

TITLE IX POLICY AND GRIEVANCE PROCEDURE

PURPOSE: The purpose of this Policy is to secure prompt and equitable resolutions of complaints based on sex-based discrimination and harassment in violation of Title IX of the Education Amendments of 1972 (“**Title IX**”), and violation of the School’s policies that prohibit sex-based discrimination and harassment. These procedures apply only to complaints alleging discrimination or harassment prohibited under Title IX as more fully defined below.

Conduct that does not fall within this Policy may nonetheless be a conduct violation under the School’s Student Code of Conduct or employment policies.

Policy: This Policy prohibits all forms of sex-based misconduct to the extent that such misconduct constitutes Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence or Stalking.

Definitions

- a. **Advisor of Choice.** An advisor of choice is a person selected by the Complainant or Respondent to advise and accompany such Party throughout the investigation and adjudication process. An advisor of choice may be any person, including an attorney. The School does not appoint or pay for an advisor of choice.
- b. **Complainant.** The term Complainant refers to the person who allegedly experienced the sexual misconduct in violation of Title IX whether or not a formal complaint is filed.
- c. **Dating Violence.** Dating Violence is violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim, and (2) where the existence of such a relationship is determined based on the following factors: (i) the length of the relationship, (ii) the type of relationship, (iii) the frequency of interaction between the persons involved in the relationship.
- d. **Domestic Violence.** Domestic Violence is violence committed by a person against a current or former spouse or a person who cohabited or is cohabiting with a Respondent as spouse or intimate partner, or by any person against a Complainant who is protected from such violence under the domestic or family violence laws of New York.
- e. **Formal Complaint.** A formal complaint is a signed, written complaint filed in accordance with the grievance process below, which may be signed and filed by a minor student’s parent or guardian on behalf of the student. A Formal Complaint is necessary to initiate an investigation and adjudication process under this Grievance Procedure.
- f. **Party.** A Complainant or Respondent may be referred to as a Party, or collectively the Parties.
- g. **Reporting Party.** The term Reporting Party refers to the person who made the report. This may or may not be the same as the Complainant. For instance, a witness or bystander may be a Reporting Party.

- h. **Respondent.** The term Respondent refers to the person alleged to have committed a violation of Title IX.
- i. **Responsible Employee.** Any employee of the School is a Responsible Employee for the purpose of reporting any potential violation of Title IX.
- j. **Sexual Assault.** Sexual Assault includes any sexual act directed against another person, forcibly or against that person's will or where the victim is incapable of giving affirmative consent. Sexual assault consists of the following specific acts:
 - i. Rape. The penetration of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - ii. Fondling. 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 mental incapacity. Private body parts include genital area, anus, groin, buttocks and breast and includes touching over or under clothing.
 - iii. Statutory Rape. Non-forcible sexual intercourse with a person who is under the age of 17.
- k. **Sexual Harassment.** Sexual Harassment means conduct on the basis of sex that meets one or more of the following:
 - i. An employee of the School conditioning the provision of an aid, benefit or service of the School on an individual's participation in unwelcome sexual conduct (commonly referred to as a "quid pro quo").
 - ii. Unwelcome conduct by an employee, visitor, vendor of the School or another student determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the School's education program or activity (commonly referred to as gender-based "hostile environment").
- l. **Stalking.** Stalking is engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.
- m. **Title IX.** Title IX refers to Title IX of the Education Amendments of 1972 and regulations under Title IX.
- n. **Title IX Coordinator.** The Title IX Coordinators are:

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II. Supportive Measures

Once a report is made by a Reporting Party that falls or may fall under this Policy, the Complainant will be contacted by the Title IX Coordinator and offered individualized support as described in this section. A report that triggers supportive measures need not be a Formal Complaint. Once the Respondent is informed of a report or a Formal Complaint, the Respondent will be contacted by the Title IX Coordinator and offered individualized support as described in this section.

Supportive measures are intended to restore or preserve, to the extent practicable, equal access to the School's educational programs and activities and protect the safety of all parties without unreasonably burdening the other party. These supportive measures must be non-disciplinary and non-punitive to the parties. Supportive measures could include, but are not limited to, (1) changes or adjustment in academics such as the extension of deadlines or changes in classes, (2) mutual "no contact" orders between the Parties, (3) reasonable security or monitoring measures, or (4) counseling services. Interim removal of a student from the School will only be done pursuant to the Emergency Removal protocol discussed below.

The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, which will be offered free of charge.

The School may undertake an emergency removal of a student-Respondent in order to protect the safety of the School community by addressing imminent threats posed to any person's physical health or safety. Prior to removing a student Respondent, the School will undertake an individualized safety and risk assessment. If the assessment justifies the emergency removal of a student Respondent, the School will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

Nothing in this Policy precludes the School from placing an employee-Respondent on administrative leave during the pendency of a grievance process under this Policy.

III. Grievance Procedure

- a. Confidentiality. Confidentiality will be maintained to the greatest extent possible, however any information gathered during the Grievance Procedure may be disclosed by the investigator to the other Party or Parties involved, to the Title IX Coordinator, and to the decision-maker.
- b. Formal Complaint. A Formal Complaint is necessary to initiate the Grievance Procedure under this Policy. A Formal Complaint may be filed

with the Title IX Coordinator in person, by mail, or by electronic mail to a Title IX Coordinator listed in the definitions in this Policy. If the Complainant declines to file a Formal Complaint or the Complainant's identity is unknown, the Title IX Coordinator may file a Formal Complaint if the Title IX Coordinator determines that the allegations are such that it would be unreasonable not to proceed to investigate.

- c. **Mandatory Dismissal.** The Title IX Coordinator will review the Formal Complaint and must dismiss the Title IX allegations if it is apparent that the allegations are not within the scope of Title IX, including that the conduct alleged: (1) would not constitute Sexual Harassment even if proved, (2) did not occur within the School's educational program or activity, or (3) did not occur against a person in the United States. Notice of dismissal will be in writing and sent to both Complainant and Respondent. NOTE: A Formal Complaint that must be dismissed under this provision may contain allegations that could be violations of the Student Code of Conduct, if the Respondent is a student, or violations of the employment policies, if the Respondent is an employee. The School may choose to assess the allegations under either of those.
- d. **Investigation Procedure.** An investigator will be appointed to investigate the allegations in the Formal Complaint. The Complainant and Respondent shall receive notice of the investigation which will include: (1) the identity of the parties involved and of the investigator, (2) the allegations in the Formal Complaint that would give rise to a violation of this Policy, (3) each Party's right to an Advisor of Choice, (4) each Party's right to inspect and review evidence and the investigation report in accordance with this Policy, and (5) that the Respondent is presumed not responsible for the alleged conduct unless and until a determination regarding responsibility is made by the Decision Maker.

The Complainant and Respondent will be given an equal opportunity to present information; however, at all times, the burden of gathering evidence remains with the School. Prior to the issuance of a final investigative report, the Parties and any Advisor of Choice will be provided with a copy of the evidence, subject to redaction permitted or required by law. The Complainant and Respondent will be provided with at least 10 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 will complete a written investigative report that fairly summarizes the relevant evidence, which must be sent to the Parties and any Advisor of Choice. A decision-maker will be in charge of reviewing the investigator's report and evidence and reaching a determination. The decision-maker must afford each Party the opportunity to submit written, relevant questions that the Party wants

asked of any other Party or witness, must provide each Party with the answers, and must allow for additional, limited follow-up questions from each Party.

- e. Determination. The decision-maker must issue a written determination simultaneously to the Parties regarding responsibility using the preponderance of evidence standard of proof. The written determination must include: (1) identification of the allegations, (2) a description of the procedural steps taken under this Policy, (3) findings of fact supporting the determination, (4) conclusions regarding the application of this Policy to the facts, (5) the rationale for the result as to each allegation, (6) any disciplinary sanctions imposed on Respondent, and whether any remedies designed to restore or preserve equal access to the School's educational program will be provided to Complainant, and (7) the right of either party to file an appeal and the appeal process outlined below.

Sanctions that may be imposed on a Respondent found responsible for a violation of this Policy include, but are not limited to, a written warning, probation, suspension (if a student) or administrative leave (if an employee), mandatory training, expulsion (if a student) or termination (if an employee), "no contact" directive, loss of privileges or similar sanctions and remedies that the decision-maker deems appropriate for the violation.

- f. Appeals. A Party may appeal a determination regarding responsibility and a dismissal of a Formal Complaint or any allegations in it. If a Party wishes to submit an appeal, written notice should be given to the Title IX Coordinator within 10 days of receiving the written determination. An appeal must be made on one or more of the following bases: (1) a procedural irregularity that affected the determination, (2) new evidence that was not reasonably available at the time of the determination that could affect the determination, (3) the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against any Party that affected the determination.

The School will give the non-appealing Party notice of the appeal and the grounds for the appeal. Each Party will be given a reasonable and equal opportunity to submit a statement in support of or challenging the outcome. Each Party will have at least 10 days to submit a statement. The decision-maker for the appeal will not be the same person as the decision-maker who reach the determination, the investigator or the Title IX Coordinator.

The decision-maker for the appeal will issue a written decision describing the result of the appeal and the rationale. The decision will be provided to both parties simultaneously and in writing.

- g. No Retaliation. Complainants who make complaints in good faith shall be free from retaliation, coercion and reprisal in seeking a resolution of their complaint. Witnesses acting in good faith shall also be free from retaliation, coercion and reprisal. Retaliation is a separate violation distinct from the initial underlying harassment or discrimination claim. Claims of retaliation shall be investigated pursuant to these procedures. Individuals who engage in retaliation will be subject to discipline.