

## **Title IX Policy and Grievance Procedures**

This policy goes into effect as of August 1, 2024, and pertains to allegations of sex discrimination occurring after August 1, 2024. The School shall follow its previous Title IX Policy for all allegations of sex discrimination occurring prior to August 1, 2024.

### **Nondiscrimination Policy and Notice of Nondiscrimination**

The School intends to comply with Title IX of the Education Amendments Act of 1972 (“Title IX”), which states, in part: “No persons in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving financial assistance....”

As such, the School does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and 34 Code of Federal Regulations Part 106 (the “Title IX Regulations” or “its Regulations”), including in admission and employment.

Inquiries about the application of Title IX or the Title IX Regulations to the School may be referred to the School’s Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or both.

The School’s Title IX Coordinator is:

Megan Freeman  
856 Quincy Street  
Brooklyn, NY 11221  
718-246-5681  
[47.mfreeman2@nhaschools.com](mailto:47.mfreeman2@nhaschools.com)

The School’s nondiscrimination policy and grievance procedures can be located on the School’s website.

Any person may report or make a complaint of sex discrimination, including sex-based harassment, at any time, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator. If a report or complaint involves allegations by or involving the Title IX Coordinator, the person making the report or complaint should submit it to the Superintendent. The Superintendent will then serve in place of the Title IX Coordinator for purposes of addressing that report. If the Superintendent is the Title IX Coordinator, the person making the report should submit it to the Board President.

### **Reporting Requirement**

Should any employee, who is not a confidential employee, have information about conduct that

reasonably may constitute sex discrimination under Title IX they shall immediately report it to the Title IX Coordinator. Though encouraged, this reporting requirement shall not apply to an employee who has personally been subject to conduct that reasonably may constitute sex discrimination under Title IX or its Regulations.

### **Grievance Procedures for Complaints of Sex Discrimination**

The School has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

#### **Definitions**

For purposes of this policy,

“*Complainant*” means (A) a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its Regulations; or (B) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its Regulations and who was participating or attempting to participate in the School’s education program or activity at the time of the alleged sex discrimination.

“*Complaint*” means an oral or written request to the School that objectively can be understood as a request for the School to investigate and make a determination about alleged discrimination under Title IX or its Regulations.

“*Confidential employee*” means (A) An employee of the School whose communications are privileged or confidential under Federal or State law. The employee’s confidential status, for purposes of this policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (B) An employee of the School whom the School has designated as confidential under this policy for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee’s confidential status is only with respect to information received about sex discrimination in connection with providing those services.

“*Disciplinary sanctions*” means consequences imposed on a respondent following a determination under Title IX that the respondent violated the School’s prohibition on sex discrimination.

“*Party*” means a complainant or respondent.

“*Peer retaliation*” means retaliation by a student against another student.

“*Pregnancy or related conditions*” means: (A) Pregnancy, childbirth, termination of pregnancy, or lactation; (B) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (C) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

“*Relevant*” means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

“*Remedies*” means measures provided, as appropriate, to a complainant or any other person the School identifies as having had their equal access to the School’s education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person’s access to the School’s education program or activity after the School determines that sex discrimination occurred.

“*Respondent*” means a person who is alleged to have violated the School’s prohibition on sex discrimination. The requirements related to a respondent herein apply only to sex discrimination complaints alleging that a person violated the School’s prohibition on sex discrimination. When a sex discrimination complaint alleges that the School’s policy or practice discriminates on the basis of sex, the School is not considered a respondent.

“*Retaliation*” means intimidation, threats, coercion, or discrimination against any person by the School, a student, or an employee or other person authorized by the School to provide aid, benefit, or service under the School’s education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its Regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, including in an informal resolution process, in grievance procedures, and in any other actions taken by the School pursuant to Title IX Coordinator responsibilities under the Title IX Regulations. This does not preclude the School from requiring an employee or other person authorized by the School to provide aid, benefit, or service under the School’s education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under the Title IX regulations.

“*Sex-Based Harassment*” is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- (1) *Quid pro quo harassment*. An employee, agent, or other person authorized by the School to provide an aid, benefit, or service under the School’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;

(2) *Hostile environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the School's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- A. The degree to which the conduct affected the complainant's ability to access the School's education program or activity;
- B. The type, frequency, and duration of the conduct;
- C. The parties' ages, roles within the School's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- D. The location of the conduct and the context in which the conduct occurred; and
- E. Other sex-based harassment in the School's education program or activity; or

(3) *Specific offenses*.

- A. Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- B. Dating violence meaning violence committed by a person: who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - i. The length of the relationship;
  - ii. The type of relationship; and
  - iii. The frequency of interaction between the persons involved in the relationship;
- C. Domestic violence meaning felony or misdemeanor crimes committed by a person who:
  - i. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the School, or a person similarly situated to a spouse of the victim;
  - ii. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - iii. Shares a child in common with the victim; or
  - iv. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- D. Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - i. Fear for the person's safety or the safety of others; or
  - ii. Suffer substantial emotional distress.

*"Supportive Measures"* means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to: (A) Restore or preserve that party's access to the School's education program or activity, including measures

that are designed to protect the safety of the parties or the School's educational environment; or (B) Provide support during the School's Title IX grievance procedures or during the Title IX informal resolution process.. Supportive measures may vary depending on what the School deems to be reasonably available.

### Complaints

The following persons have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the School investigate and make a determination about alleged discrimination under Title IX or its Regulations: (1) A complainant; (2) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; (3) The Title IX Coordinator, after making the determination specified herein; (4) With respect to complaints of sex discrimination other than sex-based harassment, in addition to the persons listed in (1)-(3) of this paragraph, (A) Any student or employee; or (B) Any person other than a student or employee who was participating or attempting to participate in the School's education program or activity at the time of the alleged sex discrimination.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements herein.

The School may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references in this grievance procedure to a party, complainant, or respondent include the plural, as applicable.

### Basic Requirements of Title IX Grievance Procedures

The School will treat complainants and respondents equitably.

Any person designated as a Title IX Coordinator, investigator, or decisionmaker shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator.

Throughout this grievance procedure, there shall be a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the School's grievance procedures for complaints of sex discrimination.

There may be a reasonable extension of the timeframes herein on a case-by-case basis for good cause with written notice to the parties that includes the reason for the delay. In such instances, the need for a reasonable extension shall be determined by the Title IX Coordinator or their designee promptly, and written notice to the parties shall be issued promptly by the Title IX Coordinator or their designee.

The School will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the School's grievance procedures, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses, subject to the retaliation provisions herein; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.

The parties cannot engage in retaliation, including against witnesses.

The School will objectively evaluate all evidence that is relevant and not otherwise impermissible as outlined below, including both inculpatory and exculpatory evidence. Credibility determinations must not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, must not be accessed or considered, except by the School to determine whether an exception below applies; must not be disclosed; and must not otherwise be used), regardless of whether they are relevant: (1) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality; (2) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the School obtains that party's or witness's voluntary, written consent for use in the School's grievance procedures; and (3) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

#### Notice of Allegations

Upon initiation of the School's grievance procedures, the School must provide notice of the allegations to the parties whose identities are known. The notice must include: (1) The School's grievance procedures, and any informal resolution process; (2) Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination under Title IX or its Regulations, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the School; (3) A statement that retaliation is prohibited; and (4) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence; and if the School provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.

If, in the course of an investigation, the School decides to investigate additional allegations of sex

discrimination by the respondent toward the complainant that are not included in the notice originally provided or that are included in a complaint that is consolidated, the School must provide notice of the additional allegations to the parties whose identities are known.

### Dismissal of a Complaint

The School may dismiss a complaint of sex discrimination made through its grievance procedures for any of the following reasons: (1) The School is unable to identify the respondent after taking reasonable steps to do so; (2) The respondent is not participating in the School's education program or activity and is not employed by the School; (3) The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the School determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX or its Regulations even if proven; or (4) The School determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX or its Regulations. Prior to dismissing the complaint under this paragraph, the School must make reasonable efforts to clarify the allegations with the complainant.

Absent extenuating circumstances, the School shall initially evaluate and determine whether to dismiss or investigate a Complaint within five (5) school days of receiving a Complaint.

Upon dismissal, the School must promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the School must also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing. The School must notify the complainant that a dismissal may be appealed and provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the School must also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases: (1) Procedural irregularity that would change the outcome; (2) New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and (3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the School must: (1) Notify the parties of any appeal, including notice of the allegations consistent with the notice of initiation of the grievance procedure if notice was not previously provided to the respondent; (2) Implement appeal procedures equally for the parties; (3) Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint; (4) Ensure that the decisionmaker for the appeal has been trained appropriately pursuant to this policy; (5) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and (6) Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, the School will, at a minimum: (1) Offer supportive measures to the complainant as appropriate; (2) For dismissals for reasons (1) or (3) within paragraph one of this section in which the respondent has been notified of the allegations, offer supportive measures

to the respondent as appropriate; and (3) Require its Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.

### Investigation

The School will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the School—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The School will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The School will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The School will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible under this grievance procedure, in the following manner:

- (1) The School will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the School provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
- (2) The School will provide a reasonable opportunity to respond to the evidence or to the accurate description of the evidence; and
- (3) The School will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Although certain cases may require additional time, the Investigator will attempt to complete the investigation within thirty (30) school days of receiving the Complaint.

### Questioning the Parties and Witnesses

The School will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination prior to issuing a decision. This shall occur after the investigation is complete and may occur in writing or in person at the



decisionmaker's discretion. Should the decisionmaker engage in such questioning, the decisionmaker shall do so promptly and expeditiously, and to the extent possible within ten (10) school days of the conclusion of the investigation, so as not to delay the issuance of a determination. In addition, any such questioning should permit a reasonable time for response, and seek evidence that is relevant and not otherwise impermissible under the policy.

#### Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the School must:

- (1) Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred, unless the School uses the clear and convincing evidence standard of proof in all other comparable proceedings, including proceedings relating to other discrimination complaints, in which case the School may elect to use that standard of proof in determining whether sex discrimination occurred. Both standards of proof require the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness; if the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that sex discrimination occurred.
- (2) Notify the parties in writing of the determination whether sex discrimination occurred under Title IX or its Regulations including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
- (3) If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will coordinate the provision and implementation of remedies to a complainant and other persons the School identifies as having had equal access to the School's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions, and take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity. The School may not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the School's grievance procedures that the respondent engaged in prohibited sex discrimination;
- (4) Comply with the grievance procedure, before the imposition of any disciplinary sanctions against a respondent; and
- (5) Not discipline a party, witness, or others participating in the School's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the School's determination whether sex discrimination occurred.

Absent extenuating circumstances, the determination whether sex discrimination occurred shall be provided to the parties within twenty (20) school days of the completion of the investigation and evaluation of all relevant and not otherwise impermissible evidence.

### Appeal of Determinations, if offered

This appeal process will be, at a minimum, the same as the School offers in all other comparable proceedings, including proceedings relating to other discrimination complaints.

A Complainant or Respondent who is dissatisfied with the determination whether sex discrimination occurred under Title IX or its Regulations may appeal through a signed written statement to the School's Governing Board within five (5) school days of their receipt of the determination. The Board or its designee shall make a decision on the appeal in a timely manner (ordinarily, within fifteen (15) school days of the appeal being received), and shall give that decision in writing to the Title IX Coordinator and the parties.

The determination becomes final either on the date that the School provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

If a party is not satisfied with the School's decision, the party may file a complaint with the Office for Civil Rights ("OCR"). More information is available at the United States Department of Education, Office of Civil Rights website.

### Informal Resolution, if offered

At any time prior to determining whether sex discrimination occurred under the Title IX grievance procedure outlined herein the School may offer to a complainant and respondent an informal resolution process, unless the complaint includes allegations that an employee engaged in sex-based harassment or such a process would conflict with Federal, State or local law. Subject to these limitations, the School has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute sex discrimination under Title IX or its Regulations or when a complaint of sex discrimination is made, and may decline to offer informal resolution despite one or more of the parties' wishes. Some circumstances when the School may decline to allow informal resolution include but are not limited to when the School determines that the alleged conduct would present a future risk of harm to others.

The School must not require or pressure the parties to participate in an informal resolution process. The School must obtain the parties' voluntary consent to the informal resolution process and must not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

Before initiation of an informal resolution process, the School must provide to the parties notice that explains: (1) The allegations; (2) The requirements of the informal resolution process; (3) That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the School's grievance procedures; (4) That the parties'

agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations; (5) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and (6) What information the School will maintain and whether and how the School could disclose such information for use in the Title IX grievance procedures, if grievance procedures are initiated or resumed.

If the School provides the parties an informal resolution process, the Title IX Coordinator must take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.

The facilitator for the informal resolution process must not be the same person as the investigator or the decisionmaker in the School's Title IX grievance procedures. Any person designated by the School to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Any person facilitating informal resolution must receive training provided herein.

Potential terms that may be included in an informal resolution agreement include but are not limited to: (1) Restrictions on contact; and (2) Restrictions on the respondent's participation in one or more of the School's programs or activities or attendance at specific events, including restrictions the School could have imposed as remedies or disciplinary sanctions had the School determined at the conclusion of the School's grievance procedures that sex discrimination occurred.

While there are no set time limits within which an informal complaint must be resolved, the Informal Resolution Facilitator will exercise their authority to attempt to resolve all informal complaints in a timely manner, ordinarily within fifteen (15) school days.

### Supportive Measures

The School will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the School's education program or activity or provide support during the School's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the School's educational environment, or to provide support during the School's Title IX grievance procedures or during the informal resolution process. The School must not impose such measures for punitive or disciplinary reasons.

The School may, as appropriate, modify or terminate supportive measures at the conclusion of the Title IX grievance procedures or at the conclusion of the informal resolution process, or the School may continue them beyond that point. The School must provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the School's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures herein. The School must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The School must not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception to prohibited disclosures of personally identifiable information applies as outlined herein.

If the complainant or respondent is a student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.

For allegations of sex discrimination other than sex-based harassment or retaliation, the School's provision of supportive measures does not require the School, its employee, or any other person authorized to provide aid, benefit, or service on the School's behalf to alter the alleged discriminatory conduct for the purpose of providing a supportive measure.

### Disciplinary Sanctions and Remedies

Possible remedies to the complainant that the School may implement include: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures or individualized services offered as may be appropriate and reasonably available, that are designed to restore or preserve the person's access to the School's education program or activity.

Possible disciplinary sanctions the School may impose following a determination that sex-based

harassment occurred may include: suspension, expulsion, reprimand, documenting the occurrence in the personnel file, referral to counseling, withholding of a promotion, demotion, reassignment, temporary suspension without pay, termination of employment, or any other disciplinary measures outlined in the School's code of conduct or Staff Handbook.

### **Retaliation Prohibited**

The School prohibits retaliation, including peer retaliation, in its education program or activity. When the School has information about conduct that reasonably may constitute retaliation under Title IX or its Regulations, the School is obligated to comply with this grievance policy and procedure. Upon receiving a complaint alleging retaliation, the School must initiate its grievance procedures, or, as appropriate, an informal resolution process.

### **Reporting to Local Law Enforcement or Other Agencies**

Nothing in this Policy shall in any way be deemed to discourage the Complainant from reporting acts to local law enforcement agencies. In addition, the grievance procedures set forth herein are not intended to interfere with the rights of any individual to pursue a complaint of unlawful sex discrimination or retaliation with the United States Department of Education Office for Civil Rights or the Equal Employment Opportunity Commission ("EEOC").

### **Scope**

This policy applies to all sex discrimination occurring under the School's education program or activity in the United States. For purposes of this policy, conduct that occurs under the School's education program or activity includes but is not limited to conduct that is subject to the School's disciplinary authority. The School has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the School's education program or activity or outside the United States.

Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

### **Emergency Removal**

Nothing in this policy precludes the School from removing a respondent from the School's education program or activity on an emergency basis, provided that the School undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision must not be construed to modify any rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities

Act of 1990, 42 U.S.C. 12101 *et seq.*

### **Administrative leave**

Nothing in this policy precludes the School from placing an employee respondent on administrative leave from employment responsibilities during the pendency of the School's grievance procedures. This provision must not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*

### **Prohibited disclosures of personally identifiable information**

The School must not disclose personally identifiable information obtained in the course of complying with this policy, except in the following circumstances: (1) When the School has obtained prior written consent from a person with the legal right to consent to the disclosure; (2) When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; (3) To carry out the purposes of the Title IX Regulations, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the School's education program or activity; (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or (5) To the extent such disclosures are not otherwise in conflict with Title IX or its Regulations, when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

### **Students with Disabilities**

If a complainant or respondent is an elementary or secondary student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, throughout the School's implementation of grievance procedures hereunder.

### **Education Programs or Activities**

Except as otherwise permitted in the Title IX Regulations, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the School.

In the limited circumstances in which Title IX or its Regulations permits different treatment or separation on the basis of sex, the School will not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm,

except as permitted by 20 U.S.C. 1681(a)(1) through (9) and the corresponding regulations §§ 106.12 through 106.15, 20 U.S.C. 1686 and its corresponding regulation § 106.32(b)(1), or § 106.41(b). Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex.

### **Title IX Coordinator Duties**

The Title IX Coordinator shall: (1) Monitor the School's education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX or its Regulations; and (2) Take steps reasonably calculated to address such barriers.

The Title IX Coordinator is responsible for coordinating the School's compliance with its obligations under Title IX and its Regulations. The Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination under Title IX or its Regulations, must take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects:

- (1) Treat the complainant and respondent equitably;
- (2) Offer and coordinate supportive measures, as appropriate, for the complainant. In addition, if the School has initiated Title IX grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures, as appropriate, for the respondent;
- (3)
  - A. Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the Title IX grievance procedures and the informal resolution process, if available and appropriate; and
  - B. If a complaint is made, notify the respondent of the grievance procedures, and the informal resolution process, if available and appropriate;
- (4) In response to a complaint, initiate the grievance procedures or the informal resolution process, if available and appropriate and requested by all parties;
- (5) In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, determine whether to initiate a complaint of sex discrimination that complies with the grievance procedures.
  - A. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:
    - i. The complainant's request not to proceed with initiation of a complaint;
    - ii. The complainant's reasonable safety concerns regarding initiation of a complaint;
    - iii. The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
    - iv. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
    - v. The age and relationship of the parties, including whether the respondent is an employee of the School;

- vi. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
  - vii. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
  - viii. Whether the School could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.
- B. If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the School from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.
- (6) If initiating a complaint under (5) of this section, notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures; and
  - (7) Regardless of whether a complaint is initiated, take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue or recur within the School's education program or activity.

A Title IX Coordinator is not required to comply with (1)-(7) of this section upon being notified of conduct that may constitute sex discrimination if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX or this part.

### **Confidential Employee Requirements**

The School must notify all participants in the School's education program or activity of how to contact its confidential employees, if any. A confidential employee must explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination under Title IX or its Regulations: (1) The employee's status as confidential for purposes of the Title IX Regulations, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination; (2) How to contact the School's Title IX Coordinator and how to make a complaint of sex discrimination; and (3) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

### **Training**

The following persons must receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or its Regulations, and annually thereafter. This training must not rely on sex stereotypes.

- (1) All employees must be trained on: (i) The School's obligation to address sex discrimination in its education program or activity; (ii) The scope of conduct that constitutes sex discrimination under Title IX and its Regulations, including the definition of sex-based harassment; and (iii) All applicable notification and information requirements under 34



Code of Federal Regulations Sections 106.40(b)(2) and 106.44.

- (2) In addition to the training requirements for all employees, all investigators, decisionmakers, and other persons who are responsible for implementing the School's grievance procedures or have the authority to modify or terminate supportive measures must be trained on the following topics to the extent related to their responsibilities: (i) The School's obligations under 34 Code of Federal Regulations Section 106.44; (ii) The School's grievance procedures; (iii) How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and (iv) The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.
- (3) In addition to the training requirements for all employees, all facilitators of an informal resolution process must be trained on the rules and practices associated with the School's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.
- (4) In addition to the training requirements in paragraphs (1) through (3) of this section, the Title IX Coordinator and any designees must be trained on their specific responsibilities under 34 Code of Federal Regulations Sections 106.8(a), 106.40(b)(3), 106.44(f) and (g), the School's recordkeeping system and the requirements regarding recordkeeping, and any other training necessary to coordinate the School's compliance with Title IX.

### **Recordkeeping**

The School will maintain for a period of at least seven years: (1) For each complaint of sex discrimination, records documenting the informal resolution process or the grievance procedures, and the resulting outcome; (2) For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or its Regulations, including notifications by employees to the Title IX Coordinator, records documenting the actions the School took to meet its obligations in responding to sex-discrimination; and (3) All materials used to provide training under this policy. The School will make these training materials available upon request for inspection by members of the public.

### **Designations**

The School retains discretion to designate suitably qualified persons, including but not limited to an external person, to fulfill any function under this policy, including, but not limited to, Title IX Coordinator, investigator, decisionmaker, and facilitator of informal resolution processes. The School also retains discretion to appoint two or more persons to jointly fulfill the role of Title IX Coordinator, investigator, decisionmaker, and facilitator of informal resolution processes. The School or the Title IX Coordinator may delegate duties assigned to a specific individual under this policy, including but not limited to the duties assigned to the Title IX Coordinator, investigator, decisionmaker, facilitator of and informal resolution processes, to any suitably qualified individual and such delegation may be rescinded at any time. If the School has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over the coordination of the School's efforts to comply with its responsibilities under Title IX and its Regulations and ensure the School's consistent compliance with its responsibilities under Title IX and its Regulations.

*See 34 CFR part 106; see also Policy 221, Policy 222, and Appendices 221.1*