School Director  
616-842-4523  
17339 Roosevelt Rd.  
Spring Lake, MI 49456

Business Manager  
616-842-4523  
17339 Roosevelt Rd.  
Spring Lake, MI 49456

The Title IX Coordinator shall report directly to the School Director or Educational Service Provider. Questions about this policy should be directed to the Title IX Coordinator.

The School Director shall notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Board and/or Educational Service Provider employees, and all unions or professional organizations holding collective bargaining or professional agreements with the Board of the

following information:

The Board of Directors of the Walden Green Montessori does not discriminate on the basis of sex in its education program or activity, and is required by Title IX and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment.

School Director  
616-842-4523  
17339 Roosevelt Rd.  
Spring Lake, MI 49456

Business Manager  
616-842-4523  
17339 Roosevelt Rd.  
Spring Lake, MI 49456

Any inquiries about the application of Title IX and its implementing regulations to the Academy may be referred to the Title IX Coordinator(s), the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.

The Board has adopted a grievance process that provide for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process is included in Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, which is available at: <https://www.waldengreen.org/> The grievance process specifically addresses how to report or file a complaint of sex discrimination, how to report or file a formal complaint of Sexual Harassment, and how the Academy will respond.

The School Director shall also prominently display the Title IX Coordinator's(s') contact information – including name(s) and/or title(s), phone number(s), office address(es), and e-mail address(es) – and this policy on the Academy's website and in each handbook or catalog that the Board makes available to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Board and/or Educational Service Provider employees, and all unions or professional organizations holding collective bargaining or professional agreements.

### **Grievance Process**

The Board is committed to promptly and equitably resolving student and employee complaints alleging Sexual Harassment. The Academy's response to allegations of Sexual Harassment will treat Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, and following this Grievance Process before imposition of any disciplinary sanctions or other actions, other than supportive measures, against the Respondent.

The Title IX Coordinator(s), along with any investigator(s), decision-maker(s), or any person(s) designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

If a determination of responsibility for Sexual Harassment is made against the Respondent, the Board will provide remedies to the Complainant. The remedies will be designed to restore or preserve equal access to the Academy's education program or activity. Potential remedies include, but are not limited to, individualized services that constitute supportive measures. Remedies may also be disciplinary or punitive in nature and may burden the Respondent.

### **Report of Sexual Discrimination/Harassment**

Any person may report sex discrimination, including Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or Sexual Harassment), in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's(s') contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Reports may be made at any time (including during non-business hours), by using the telephone number(s) or electronic mail address(es), or by mail to the office address(es), listed for the Title IX Coordinator(s).

Students, Board members, and Board and Educational Service Provider employees are required, and other members of the Academy community, and Third Parties) are encouraged, to report allegations of sex discrimination or Sexual Harassment promptly to the/a Title IX Coordinator or to any Board and Educational Service Provider employee, who will in turn notify the/a Title IX Coordinator. Reports can be made orally or in writing and should be as specific as possible. The person making the report should, to the extent known, identify the alleged victim(s), perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s).

If a report involves allegations of Sexual Harassment by or involving the Title IX Coordinator, the person making the report should submit it to the School Director or Educational Service Provider. The School Director or Educational Service Provider will then serve in place of the Title IX Coordinator for purposes of addressing that report of Sexual Harassment.

The Board does business with various vendors, contractors, and other third-parties who are not students or employees of the Board. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this policy, the Board retains the right to limit any vendor's, contractor's, or third-party's access to school grounds for any reason. The Board further retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this policy.

A person may file criminal charges simultaneously with filing a Formal Complaint. A person does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to Title IX may be filed with the U.S. Department of Education's Office for Civil Rights at any time.

Any allegations of Sexual Misconduct/Sexual Activity not involving Sexual Harassment will be addressed through the procedures outlined in Board policies the applicable Student Code of Conduct, applicable collective bargaining agreement, and/or Employee/Administrator Handbook.

Because the Board is considered to have actual knowledge of Sexual Harassment or allegations of Sexual Harassment if any Board and Educational Service Provider employee has such knowledge, and because the Board must take specific actions when it has notice of Sexual Harassment or allegations of Sexual Harassment, a Board and Educational Service Provider employee who has independent knowledge of or receives a report involving allegations of sex discrimination and/or Sexual Harassment must notify the/a Title IX Coordinator within two (2) days of learning the information or receiving the report. The Board and Educational Service Provider employee must also comply with mandatory reporting responsibilities pursuant to M.C.L. 722.623 and Policy 8462 – Student Abuse and Neglect, if applicable. If the Board and Educational Service Provider employee's knowledge is based on another individual bringing the information to the Board or Educational Service Provider employee's attention and the reporting individual submitted a written complaint to the Board and Educational Service Provider employee, the Board and Educational Service Provider employee must provide the written complaint to the Title IX Coordinator.

If a Board and Educational Service Provider employee fails to report an incident of Sexual Harassment of which the Board and Educational Service Provider employee is aware, the Board and Educational Service Provider employee may be subject to disciplinary action, up to and including termination.

When a report of Sexual Harassment is made, the Title IX Coordinator shall promptly (i.e., within two (2) days of the Title IX Coordinator's receipt of the report of Sexual Harassment) contact the Complainant (including the parent/guardian if the Complainant is under 18 years of age or under guardianship) to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the Academy to provide the supportive measures.

Emergency Removal: Subject to limitations and/or procedures imposed by State and/or Federal law, the Academy may remove a student Respondent from its education program or activity on an emergency basis after conducting an individualized safety and risk analysis. The purposes of the individualized safety and risk analysis is to determine whether the student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment that justifies removal. If the Academy



determines the student Respondent poses such a threat, it will so notify the student Respondent and the student Respondent will have an opportunity to challenge the decision immediately following the removal. See Policy 5610 – Emergency Removal, Suspension, and Expulsion of Students and Policy 5611 – Due Process Rights.

If the Respondent is a non-student employee, the Academy may place the Respondent on administrative leave during the pendency of the grievance process.

For all other Respondents, including other members of the Academy community and Third Parties, the Board retains broad discretion to prohibit such persons from entering onto its school grounds and other properties at any time and for any reason, whether after receiving a report of Sexual Harassment or otherwise.

### **Formal Complaint of Sexual Harassment**

A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information set forth above. If a Formal Complaint involves allegations of Sexual Harassment by or involving the Title IX Coordinator, the Complainant should submit the Formal Complaint to the School Director or Educational Service Provider, who will designate another person to serve in place of the Title IX Coordinator for the limited purpose of implementing the grievance process with respect to that Formal Complaint.

When the Title IX Coordinator receives a Formal Complaint or signs a Formal Complaint, the Academy will follow its Grievance Process, as set forth herein. Specifically, the Academy will undertake an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations will not be based on a person’s status as a Complainant, Respondent, or witness.

It is a violation of this policy for a Complainant(s), Respondent(s), and/or witness(es) to knowingly making false statements or knowingly submitting false information during the grievance process, including intentionally making a false report of Sexual Harassment or submitting a false Formal Complaint. The Board will not tolerate such conduct, which is a violation of the Student Code of Conduct.

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

### **Timeline**

The Academy will seek to conclude the grievance process, including resolving any appeals, within sixty (60) days of receipt of the Formal Complaint.

If the Title IX Coordinator offers informal resolution processes, the informal resolution processes may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility. The timeline, however, may be subject to a temporary delay of the grievance process or a limited extension for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; and the need for language assistance or accommodation of disabilities.

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide written notice of the following to the parties who are known:

- A. Notice of the Board’s grievance process, including any informal resolution processes;
- B. Notice of the allegations of misconduct that potentially constitutes Sexual Harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known. The written notice must:
  1. include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
  2. inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.

3. inform the parties of any provision in the Student Code of Conduct or this policy that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, during the course of the investigation, the investigator becomes aware of allegations about the Complainant or Respondent that are not included in the original notice provided to the parties, the investigator will notify the Title IX Coordinator and the Title IX Coordinator will decide whether the investigator should investigate the additional allegations; if the Title IX Coordinator decides to include the new allegations as part of the investigation, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

### **Dismissal of a Formal Complaint**

The Academy shall investigate the allegations in a Formal Complaint, *unless* the conduct alleged in the Formal Complaint:

- A. would not constitute Sexual Harassment (as defined in this policy) even if proved;
- B. did not occur in the Academy's education program or activity; or
- C. did not occur against a person in the United States.

If one of the preceding circumstances exist, the Title IX Coordinator *shall* dismiss the Formal Complaint. If the Title IX Coordinator dismisses the Formal Complaint due to one of the preceding reasons, the Academy may still investigate and take action with respect to such alleged misconduct pursuant to another provision of an applicable code of conduct, Board policy, and/or Employee/Administrator Handbook.

The Title IX Coordinator *may* dismiss a Formal Complaint, or any allegations therein, if at any time during the investigation:

- A. a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- B. the Respondent is no longer enrolled in the Academy or employed by the Board; or
- C. specific circumstances prevent the Academy from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Title IX Coordinator dismisses a Formal Complaint or allegations therein, the Title IX Coordinator must promptly send written notice of the dismissal and the reason(s) therefore simultaneously to the parties.

### **Consolidation of Formal Complaints**

The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

Where a grievance process involves more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

### **Informal Resolution Process**

Under no circumstances shall a Complainant be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, to waive any right to an investigation and adjudication of a Formal Complaint of Sexual Harassment. Similarly, no party shall be required to participate in an informal resolution process.

If a Formal Complaint is filed, the Title IX Coordinator may offer to the parties an informal resolution process. If the parties mutually agree to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process, such as mediation, that does not involve a full



investigation and adjudication. The informal resolution process may be used at any time prior to the decision-maker(s) reaching a determination regarding responsibility.

If the Title IX Coordinator is going to propose an informal resolution process, the Title IX Coordinator shall provide to the parties a written notice disclosing:

- A. the allegations;
- B. the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations; and
- C. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint.

Before commencing the informal resolution process, the Title IX Coordinator shall obtain from the parties their voluntary, written consent to the informal resolution process.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur have stayed and all related deadlines are suspended.

The informal resolution process is not available to resolve allegations that a Board and/or Educational Service Provider employee or another adult member of the Academy community or Third Party sexually harassed a student.

The informal resolution process is not available to resolve allegations involving a sexual assault involving a student Complainant and a student Respondent.

### **Investigation of a Formal Complaint of Sexual Harassment**

In conducting the investigation of a Formal Complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility is on the Academy, not the parties.

In making the determination of responsibility, the decision-maker(s) is(are) directed to use the preponderance of the evidence standard. The decision-maker(s) is charged with considering the totality of all available evidence, from all relevant sources.

The Academy is not permitted to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party provides the Academy with voluntary, written consent to do so; if a student party is not an Eligible Student, the Academy must obtain the voluntary, written consent of a parent.

Similarly, the investigator(s) and decision-maker(s) may not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege in writing.

As part of the investigation, the parties have the right to:

- A. present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- B. have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The Academy may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding.

- C. Board Policy 2461 – Recording of Academy Meetings Involving Students and/or Parents controls whether a person is allowed to audio record or video record any meeting or grievance proceeding.

Neither party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence.

The Academy will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. The investigator(s) and decision-maker(s) must provide a minimum of one (1) days' notice with respect to investigative interviews and other meetings.

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the Academy does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the Title IX Coordinator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence and send the report to each party and the party's advisor, if any, for their review and written response. The investigator will send the investigative report in an electronic format or a hard copy, at least ten (10) calendar days prior to the decision-maker(s) issuing a determination regarding responsibility.

### **Determination of Responsibility**

The Title IX Coordinator shall appoint a decision-maker(s) to issue a determination of responsibility. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator(s) or the investigator(s).

After the investigator sends the investigative report to the parties and the decision-maker(s), and before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

Determination regarding responsibility: The decision-maker(s) will issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the preponderance of the evidence standard.

The written determination will include the following content:

- A. identification of the allegations potentially constituting Sexual Harassment pursuant to this policy;
- B. a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, [and] methods used to gather other evidence;
- C. findings of fact supporting the determination;
- D. Conclusions regarding the application of the applicable code of conduct to the facts;

- E. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the decision-maker(s) is recommending that the Academy impose on the Respondent(s), and whether remedies designed to restore or preserve equal access to the Academy's education program or activity should be provided by the Academy to the Complainant(s); and
- F. the procedures and permissible bases for the Complainant(s) and Respondent(s) to appeal.

The following disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):

A. Informal Discipline

- 1. writing assignments;
- 2. changing of seating or location;
- 3. pre-school, lunchtime, after-school detention;
- 4. in-school discipline.

B. Formal Discipline

- 1. suspension of bus riding/transportation privileges;
- 2. removal from co-curricular and/or extra-curricular activity(ies), including athletics;
- 3. emergency removal;
- 4. suspension for up to ten (10) school days;
- 5. long-term suspension or expulsion;
- 6. any other sanction authorized by the Student Code of Conduct.

If the decision-maker(s) determines the student Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the School Director and/or Educational Service Provider of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Policy 5600 – Student Discipline, Policy 5605 – Suspension/Expulsion of Students with Disabilities, Policy 5610 – Emergency Removal, Suspension, and Expulsion of Students, Policy 5610.02 - In-School Discipline, and Policy 5611 – Due Process Rights. Discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

The following disciplinary sanctions/consequences may be imposed on an employee Respondent who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):

- A. oral or written warning;
- B. written reprimands;
- C. performance improvement plan;
- D. required counseling;
- E. required training or education;
- F. demotion;
- G. suspension with pay;

H. suspension without pay;

I. termination, and any other sanction authorized by any applicable Employee/Administrator Handbook.

If the decision-maker(s) determines the employee Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the School Director or Educational Service Provider of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with applicable due process procedures, whether statutory or contractual.

Discipline of an employee will be implemented in accordance with Federal and State law, Board policy, and applicable provisions of any relevant collective bargaining agreement.

The following disciplinary sanctions/consequences may be imposed on a non-student/non-employee member of the Academy community or Third Party who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):

A. oral or written warning;

B. suspension or termination/cancellation of the Board's contract with the third-party vendor or contractor;

C. mandatory monitoring of the third-party while on academy property and/or while working/interacting with students;

D. restriction/prohibition on the third-party's ability to be on academy property; and

E. any combination of the same.

If the decision-maker(s) determines the third-party Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including imposition of sanctions. The Title IX Coordinator will notify the School Director of the recommended remedies, so appropriate action can be taken.

The decision-maker(s) will provide the written determination to the Title IX Coordinator who will provide the written determination to the parties simultaneously.

In ultimately, imposing a disciplinary sanction/consequence, the School Director and/or Educational Service Provider will consider the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances.

The Academy's resolution of a Formal Complaint ordinarily will not be impacted by the fact that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

At any point in the grievance process, the School Director and/or Educational Service Provider may involve local law enforcement and/or file criminal charges related to allegations of Sexual Harassment that involve a sexual assault.

The Title IX Coordinator is responsible for effective implementation of any remedies.

### **Appeal**

Both parties have the right to file an appeal from a determination regarding responsibility, or from the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein, on the following bases:

A. Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures);

B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

- C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant(s) or Respondent(s) that affected the outcome of the matter.
- D. The recommended remedies (including disciplinary sanctions/consequences) are unreasonable in light of the findings of fact (i.e., the nature and severity of the Sexual Harassment).

The Complainant(s) may not challenge the ultimate disciplinary sanction/consequence that is imposed.

Any party wishing to appeal the decision-maker(s)'s determination of responsibility, or the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein, must submit a written appeal to the Title IX Coordinator within five (5) days after receipt of the decision-maker(s)'s determination of responsibility or the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein.

Nothing herein shall prevent the School Director and/or Educational Service Provider from implementing appropriate remedies, however, excluding disciplinary sanction, while the appeal is pending.

As to all appeals, the Title IX Coordinator will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

The decision-maker(s) for the appeal shall not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator(s). The decision-maker(s) for the appeal shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant(s) or Respondent(s) and shall receive the same training as required of other decision-makers.

Both parties shall have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The decision-maker(s) for the appeal shall determine when each party's written statement is due.

The decision-maker(s) for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result. The original decision-maker(s)' determination of responsibility will stand if the appeal request is not filed in a timely manner or the appealing party fails to show clear error and/or a compelling rationale for overturning or modifying the original determination. The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties. The written decision will be issued within five (5) days of when the parties' written statements were submitted.

The determination of responsibility associated with a Formal Complaint, including any recommendations for remedies/disciplinary sanctions, becomes final when the time for filing an appeal has passed or, if an appeal is filed, at the point when the decision-maker(s) for the appeal's decision is delivered to the Complainant and the Respondent. ( ) No further review beyond the appeal is permitted.

### **Retaliation**

Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of Sexual Harassment, filing a Formal Complaint, or participating in an investigation, is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation may be filed according to the grievance process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

### **Confidentiality**

The Academy will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the Academy's obligation to maintain confidentiality shall not impair or otherwise affect the Complainant's and Respondent's receipt of the information to which they are entitled related to the investigative record and determination of responsibility).

### **Application of the First Amendment**

The Board will construe and apply this policy consistent with the First Amendment to the U.S. Constitution. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected by the First Amendment.

### **Training**

The Academy's Title IX Coordinator, along with any investigator(s), decision-maker(s), or person(s) designated to facilitate an informal resolution process, must receive training on:

- A. the definition of Sexual Harassment (as that term is used in this policy);
- B. the scope of the Academy's education program or activity;
- C. how to conduct an investigation and implement the grievance process appeals and informal resolution processes, as applicable; and
- D. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

All Board and Educational Service Provider employees will be trained concerning their legal obligation to report Sexual Harassment to the Title IX Coordinator. This training will include practical information about how to identify and report Sexual Harassment.

### **Recordkeeping**

As part of its response to alleged violations of this policy, the Academy shall create, and maintain for a period of seven (7) calendar years, records of any actions, including any supportive measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the Academy shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the Academy's education program or activity. If the Academy does not provide a Complainant with supportive measures, then the Academy will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the Academy in the future from providing additional explanations or detailing additional measures taken.

The Academy shall maintain for a period of seven (7) calendar years the following records:

- A. each Sexual Harassment investigation including any determination regarding responsibility, any disciplinary sanctions recommended and/or imposed on the Respondent(s), and any remedies provided to the Complainant(s) designed to restore or preserve equal access to the Academy's education program or activity

- B. any appeal and the result therefrom
- C. any informal resolution and the result therefrom, and
- D. all materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an informal resolution process.

The Academy will make its training materials publicly available on its website.

### **Outside Appointments, Dual Appointments, and Delegations**

The Board retains discretion to appoint suitably qualified persons who are not Board or Educational Service Provider employees to fulfill any function of the Board under this policy, including, but not limited to, Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The Board also retains discretion to appoint two or more persons to jointly fulfill the role of Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The School Director or Educational Service Provider may delegate functions assigned to a specific Board employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor, to any suitably qualified individual and such delegation may be rescinded by the School Director or Educational Service Provider at any time.

### **Discretion in Application**

The Board retains discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the Board's interpretation or application differs from the interpretation of any specific Complainant and/or Respondent.

Despite the Board's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the Board retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the Board retains discretion to revise this policy at any time, and for any reason. The Board may apply policy revisions to an active case provided that doing so is not clearly unreasonable.