

LAKE NORMAN CHARTER SCHOOL

TITLE IX POLICY

A. OVERVIEW

Title IX provides that “No person 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 Federal financial assistance.”

It is the policy of THE SCHOOL that students should not be subjected to forms of unlawful discrimination or harassment, while at school or school-sponsored activities. Furthermore, the policy’s intent is to address the issue in a proactive manner through the establishment of a system for educating students and staff at the School regarding the identification, prevention, intervention, and reporting of such anti-social acts. The School acknowledges the dignity and worth of all students and strives to create a safe, orderly, caring and inviting school environment to facilitate student learning and achievement. The School strives to model an inclusive environment and prohibits discrimination and harassment on the basis of gender or sex, including sexual orientation and LGBTQ+ identification. The School will not tolerate any form of unlawful discrimination or harassment in any of its educational or employment activities or programs based on such protected classifications.

B. PURPOSE

The School prohibits discrimination on the basis of sex and gender, including any form of sexual harassment as that term is defined under Title IX, in any education program or activity of the School. The School takes seriously all reports and Formal Complaints of sexual harassment. The School does not discriminate on the basis of sex and gender in its education programs or activities, including admission and employment, in accordance with Title IX of the Education Amendments Act of 1972 and federal regulations.

Any person with questions about this policy should contact the School’s Title IX Coordinator whose information is listed at www.lncharter.org.

C. REASON FOR POLICY

The United States Department of Education has adopted formal rules related to sexual harassment as prohibited by Title IX of the Education Amendments of 1972 (May 2020). These new regulations require additional procedures and policies related to programs using federal funds. The new law focuses on procedures for reporting, investigating and finding illegal sexual harassment as the term is defined by the rule. The School has always prohibited discrimination based on sex/gender and sexual harassment in educational programs and activities implemented by it. This policy is intended to comply with the mandates of 34 C.F.R. § 106 and other provisions of Title IX.

D. PROHIBITED BEHAVIORS

Students, employees, contractors, volunteers and visitors are expected to behave in a civil and respectful manner. In accordance with Title IX, the School expressly prohibits discrimination or harassment, based on sex or gender and prohibits sexual harassment (including sexual violence) and gender-based harassment. Sexual harassment is unwelcome

conduct of a sexual nature. It includes unwelcome conduct on the basis of sex, requests for sexual favors in exchange for benefits (quid pro quo), and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. In accordance with Title IX, the School also prohibits gender-based harassment, which is unwelcome conduct based on a student's sex, harassing conduct based on a student's failure to conform to sex stereotypes.

Sex-based harassment can be carried out by school employees, other students, and third parties. All students can experience sex-based harassment, including male and female students, LGBTQ+ students, students with disabilities, and students of different races, national origins, and ages. Title IX protects all students from sex-based harassment, regardless of the sex of the parties, including when they are members of the same sex.

E. RETALIATION PROHIBITED

The School prohibits intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. As such, the School prohibits reprisal or retaliation against any person for reporting or intending to report violations of this policy, supporting someone for reporting or intending to report a violation of this policy, or participating in the investigation of reported violations of this policy. After consideration of the nature and circumstances of the reprisal or retaliation and in accordance with applicable laws, policies, and regulations, the Head of School or designee shall determine the consequences and remedial action for a person found to have engaged in reprisal or retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under Title IX does not constitute retaliation prohibited under this policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

F. APPLICATION OF POLICY

This policy prohibits unlawful discrimination or harassment by students, employees, volunteers, contractors, and visitors. This policy is intended to apply to student's vis a via other students, faculty, staff, volunteers/visitors, or contractors. This policy also applies to employees, volunteers/visitors, and contractors. This policy applies to behavior that takes place within the School's "education program or activity," which includes, but is not necessarily limited to, behavior:

1. in any school building or on any school premises before, during or after school hours;
2. on any bus or other vehicle as part of any school activity;
3. at any bus stop;
4. during any school-sponsored activity or extracurricular activity;
5. at any time or place when the individual is subject to the oversight and authority of school personnel;
6. at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the schools; and
7. while using school or personal electronic communications, including employee and student emails, text messaging, instant messaging, chat rooms, blogging, websites and social networking websites (i.e., Snapchat or Instagram).

G. TITLE IX COORDINATOR

The Title IX Coordinator is responsible for monitoring the overall implementation of Title IX for the SCHOOL and coordinating the institution's compliance with Title IX in all areas covered by the implementing regulations. The major responsibility is the prevention of sexual harassment and discrimination. Other major monitoring duties include, but are not limited to, the following recruitment and admissions, educational programs and activities, hiring and employment. Other areas of consideration include:

- Participating in the development and implementation of the SCHOOL's sexual harassment policy.
- Assisting faculty, counselors and administrators in complying with Title IX, and when a need arises, planning remedial actions.
- Making your presence known in the community by disseminating civil rights information or by speaking at parent-teacher group meetings, social or professional organization meetings, and other community functions.
- Serving as a resource on Title IX/gender issues.
- Monitoring and evaluating the SCHOOL's Title IX compliance efforts and making recommendations for any appropriate changes.
- Providing updated information to schools on Title IX implementation and issues.
- Identifying and disseminating information about Title IX educational resources (organizations, individuals, print, internet, and audio-visual)

H. NOTICE

The designated Title IX Coordinator is responsible for providing effective notice to job applicants, student applicants, students, parents, and employees of the procedures for reporting and investigating complaints of unlawful sex/gender discrimination and harassment. This policy will be posted on the School's website, and copies of the policy are available at the front office. Notice of this policy will appear in all job applicant information, admissions information, student and employee handbooks, and in any School publication that sets forth the comprehensive rules, procedures, and standards of conduct for students and employees.

I. DEFINITIONS

As used in this and all other Title IX related policies, the following definitions shall apply.

a. Sexual Harassment

Sexual Harassment prohibited under Title IX and by this policy is conduct on the basis of sex occurring in a School education program or activity that satisfies 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;
- ii. unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the School's education program or activities. This determination requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and the victim and the number of individuals involved and their authority;
- iii. sexual assault including rape, statutory rape, fondling, and incest;
- iv. dating violence;
- v. domestic violence; or
- vi. stalking

Sexual assault, dating violence, domestic violence, and stalking will be defined in accordance with applicable law and the definitions will be incorporated into an Administrative Regulation developed by the Superintendent.

Conduct that satisfies this standard is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the School did not have substantial control over both the harasser and the context in which the harassment occurred.

Examples of conduct on the basis of sex that would be considered sexual harassment if the conduct satisfies the criteria above include, but are not limited to: unwelcome sexual advances; requests for sexual favors; and other verbal or physical conduct of a sexual nature, such as deliberate, unwelcome touching that has sexual connotations or is of a sexual nature; suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats; pressure for sexual activity; continued or repeated offensive sexual flirtations, advances, or propositions; continued or repeated verbal remarks about an individual's body; sexually degrading words used toward an individual or to describe an individual; sexual assault; sexual violence; the display of sexually suggestive drawings, objects, pictures, or written materials; posting sexually suggestive pictures of a person without the person's consent; and forwarding pornographic material to a classmate or other member of the School community. Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping may also constitute sexual harassment. Harassment, including sexual or gender-based harassment, is not limited to specific

situations or relationships. It may occur between fellow students or co-workers, between supervisors and subordinates, between employees and students, or between non-employees, including visitors, and employees or students. Harassment may occur between members of the opposite sex or the same sex. Gender-based harassment is also a type of harassment. Gender-based harassment may include acts of verbal, nonverbal, or physical aggression, as well as intimidation or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature.

Legitimate age-appropriate pedagogical techniques are not considered harassment.

Conduct that is determined not to meet the definition above may violate other School policies or established standards of conduct and will be treated accordingly. For example, conduct that does not meet the definition of Title IX sexual harassment above may nevertheless violate other School policies.

b. Report

A report is an oral or written notification that an individual is an alleged or suspected perpetrator or victim of sexual harassment.

Making a report initiates the interactive process with the Complainant described below. No disciplinary action will be taken against a Respondent for sexual harassment based on a report alone.

c. Formal Complaint

A Formal Complaint is a document signed and filed with the Title IX Coordinator by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that School officials investigate the allegation(s). Filing a Formal Complaint initiates the Complaint process. The Formal Complaint must demonstrate that at the time of filing a formal complaint, Complainant was participating in or attempting to participate in the education program or activity of the School with which the formal complaint is filed.

d. Complainant

The Complainant is the individual(s) who is alleged to be the victim of conduct that could constitute sexual harassment, regardless of whether a Formal Complaint is filed. While parents and guardians do not become complainants (or respondents), parents and guardians have a right to act on behalf of parties (including by filing formal complaints) in Title IX matters.

e. Respondent

The Respondent is the individual(s) who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

f. Formal Complaint Process

Complaint process means the process for investigating and reaching a final determination of responsibility for a Formal Complaint of sexual harassment. The sexual harassment complaint process is set forth in the School's Title IX Complaint Process adopted by the Superintendent, which shall comply with all Title IX requirements.

g. Title IX Coordinator

The Title IX Coordinator is a School official who is designated to coordinate the School's response to sexual harassment and allegations of sexual harassment. Contact information for the Title IX Coordinator is posted on the School's website.

h. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the School's education program and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the School's educational environment, or deter sexual harassment. The School's selection of supportive measures and remedies shall be based on what is not clearly unreasonable in light of the known circumstances.

School determines which measures are appropriate for a particular complainant on a case-by-case basis. Not all of the measures listed below will be necessary in every case to keep the Complainant safe and ensure their equal access to educational programs and activities. If the Complainant or advocate identifies an interim measure that is not already provided by the School, the School will consider whether the request can be granted. In those instances where interim measures affect both a Complainant and the Respondent, the School will minimize the burden on the Complainant wherever appropriate while ensuring that the measures are non-disciplinary and non-punitive prior to reaching a determination regarding responsibility.

Supportive measures available to the parties include, but are not limited to, counseling, mental health services referral, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring, and other similar measures determined by School officials to be necessary to protect the safety or educational or employment activities of a party.

i. Days

Days are school days unless specified otherwise.

j. Student(s)

"Student(s)" means the Student and/or the Student's parent or legal guardian unless the

context clearly indicates otherwise. When the Complainant or Respondent is a Student, references to those terms also include the Student's parent or legal guardian unless the context clearly indicates otherwise.

k. Actual Knowledge

"Actual knowledge" means a School employee has notice of sexual harassment or allegations of sexual harassment.

J. CONFIDENTIALITY

The recipient, whether a School employee, staff member, contractor, or the Title IX Coordinator, must keep confidential the identity of any individual who has made a report or complaint of sex/gender discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA or as required by law, or to carry out the purposes of Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed according to the Title IX grievance procedures.

The Title IX Coordinator shall maintain confidential records of complaints or reports of unlawful discrimination or harassment. The records will identify the names of all individuals accused of such offenses and the resolution of such complaints or reports. The Title IX Coordinator also shall maintain records of training conducted and corrective action(s) or other steps taken by the School to provide an environment free of unlawful discrimination or harassment. The Superintendent shall report to the Board all verified cases of unlawful discrimination or harassment under the School's Title IX Policy.

K. EVALUATION

The Superintendent or designee shall evaluate the effectiveness of efforts to correct or prevent unlawful sex/gender discrimination and harassment and shall share these evaluations periodically with the School's Board.

L. REPORTING SEXUAL HARASSMENT

a. Students

Any Student who believes he or she is a victim of discrimination, harassment, or sexual harassment/misconduct based on sex and/or gender occurring during or as part of the School's educational programs or activities may report the matter to a trusted teacher or advisor, the Superintendent, the Title IX Coordinator, or to any teacher, counselor, or other School employee. Likewise, a Student who has witnessed conduct amounting to sexual harassment may report such conduct.

b. School Employees and Board Members

Employees and Board members are required to immediately report any actual or suspected discrimination, harassment, or sexual harassment/misconduct based on sex

and/or gender. Such report must be made to the Title IX Coordinator, grade-level Principal, or Superintendent, as soon as possible and within 24 hours. If the Superintendent is involved in the allegation, then another administrator will immediately inform the Chair of the Board of Directors.

Actual knowledge includes but is not limited to:

- i. a report of sexual harassment/discrimination from a Student, an employee or other person;
- ii. the employee or Board member witnesses conduct that is or reasonably could be sexual harassment; or
- iii. the employee or Board member discovers evidence of sexual harassment, such as sexualized graffiti on School property, or otherwise has reliable information or reason to believe that a Student, employee, or other individual may have been sexually harassed in violation of this policy, even if no one has reported the sexual harassment.

Employees who observe an incident of harassment are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator, and it is safe to do so. An employee with actual knowledge of possible sexual harassment in violation of this policy who does not promptly report the conduct and/or take proper action as required by this subsection, or who knowingly provides false information about the incident, will be subject to disciplinary action, up to and including dismissal.

Any doubt about whether particular conduct is possible sexual harassment must be resolved in favor of reporting the conduct.

The mandatory reporting requirements of this Policy are in addition to required reporting under other policies, under State law, and pursuant to applicable State Board of Education Policies. In addition, School officials should report incidents to law enforcement as appropriate.

c. Reporting By Others

Students, parents, volunteers, visitors or others are also strongly encouraged to report any actual or suspected incidents of discrimination or harassment based on sex/gender under this policy to the Superintendent, or the Title IX Coordinator. Reports may be made anonymously, and all reports shall be investigated in accordance with that policy.

d. Content of the Report

To the extent possible, reports should be sufficient to put School officials on notice of conduct that could constitute sexual harassment. Employees making mandatory reports should provide as much detail about the alleged sexual harassment as is known, unless such disclosure would violate law or standards of professional ethics. Reports, other than mandatory reports by employees, may be made anonymously, but anonymous reports may limit the School's ability to respond fully if the alleged victim is not

identified.

e. Methods of Reporting

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Reporting may be made at any time, including during non-school hours.

f. Time Period for Reporting

- i. Students and others may make a report at any time, preferably as soon as possible after disclosure or discovery of the facts giving rise to the report.
- ii. School employees and Board members with actual knowledge of sexual harassment must report that information immediately, but in any event no later than 24 hours.

M. RESPONSE BY SCHOOL OFFICIALS WITH ACTUAL KNOWLEDGE OF SEXUAL HARASSMENT

a. Generally

School officials must respond promptly and impartially to actual knowledge of sexual harassment and do so in a manner that is not deliberately indifferent. Such response will include an interactive process and supportive measures.

b. Interactive Process

Upon receiving a report of alleged sexual harassment, the Title IX Coordinator shall promptly contact the Complainant (and the Complainant's parent or guardian if appropriate). This contact must occur within three school days, excluding weekends, absent extenuating circumstances. The Title IX Coordinator shall also notify the Superintendent of the report and, if an employee is the Complainant or Respondent, the human resources official.

When contacting the Complainant, the Title IX Coordinator shall do all of the following during the contact and shall document the same:

- i. Offer supportive measures;
- ii. Consider the Complainant's wishes with respect to supportive measures;
- iii. Explain that supportive measures are available with or without the filing of a Formal Complaint; and

iv. Explain the process for filing a Formal Complaint with the Title IX Coordinator and the response required of the School when a Complaint is filed, including all the following:

- 1) The filing of a Formal Complaint will initiate the Formal Complaint process;
- 2) The Formal Complaint may be filed in person, by mail, or by electronic mail and must be filed with the Title IX Coordinator;
- 3) The steps of the formal process include: notice to the Respondent; investigation during which both parties may present evidence and ask questions; a decision by an objective Decision-Maker; and the right to appeal the Decision;
- 4) The approximate time frame for concluding the Complaint process;
- 5) That School officials will treat both parties equitably;
- 6) The possibility that Formal Complaints may be consolidated; and
- 7) The requirement that, under some circumstances, the Title IX Coordinator may be required to file a Formal Complaint should the Complainant not choose to do so.

c. Supportive Measures

After considering the Complainant's wishes, the Title IX Coordinator shall arrange the effective implementation of appropriate supportive measures unless, in the exercise of good judgment, the Title IX Coordinator determines that supportive measures should not be provided. If supportive measures are not provided to the Complainant, the Title IX Coordinator shall document why supportive measures were not provided and why not providing supportive measures is not deliberately indifferent to known sexual harassment.

The supportive measures available to the Complainant and the Respondent are set forth above.

d. Title IX Coordinator Decision to File Formal Complaint

- i. Complainant declines to file a Formal Complaint;
- ii. Coordinator decides on case-by-case basis;
- iii. Standard is based upon the obligation for School not to be deliberately indifferent;
- iv. Decision must not be based upon the credibility or merit of the Complaint;
- v. Filing of Formal Complaint by Title IX Coordinator does not signify agreement

or disagreement with the allegations; nor does the filing render the Title IX Coordinator a party to the Complaint; and

- vi. The Coordinator must document the decision whether to file a Formal Complaint and the reasons therefor.

e. Presumption of Non-Responsibility

A Respondent identified in any report under this Policy is presumed not responsible until responsibility has been established by a preponderance of evidence in accordance with the Formal Complaint Procedures set forth in Administrative Regulation.

f. Constitutional Rights

The School will not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.

g. Due Process

No discipline may be imposed upon an employee or Student without following applicable due process procedures, unless the individual agrees to disciplinary action pursuant to a settlement or mediation process; provided, however, that a Respondent may be subject to removal, suspension, or leave in accordance with State law and School Policy, including the School's Code of Conduct.

h. Conflicts of Interest and Impartiality

All Title IX personnel (Title IX Coordinators, investigators, decision-makers, people who facilitate any informal resolution process) shall be free from conflicts of interest or bias for or against complainants or respondents.

i. Privileged Information

The School's complaint process shall not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

j. Equal Application and Standard of Evidence

Any provisions, rules, or practices that a school adopts as part of its complaint process for handling formal complaints of sexual harassment must apply equally to both parties (complainant and respondent).

The standard of evidence to determine responsibility is the preponderance of the evidence standard for all formal complaints of sexual harassment, whether the respondent is a student or an employee (including faculty member).

k. Dismissal

If the allegations in a formal complaint do not meet the definition of sexual harassment

as defined in the School's Title IX policy, or the alleged conduct did not occur in the School's education program or activity, against a person in the United States, the School must dismiss such allegations for purposes of Title IX. However, the School may still address the allegations in any manner the School deems appropriate under the School's code of conduct or other policies.

N. Remedies and Disciplinary Sanctions

When a Respondent is found responsible for sexual harassment, the School will offer all remedies needed to eliminate the harm to the Complainant and the school community and prevent the recurrence of sexual harassment. Simply sanctioning a Respondent found responsible, in some cases, may be insufficient to eliminate a hostile environment. Rather, in addition to sanctions, the School may consider offering appropriate remedies for the broader student/staff population after the final outcome, including the following:

- Training or retraining school employees on the school's responsibilities to address allegations of sexual violence and how to conduct Title IX investigations;
- Developing materials on sexual harassment, which should be distributed to all staff and students;
- Conducting bystander intervention and sexual harassment prevention programs with students and/or staff;
- Issuing policy statements or taking other steps that clearly communicate that the school does not tolerate sexual harassment and will respond to any incidents and to any student who reports such incidents;
- Conducting, in conjunction with student leaders, a School climate check to assess the effectiveness of efforts to ensure that the school is free from sexual violence, and using that information to inform future proactive steps that the school will take;
- Targeted training for a group of students if, for example, the sexual harassment created a hostile environment (i.e., on an athletic team);
- When a school is unable to conduct a full investigation into a particular incident (i.e., when it received a general report of sexual violence without any personally identifying information), it should consider remedies for the broader student population in response.

Disciplinary sanctions include:

- For Students found responsible: verbal warning, written warning, interim suspension, restitution, suspension, required participation in appropriate training, counseling, required completion of a probationary period without additional infractions, or requiring the respondent to stay away from the complainant for a period of time.
- For Employees found responsible: sanctions for violations of Title IX vary depending on severity from formal written warning to dismissal.

O. FORMAL COMPLAINT PROCESS

The Superintendent will publish notice of and adopt procedures consistent with Title IX Regulations to ensure a prompt and equitable resolution of Student and employee Formal Complaints alleging sexual harassment under Title IX.

P. RECORDS

The Title IX Coordinator shall create and maintain for a period of seven years records of all reports and Formal Complaints of sexual harassment. For each report or Formal Complaint, the Coordinator shall document the following:

- a. Any actions, including any supportive measures, taken in response to the report or Formal Complaint;
- b. That School officials have taken measures that are designed to restore or preserve equal access to the School's education program and activities;
- c. Why School officials believe their response to the report or Complaint was not deliberately indifferent; and
- d. If supportive measures were not provided to the Complainant, why that was not clearly unreasonable in light of the known circumstances.

In conjunction with the Superintendent, the Title IX Coordinator shall also maintain for seven years all materials used to train the Title IX Coordinator, Investigators, Decision-Makers, and any person who facilitates an informal resolution process. These materials will be made publicly available on the School's website.

Q. POLICY APPLICATION

This policy shall remain in effect as long as required by law.

FORMAL COMPLAINT PROCESS

The School shall investigate the allegations in any formal complaint and send written notice to both parties (complainants and respondents) of the allegations upon receipt of a formal complaint.

A. INVESTIGATOR

The School, through the Title IX Coordinator or other authorized School official, shall designate an impartial individual to serve as the Investigator and conduct an investigation. The Investigator may be the Title IX Coordinator. However, the Investigator shall not be someone with a conflict of interest or bias. The School may choose an outside investigator, School employee or contractor to conduct the investigation. During the complaint process and when investigating, the Investigator shall comply with the following:

1. The burden of gathering evidence and burden of proof must remain on the School, not on the parties.
2. The Investigator must provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
3. The Investigator and School must not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag orders").

4. Parties must have the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney.
5. The Investigator shall send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence.
6. The Investigator shall send the parties, and their advisors, a draft investigative report, that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond. Thereafter, the Investigator shall issue a final report to the parties and the Decision-maker.
7. The Title IX Coordinator, Investigator or Decision-Maker shall dismiss allegations of conduct that do not meet the definition of sexual harassment set forth in the School's Title IX policy or did not occur in a school's education program or activity against a person in the U.S. Such dismissal is only for Title IX purposes and does not preclude the School from addressing the conduct in any manner the school deems appropriate.
8. The School may, in its discretion, dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled or employed by the school, or if specific circumstances prevent the school from gathering sufficient evidence to reach a determination.
9. The School shall give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.
10. The School may, in its discretion, consolidate formal complaints where the allegations arise out of the same facts.
11. The School shall protect the privacy of a party's medical, psychological, and similar treatment records and shall not access or use such records unless the School obtains the party's voluntary, written consent to do so.

B. DECISION-MAKER

The School, through the Title IX Coordinator or other authorized School official, shall designate a Decision-maker with regard to a Title IX complaint. The Decision-maker shall not be the Title IX Coordinator or Investigator, and shall not be someone with a conflict of interest or bias. The Decision-maker shall comply with the following rules:

1. Start with the presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the complaint process.
2. All Complainants are afforded rape shield protections, deeming questions and evidence about a complainant's prior sexual behavior irrelevant, unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.
3. Use the preponderance of the evidence standard in reaching her/his decision.
4. Require objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a complainant, respondent, or witness.

5. After the Investigator has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.
6. Issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant.
7. The written determination must be sent simultaneously to the parties along with information about how to file an appeal.

C. GRIEVANCE PROCESS

1. **Prompt Filing.** The Complainant must file a formal complaint within a reasonable time, ideally within 10 days of the alleged incident. A complaint will not be disallowed solely because of the passage of time. The Title IX coordinator is charged with ensuring that all such complaints are timely, impartially, and appropriately investigated in accordance with applicable law.
2. **Confidentiality.** Every effort will be made to ensure the confidentiality of the complainant. There may be times where confidentiality may not be possible for the School to conduct a thorough investigation. There may also be instances where the School has a legal obligation to report certain information it receives to state or local authorities or to protect the School community.
3. **Timeline.** While the timeframe for completing an investigation into individual complaints may vary depending on the circumstances, the Title IX coordinator will ensure that timeframes are reasonable and endeavor to complete any investigation, including any decision, within sixty (60) days of the filing of a complaint. The timeline may be extended where appropriate at the discretion of the School. Include reasonably prompt time frames for conclusion of the grievance process, including appeals and informal resolutions, with allowance for short-term, good cause delays or extensions of the time frames.
4. **Investigation.** The Title IX coordinator or other School official shall designate an impartial Investigator to conduct the investigation. The Investigator shall have full authority to investigate, including the authority to interview witnesses. The Investigator shall follow the guidance/mandates set forth above in this policy in conducting the investigation.
5. **Decision-Maker.** The Decision-maker shall follow the guidance/mandates set forth above in this policy and shall use the preponderance of the evidence standard in reaching her/his decision. The Decision-maker shall timely provide written notice of the outcome of the complaint to the relevant parties.
6. **Appeal.** Either party may appeal the Decision-maker's decision to the Board of Directors within 14 days after a decision is made or the School dismisses a formal complaint in a Title IX proceeding, on the following bases:
 - a. Procedural irregularity that affected the outcome of the matter,
 - b. Newly discovered evidence that could affect the outcome of the matter, and/or

- c. Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.
- 7. The Board of Directors will appoint a panel of three board members to serve as the impartial review panel. The review will be conducted in accordance with all applicable laws and the panel may, but is not required to, request information directly from the parties. The three-member review panel will make a decision and will provide written notice of the outcome of the appeal to the parties within fourteen (14) school days, unless circumstances require more time.

D. INFORMAL RESOLUTION PROCESS FOR STUDENTS

After a formal Complaint is filed, the School may, in its discretion, offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. The School will not require participation in an informal process. And, at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The School does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Any person who facilitates an informal resolution must be well-trained. The School will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student. Finally, the School may not offer an informal resolution process unless a formal complaint is filed.