

TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCEDURES

Title IX is a federal civil rights law that protects people from discrimination based on sex in education programs or activities that receive federal financial assistance. While many associate Title IX strictly with equity in access to sports and facilities irrespective of sex, it also applies to sexual harassment, including sexual violence.

Title IX regulations found in 34 C.F.R. Part 106 require extensive standards and grievance procedures for complaints of sex discrimination, including sex-based harassment. This Title IX policy is intended to comply with those standards. This policy leaves to the school the ability to develop the grievance procedures to be adopted by the school. The Title IX regulations apply to complaints of sex discrimination made by employees or by students.

Title IX regulations define sex discrimination more narrowly than the school's code of conduct or employee handbook. Some complaints of sex discrimination will not fall within the sex discrimination definitions of Title IX's regulations but will fall within the anti-discrimination/harassment definitions within the student code of conduct or employee handbook. Each complaint a school receives alleging sex discrimination should be examined to determine which grievance procedures need to be followed. Some complaints might implicate multiple grievance procedures.

It is the policy of Union Street Charter ("Charter School") to create and maintain an educational environment where employees and students are treated with dignity, decency and respect. Title IX of the Education Amendment Act of 1972 ("Title IX") prohibits discrimination on the basis of sex, including sex-based harassment, in the Charter School's education programs and activities. The Charter 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, including in admission and employment.

Sex discrimination can be discrimination on the basis of sex, including on the bases of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Any such behavior is a violation of the Charter School's policies, and state and federal law. Any employee or student found to have engaged in sex discrimination may be disciplined including, but not limited to, suspension and expulsion for students and discipline up to termination for employees.

Definition of Sex-Based Harassment Under Title IX

Sex-based harassment is a form of sex-discrimination and means sexual harassment and other harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that its either quid pro quo harassment or hostile environment harassment. Specific offenses of sex-based harassment include:

- Sexual assault

- Dating violence
- Domestic violence
- Stalking

Title IX Personnel/Parties

The Charter School’s Title IX Coordinator is the Principal/Director.

Investigator: The Title IX Coordinator may act as investigator of complaints of sex discrimination under Title IX. Alternatively, in the Title IX Coordinator’s discretion, the Title IX Coordinator may designate that role to another individual. In any event, the investigator shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The role of the investigator is that of fact finder.

Decisionmaker: The Title IX Coordinator may also act as the decisionmaker of complaints of sex discrimination under Title IX. Alternatively, in the Title IX Coordinator’s discretion, the Title IX Coordinator may designate that role to another individual. In any event, the decisionmaker shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The role of the decisionmaker is to evaluate evidence and make a determination regarding the formal complaint, including submitting a written determination of findings.

Complainants: The following person(s) have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the Charter School investigate and make a determination about alleged discrimination under Title IX: 1) A complainant; 2) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of the complainant; and 3) The Title IX coordinator.

If the complaint involves sex discrimination other than sex based harassment, a complaint may be made by any student or employee or any person other than a student/employee who was participating or attempting to participate in the Charter School’s education program or activity at the time of the alleged sex discrimination.

Sex Discrimination Under Title IX

Sex discrimination under Title IX means conduct on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that falls within one or more of the following categories:

- A Charter School employee, agent or other person authorized by the Charter School to provide an aid, benefit or service under the Charter School’s education program or activity explicitly or impliedly conditioning the provision of a school aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;
- Unwelcomed sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe, pervasive, and objectively offensive that it limits or denies a person’s ability to participate in or benefit from the Charter School’s education program or activity;

- Whether a hostile environment has been created is a fact specific inquiry that includes consideration of many factors identified in 34 C.F.R. § 106.2.

Reporting Allegations of Sex Discrimination

All employees who are not confidential employees are required to notify the Title IX Coordinator when the employee has information about conduct that may constitute sex discrimination under Title IX or its implementing regulations.

Employees, students and/or their parent/guardian/caregiver, may report sex discrimination to the Charter School's Title IX Coordinator, or to any other Charter School employee, who shall inform the Title IX Coordinator of that complaint.

Complaints may be made in writing, orally, via email, telephone or by any other means reasonably contemplated to result in the complaint reaching the Charter School's Title IX Coordinator.

Title IX Coordinator Responsibilities

The Title IX Coordinator will take the following actions when notified of conduct that reasonably may constitute sex discrimination under Title IX or its implementing regulations:

- Treat the complainant and respondent equitably;
- Offer and coordinate supportive measures, as appropriate, for the complainant. If the grievance procedures identified herein are initiated or if an informal resolution process has been offered to the respondent, offer and coordinate supportive measures, as appropriate, for the respondent;
- Notify the complainant, or if the complainant is unknown, the individual who reported the conduct, of the grievance procedures and the informal resolution process, if available and appropriate;
- 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 implementing regulations, and take steps reasonably calculated to address such barriers
- If a complaint is made, notify the respondent of the grievance procedures and informal resolution process, if available and appropriate.

Procedures

The Charter School's Title IX grievance or complaint procedures apply only to conduct that falls within the definition of sex discrimination under Title IX. Other allegedly offensive conduct may not fall within this process, but may be investigated and handled through other complaint procedures. In order to evaluate which complaint procedures apply, the Title IX Coordinator shall review the complaint to determine if the conduct falls within the definition of sex discrimination under Title IX and its implementing regulations. If a complaint falls within both the Title IX definition and within the definition of complaint subject to the Uniform Complaint Procedure, both processes may be followed. Please contact the Principal/Director to understand all of the School's complaint process options.

Response to an Informal Complaint

Upon receipt of a report of sex discrimination without a formal written complaint, the Title IX Coordinator will offer and coordinate supportive measures for the complainant and explain to the complainant (or other person reporting the behavior) the right and process to file a formal complaint.

In the event there is no formal complaint, the Title IX Coordinator shall determine whether to initiate a complaint of sex discrimination that complies with the complaint procedures identified herein. This determination need not be made if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX or its implementing regulations.

In making this determination, the Title IX Coordinator shall consider the following, within 20 days of receiving an informal complaint [**note, this timeframe is not mandatory, it needs to be within a reasonable amount of time**]:

- 1) The complainant's request not to proceed with initiation of a complaint;
- 2) The complainant's reasonable safety concerns regarding initiation of a complaint;
- 3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- 4) 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;
- 5) The age and relationship of the parties, including whether the respondent is an employee of the Charter School;
- 6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- 7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- 8) Whether the Charter School could end the alleged sex discrimination and prevent its recurrence without initiating its complaint procedures.

After consideration, if 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 Charter School from ensuring equal access on the basis of sex in its education program or activity, the Title IX Coordinator may initiate a complaint.

Regardless of whether a complaint is initiated, the Charter School shall take other appropriate prompt and effective steps to ensure that sex discrimination does not continue to continue or recur within the Charter School's education program or activity.

A formal complaint means an oral or written request to the Charter School that objectively can be understood as a request for the Charter School to investigate and make a determination about

BOARD POLICY #5 C– TITLE IX SEXUAL HARASSMENT GRIEVANCE POLICY

alleged discrimination under Title IX or its implementing regulations. The Title IX Coordinator may request the complainant to fill out a formal complaint form in order to initiate a formal complaint, although that formality is not required.

Supportive Measures

Supportive measures are non-disciplinary and nonpunitive and shall be available at any time during a Title IX investigation. These 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, or extracurricular or any other activity regardless of whether there is or is not a comparable alternative, training and education programs related to sex-based harassment.

The complainant or respondent shall have a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the Charter School's decision to provide, deny, modify, or terminate supportive measures applicable to them. A party will also be provided the opportunity to seek additional modifications or termination of a supportive measure if circumstances change materially.

The Charter School will not disclose information about any supportive measures to persons other than the person to whom they apply, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when a legal exception applies.

If a complainant or respondent is a student with a disability, the Title IX Coordinator will consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision to determine how to comply with the requirements of the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act, throughout the School's implementation of supportive measures.

Response to a Formal Complaint

In response to a formal complaint, the Title IX Coordinator confirm, in writing as described below, the receipt of the complaint and will determine whether the allegations fall within the definition of sex discrimination under Title IX. If so, the Title IX Coordinator will follow this policy to resolve the complaint. If it does not, the Title IX Coordinator will either dismiss the complaint, or refer the complaint to a different division with the Charter School to handle the complaint, such as through the school's Uniform Complaint Procedures.

The Title IX Coordinator will initiate an investigation, by identifying an investigator and/or decisionmaker. A written decision shall be issued within sixty (60) calendar days receipt of the formal complaint.

If a complainant or respondent is a student with a disability, the Title IX Coordinator will consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible

for the student's placement decision to determine how to comply with the requirements of the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act, throughout the School's implementation of grievance procedures.

Emergency Removal: The School may remove an accused from the School's education program or activity on an emergency basis, provided that the School first undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of any student or other individual arising from the allegations of sex discrimination justifies removal, and provides the accused with notice and an opportunity to challenge the decision immediately following the removal.

If the respondent is an employee, the employee may be placed on administrative leave during the formal investigative process. If the respondent is a student, state and federal laws may impose additional procedural requirements for removal.

Written Notice of the Formal Complaint

Within 10 calendar days of the receipt of the formal complaint, the Title IX Coordinator shall provide the parties with a notice of the formal complaint. The notice shall include: (1) a copy of this Policy; (2) the identities of the parties involved in the incident; (3) the conduct alleged to constitute sex discrimination under Title IX and its implementing regulations; and (4) the date(s) and location(s) of the alleged incident(s), (5) 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 Charter 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; and (6) a statement that retaliation is prohibited.

During the Grievance Process:

Investigation

The investigator will review the complaint and other submitted evidence, gather additional evidence, and interview witnesses or parties. The investigator may also offer, modify or terminate supportive measures.

The investigation shall be adequate, reliable, and impartial. To do so, the Charter School shall: 1) ensure that the burden is on the Charter School to conduct the investigation that gathers sufficient evidence to determine whether sex discrimination occurred; 2) provide an equal opportunity for the parties to present fact witnesses and other inculpatory or exculpatory evidence that are relevant or not otherwise impermissible; and 3) review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance, and consistency with implementing regulations.

The investigator shall provide the parties with the opportunity to review the relevant and not otherwise impermissible evidence (or an accurate description of the evidence) that is directly related to the allegations raised in the formal complaint. If provided with an accurate description

of the evidence, the School will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

Thereafter, the parties will have a period of seven calendar days [**note: this timeline is required to be reasonable, adjust accordingly**] to review the evidence (or description thereof), respond, ask the investigator additional questions, and provide or suggest additional evidence to be considered by the investigator. The School will also take steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures

The investigator/decisionmaker will question the parties and witnesses initially, and may reach out to the parties and witnesses again after its first initial round of questions. The investigator/decisionmaker may determine whether to question the parties and/or witnesses in person or remotely with the goal that the questioning must provide the opportunity to adequately assess a party's or witness's credibility to the extent that it is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

If, in the course of the investigation, the School decides to investigate additional allegations of sex discrimination by the accused toward the complainant that are not included in the initial notice identified above or that are included in a complaint, the School will provide notice of the additional allegations to the parties whose identities are known.

Presumption: There is a presumption that the accused is not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process.

Extension of Time Frames: While the School endeavors to complete the grievance procedure within the time lines included in this policy, the Charter School may notify the parties of the need for a reasonable extension of time on a case-by-case basis for good cause during any of the major stages of the process, including during evaluation, investigation, determination, and appeal. Additionally, if one of the parties involved requests a reasonable extension of time for cause, the Charter School shall, on a case-by-case basis, reasonably consider such request.

Privacy: The Charter School shall take steps to protect the privacy of the parties and witnesses during the pendency of the grievance procedures, provided that the parties must be able to obtain and present evidence, including speaking to witnesses, consulting with their family members, confidential resources or advisors, or otherwise preparing for and participating in the grievance procedures.

Evaluation: The Charter School's investigator or decisionmaker shall evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence, and provide that credibility determinations are not based on a person's status as a complainant, respondent, or witness. The following evidence, and questions seeking that evidence, are impermissible:

- Evidence protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the privilege or confidentiality has been voluntarily waived;

- 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 Charter School obtains that party's or witness's voluntary, written consent for use in the grievance procedures;
- 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.

Sex Based Harassment Only: For complaints alleging sex-based Harassment only, the following supportive measures are available to complainants and respondents: **counseling**. In addition, the following reflect the range of possible disciplinary sanctions and remedies the School may implement if sex-based harassment has occurred: **suspension, leave of absence, termination**.

Standard of Evidence: For all formal complaints of sex discrimination, the School shall use the preponderance of the evidence standard of proof. [**Note:** If the School uses the clear and convincing evidence standard of proof in all other comparable proceedings, the School may elect to use that standard of proof.] The decisionmaker shall evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the standard of proof, the decisionmaker must not determine that sex discrimination occurred.

Dismissal of a Formal Complaint:

The School shall investigate the allegations in a formal complaint and may dismiss a complaint of sex discrimination for any of the following reasons:

- The School is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the School's education program or activity and is not employed by the School;
- 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
- 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, the School must make reasonable efforts to clarify the allegations with the complainant. Upon dismissal, the School will 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 will also notify the respondent of the dismissal and the basis for the

dismissal promptly following notification to the complainant or simultaneously if the notification is in writing.

Consolidation of Formal Complaints. A School may consolidate formal complaints as to allegations of sex discrimination against more than one respondents, 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. Where a grievance process involves more than one complainant or more than one accused, references in this policy to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

Determination Whether Sex Discrimination Occurred.

Following the investigation and evaluation of all relevant and not otherwise impermissible evidence, the School will notify the parties in writing of the determination whether sex discrimination occurred under Title IX or its implementing regulations, including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable.

The School shall provide the written determination to the parties simultaneously. The determination regarding responsibility 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 there is a determination that sex discrimination occurred, the Title IX Coordinator is responsible for coordinating 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 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 will 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.

If the School dismisses the complaint, it will offer supportive measures to the complainant as appropriate and, if the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate.

Appeals

Upon dismissal of a complaint, the School will notify the complainant that a dismissal may be appealed and provide the complainant with an opportunity to appeal the dismissal on the bases set out below. If the dismissal occurs after the respondent has been notified of the allegations, then the School will notify the respondent that the dismissal may be appealed.

If the dismissal is appealed, the School will:

- Notify the parties of any appeal, including notice of the allegations as required above if

notice was not previously provided to the respondent

- Implement appeal procedures equally for the parties
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint
- Ensure that the decisionmaker has been trained
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome
- Notify the parties of the result of the appeal and the rationale for the result

The School shall offer both parties an appeal from a determination whether sex discrimination occurred, and from the School's dismissal of a formal complaint or any allegations therein, on the following bases:

- 1) Procedural irregularity that would change the outcome of the matter;
- 2) New evidence that would change the outcome and that was not reasonably available at the time when the determination whether sex discrimination occurred or dismissal was made; and
- 3) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against a complainant or an accused generally or the individual complainant or accused that would change the outcome of the matter.

The School may offer an appeal equally to both parties on additional bases.

As to all appeals, the School shall:

- 1) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- 2) Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
- 3) Ensure that the decision-maker(s) for the appeal complies with the conflict of interest and bias standards set forth above;
- 4) Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- 5) Issue a written decision describing the result of the appeal and the rationale for the result; and
- 6) Provide the written decision simultaneously to both parties.

Informal Resolution

At any time prior to determining whether sex discrimination occurred, the Charter School may offer to a complainant and respondent a voluntary informal resolution process, unless the complaint includes allegations that an employee engaged in sex based harassment of a student or if such process would conflict with Federal, State or local law. If the Charter School determines the alleged conduct would present a future risk of harm to others, it may decline to allow informal

resolution. If an information resolution is followed, the Title IX Coordinator must, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue to recur within the Charter School's education program or activity. Such specific steps will be taken depending upon the facts of each case.

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 implementing regulations or when a complaint of sex discrimination is made, and may decline to offer information resolution despite one or more of the parties' witnesses. This decision may be made if the School determines that the alleged conduct would present a future risk of harm to others.

The School shall not require or pressure the parties to participate in an informal resolution process.

Before initiation of an informal resolution process, the Charter School shall provide notice to the parties 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 complaint 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 complaint 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 Charter School will maintain and whether and how the Charter School could disclose the information for use in a complaint procedure if complaint procedures are initiated or resumed.

The facilitator of the information resolution process will not be the same person as the investigator and/or decisionmaker for the School's grievance process. The facilitator will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Recordkeeping

1) A School must maintain for a period of seven years records of—

(A) For each sex discrimination complaint, records documenting the informal resolution process or the grievance procedures, and if applicable, the resulting outcome.

(B) For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or its implementing regulations, including notifications, records documenting the actions the School took to meet its legal obligations.

(D) All materials used to provide required training. The School must make these training materials available upon request for inspection by members of the public.

Adopted 202, revised 2024

BOARD POLICY #5 C– TITLE IX SEXUAL HARASSMENT GRIEVANCE POLICY

© Charter Schools Development Center, 2024

Page 11 of 11

Materials in this publication were adapted under license and with permission from the Charter Schools Development Center and remain copyright © 2024 Charter Schools Development Center, all rights reserved. No part of this publication may be reproduced, stored in a retrieval system, resold, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, scanning or otherwise except as permitted under Section 107 or 108 of the 1976 United States Copyright Act or without the prior written permission of the Charter Schools Development Center.