

# TITLE IX POLICY and Grievance Procedures



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Title IX Coordinator

CEO and Principal

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## **Title IX**

### **Policy on Nondiscrimination**

City Charter High School (“City Charter”) does not discriminate in its educational programs, activities or employment practices based on race, color, national origin, sex, sexual orientation, disability, age, religion, ancestry, genetic information or any other legally-protected category. Announcement of this policy is in accordance with State Law including the Pennsylvania Human Relations Act and with Federal law, including Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act of 1967 and the Americans with Disabilities Act of 1990. City Charter’s full Non-Discrimination Policy can be found in the City Charter Student and Family Handbook on [www.cityhigh.org](http://www.cityhigh.org).

### **Applicable Scope**

The core purpose of this policy is to prohibit sexual harassment and retaliation. When an alleged violation of this policy is reported, the allegations are subject to resolution using the process as detailed below.

This policy specifically applies, but is not limited, to allegations by or on behalf of students or employees that have been sexually harassed or sexually assaulted in or related to the school environment, whether by other adults or students. This procedure does not apply to complaints alleging violations of Title IX for equal access to athletic opportunities, nor other forms of sex discrimination, such as different treatment based on sex. Such complaints are covered under City High’s nondiscrimination policies and procedures.

The procedures below may be applied to incidents, to patterns, and/or to the school climate, all of which may be addressed and investigated in accordance with this policy.

### **Title IX Coordinator**

The Coordinator of School Counseling serves as the Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating City High’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and retaliation prohibited under this policy.

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Dr. Dara Ware Allen  
Title IX Coordinator  
CEO and Principal  
201 Stanwix Street  
Pittsburgh PA 15222  
412-690-2489 extension 101  
[dwallen@cityhigh.org](mailto:dwallen@cityhigh.org)  
[www.cityhigh.org](http://www.cityhigh.org)



City High has also classified all employees as Mandated Title IX Reporters of any knowledge they have that a member of the community is experiencing sexual harassment and/or retaliation.

The section below on Title IX Mandated Reporting details the responsibilities and duties that all City High School employees have as Mandated Reporters under Title IX.

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

For complaints involving employees: [Equal Employment Opportunity Commission](#) (EEOC)

### **Definition of Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the Commonwealth of Pennsylvania regard Sexual Harassment as an unlawful discriminatory practice.

City High has adopted the following definition of Sexual Harassment in order to address the unique environment of an educational setting.

#### 1. "Quid Pro Quo" Sexual Harassment:

Quid pro quo harassment occurs when a school employee, such as a teacher, causes a student to believe that he or she must submit to sexual conduct, sexual advances, or grant sexual favors or that accepting or rejecting of such conduct or communications will be used as a factor in decisions affecting the student's education. For example, when a teacher threatens to fail a student unless the student agrees to date the teacher, it is quid pro quo harassment. Similarly, quid pro quo harassment can occur when an employee's supervisor makes unwelcome sexual advances or requests sexual favors and the employee reasonably believes that submitting to that conduct or communication is a condition of obtaining employment or that accepting or rejecting that conduct or communication will be used as a factor in employment decisions.

#### 2. "Hostile Environment" Sexual Harassment:

Hostile environment sexual harassment is conduct of a sexual nature that is sufficiently serious that it interferes with, limits, or denies a person the ability to participate in or benefit from a program, education, or environment. For students, hostile environment sexual harassment means unwelcome conduct of a sexual nature that is sufficiently serious that it interferes with, limits, or denies a student



the opportunity to participate in or benefit from an education program or activity. For employees, a hostile work environment is created when unwelcome conduct of a sexual nature is sufficiently serious that it interferes with, denies, or limits the employee's work performance or work environment.

(a) The term "conduct" includes, but is not limited to:

- verbal comments, including unwelcome sexual advances, requests for sexual favors, and derogatory remarks;
- nonverbal conduct, such as graffiti, text messages, or notes; and/or
- physical conduct such as sexual touching, fondling, sexual assault, rape, and other forms of sexual violence.

(b) The term "of a sexual nature" is a broad term that includes conduct or comments about sex (the physical act), based on sex (persons being male or female), or based on sex or gender based stereotyping.

(c) In determining whether conduct is "sufficiently serious" as to interfere with, deny, or limit education or employment so as to rise to the level of sexual harassment, City High will examine all the circumstances, including: the type of harassment (e.g., whether it was verbal or physical); the frequency and severity of the conduct; the age, sex and relationship of the parties; the setting and context in which the harassment occurred; whether other incidents have occurred at the school; and other relevant factors. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. For instance, a single instance of rape is sufficiently severe to create a hostile environment.

3. Other conduct defined by federal law:

- (a) Sexual assault
- (b) Dating violence
- (c) Domestic violence
- (d) Stalking

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

### **Independence and Conflict-of-Interest**

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and any related Title IX procedures or guidelines.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case or biased for or against Complainants and/or Respondents, generally.



To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the City High Board President David J. Lehman, Esq. at 412-355-6738. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the City High Board President David J. Lehman, Esq. at 412-355-6738. Reports of misconduct committed by any other Title IX Team member should be reported to the Title IX Coordinator.

### **Notice/Complaints of Sexual Harassment and/or Retaliation**

Notice or complaints of sexual harassment and/or retaliation may be made using any of the following options:

1) File a complaint with, or give verbal notice to, the Title IX Coordinator Dr. Dara Ware Allen, [dwallen@cityhigh.org](mailto:dwallen@cityhigh.org), 412-690-2489, ext 101. A report may be made at any time (including during non-school hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.

[2] Report online, using the reporting form posted at [www.cityhigh.org](http://www.cityhigh.org). Reports may be made anonymously but may result in a need to investigate. City High tries to provide supportive measures to all Complainants, which is often not possible with an anonymous report. Know that reporting carries no obligation to file a Formal Complaint, which would trigger a formal response. City High respects requests from Complainants to dismiss complaints unless there is a compelling threat to health and/or safety, criminal activity, child abuse, and/or the Respondent is an employee.

A Formal Complaint means a document submitted or signed by the Complainant or their parent/guardian or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that City High Schools investigate the allegation(s). The school's formal complaint form can be accessed at [www.cityhigh.org](http://www.cityhigh.org).

A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail or by using the contact information above.

### **Supportive Measures**

City High will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation.

### **Online Sexual Harassment and/or Retaliation**

The policies of City High are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on City High's education program and activities or use of City High's networks, technology, or equipment.



Although City High may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to City High, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the City High community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of City High's control (e.g., not on City High networks, websites, or between City High email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

### **Retaliation**

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. City High will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

City High and any member of City High's community are prohibited from intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, 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 this policy and related procedures and guidelines.

Filing a complaint under another school policy could be considered retaliatory if those charges could be applicable under this policy, when the charges are made for the purpose of interfering with or circumventing any right or privilege provided under this policy that is not provided under the other school/district policy that was used. Therefore, City High vets all complaints carefully to ensure this does not happen, and to assure that complaints are tracked to the appropriate process.

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 this policy and procedure does not constitute



retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

### **Mandated Title IX Reporting**

All City High employees (teachers, staff, administrators) are expected to report actual or suspected sexual harassment or retaliation to appropriate officials immediately. This includes employees who might otherwise be considered confidential resources.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting school resources. In school, some resources may maintain confidentiality and are not required to report actual or suspected sexual harassment or retaliation. They may offer options and resources without any obligation to inform an outside agency or school official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at City High for a Complainant or third-party (including parents/guardians when appropriate):

#### **a. Confidential Resources**

Because all City High employees are required to report actual or suspected sexual harassment or retaliation, any such information a Complainant shares with any City High employee cannot remain confidential.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with a non-City High employee. Following are some confidential community-based resources:

- Employee Assistance Program
- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

All of the above-listed individuals are not City High Schools employees and may maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor, or when required to disclose by law or court order.

#### **b. Mandated Title IX Reporters and Formal Notice/Complaints**

All employees of City High are Mandated Title IX Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.



Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Failure of a Mandated Title IX Reporter to report an incident of sexual harassment or retaliation of which they become aware is a violation of City High policy and can be subject to disciplinary action.

Though this may seem obvious, when a Mandated Title IX Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though City High is technically not on notice when a harasser is also a Mandated Title IX Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Title IX Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

### **When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the school and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether City High proceeds when the Complainant does not wish to do so.

### **Emergency Notifications**

City High may issue emergency notifications for incidents that are reported and pose a serious or continuing threat of bodily harm or danger to members of the school community.

City High will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

These notifications may be issued school-wide or may be limited to those members of the community who are potentially impacted. The Title IX Coordinator will work in conjunction with the appropriate school officials in determining the scope and content of the notification that may be issued.

### **False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.





Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under City High policy.

### **Amnesty for Complainants and Witnesses**

The City High community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to City High officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of City High community that Complainants choose to report misconduct to City High officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, City High maintains a policy of offering parties and witnesses amnesty from minor policy violations related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

In determining whether to offer amnesty, the Title IX Coordinator will consider factors such as: the nature and severity of the policy violation; the age of the individual; the impact on the health and safety of the individual and the school community; and the best interests of the school community.

**Students:** Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to seek assistance.

City High maintains a policy of amnesty for students who offer help to others in need.

### **Recordkeeping**

City High will maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to City High's education program or activity;
4. Any appeal and the result therefrom;



5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. City High will make these training materials publicly available on City High's website.; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to City High's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

City High will also maintain any and all records in accordance with state and federal laws.



## Title IX Grievance Procedures

### Overview

City Charter High School (“City Charter”) will act on any formal or informal notice/complaint of violation of the Title IX Policy that is received by the Title IX Coordinator or any other employee by applying these procedures.

The procedures below apply **only** to qualifying allegations of sexual harassment involving students, staff, administrator, or faculty members.

If a dismissal occurs under these procedures or the allegations fall outside of the jurisdiction of these procedures, as determined by the Title IX Coordinator, the applicable procedures under the Student Handbook or the applicable employee handbook will be used to resolve the complaint.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by these procedures will be addressed through procedures described in the student and employee handbooks.

### **1. Notice/Complaint**

Upon receiving a complaint or notice, the Title IX Coordinator will conduct a prompt initial assessment of the conduct, the Complainant’s desired course of action, and the necessity for any supportive or interim measures to protect the safety of the complainant or community. The goal is to eliminate any hostile environment.

Please note: The Title IX Coordinator is not a confidential source of support. While he/she will address your complaint with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. For confidential resources, please contact confidential community-based resources such as:

- Employee Assistance Program
- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

All of the above-listed individuals are not City Charter employees and may maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials.

Please also note: Making a report is different from filing a formal complaint. Filing a formal complaint initiates the formal disciplinary process at City Charter. Once notice is given, the Title IX Coordinator will



seek to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.

## 2. Initial Inquiry

City Charter will conduct an initial inquiry to determine if the allegations, if true, would rise to the level of a violation of City Charter's policy. The possible next steps include (1) a decision to close the matter when insufficient evidence exists to move forward or because the allegation, even if proven, would not violate City Charter's policy; (2) informal resolution; or (3) formal resolution.

## 3. Informal Resolution

Informal resolution involves a mutual agreement by the parties to resolve the matter. Informal resolution may not be used when formal resolution is desired by a reporting party or where the Title IX Coordinator determines that City Charter needs to proceed with an investigation.

Informal resolution may take place at any time prior to a decision being issued in a hearing or a respondent taking responsibility. The informal resolution process will be conducted by the Title IX Coordinator or a designee. Both the complainant and the respondent have the right to end the informal resolution process at any time. Any informal resolution must be acceptable to the complainant, the respondent and the Title IX Coordinator/designee.

If a resolution is reached, the complainant and respondent shall be notified in writing and the Title IX Coordinator/designee will confer with appropriate parties to memorialize the agreed upon resolution and any consequences for non-compliance in a memorandum. This memorandum will be included in the respondent's student record and maintained by the School. If no agreement is reached within a reasonable time, the Title IX Coordinator/designee shall proceed with the formal grievance process.

## 4. Formal Grievance Process

- a) Dismissal. If the formal grievance process is initiated, the Title IX Coordinator shall determine if the misconduct alleged falls within the scope of Title IX and will initiate a formal investigation. Otherwise, the Title IX Coordinator will dismiss the complaint.
  - i. Reasons for Mandatory Dismissal: City Charter must dismiss a formal complaint or any allegations therein if, at any time during the investigation, it is determined that: (1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or (2) The conduct did not occur in an educational program or activity controlled by City Charter and/or City Charter does not have control of the Respondent; and/or (3) The conduct did not occur against a person in the United States; and/or (4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of City Charter.
  - ii. Reasons for Discretionary Dismissal: City Charter may dismiss a formal complaint or any allegations therein if, at any time during the investigation: (1)



A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint in whole or in part; or (2) The Respondent is no longer enrolled in or employed by City Charter; or (3) Specific circumstances prevent City Charter from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

- Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit City Charter's authority to address a complaint with other school Code of Conduct processes and remedies.
- Upon any dismissal, City Charter will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

iii. Appeal: The dismissal decision is appealable by any party under the appeal procedures below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

b) Counterclaims.

- i. City Charter permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.
- ii. Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.
- iii. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator.
- iv. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

c) Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available. For students, this Advisor can be someone in addition to their parent/guardian who may also be present with them for all meetings, interviews, and hearings within the resolution process.



Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

For addition information, please see ***City Charter’s Guidelines for Advisors.***

d) Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged Title IX policy violations at any point during the process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process shall be paused, and the Title IX Coordinator shall determine whether Informal Resolution (outlined above) may be used. If so, the Title IX Coordinator will determine whether all parties and City Charter are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator will implement the accepted finding that the Respondent is in violation of City Charter’s Title IX policy and will implement agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s) and Board, as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the formal process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions will be promptly implemented in order to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the City Charter community.

e) **Notice of Investigation and Allegations**

The Title IX Coordinator will provide written notice of the investigation and allegations (“NOIA”) to the Respondent upon commencement of the Formal Grievance Process. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

i. The NOIA shall include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that City Charter presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all



directly related and/or relevant evidence obtained during the review and comment period,

- A statement about City Charter’s policy on retaliation,
  - Information about the privacy of the process,
  - Information on the ability of each party to have an Advisor of their choosing,
  - A statement informing the parties that City Charter’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
  - Detail on how the party may request disability accommodations during the resolution process,
  - The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
  - An instruction to preserve any evidence that is directly related to the allegations.
- ii. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of any allegations.
- iii. Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official City Charter records, or emailed to the parties’ City Charter-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

f) Resolution Timeline

City Charter will make a good faith effort to complete the resolution process within thirty to sixty (30-60) business days, including appeal. This time frame can be extended as necessary by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

g) Appointment of Investigator

Once the Title IX Coordinator decides to begin a formal investigation, the Title IX Coordinator will appoint an Investigator to conduct the investigation, usually within two (2) business days determining that an investigation should proceed.

**5. Impartiality**

Any individual materially involved in the administration of the Title IX resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during



the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the President of the Board of Trustees.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

City Charter Schools presumes that the Respondent is not responsible for the reported misconduct unless and until a final determination is made that this Policy has been violated.

#### **6. Referral to a Decision-maker**

If the complaint is not resolved through Informal Resolution, and after an investigation, completion of an investigation report, and the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter to a neutral qualified hearing examiner ("Decision Maker") appointed by the Board of Trustees for the hearing process. A neutral decision maker must be a person who is free from all conflicts of interest or bias for or against complainant or respondent and must receive special training about how to be impartial and how to decide what evidence is relevant.

The hearing process shall have the same due process requirements as suspension or expulsion hearings pursuant to Pennsylvania law, regulations and School policy.

The Title IX Coordinator will select an appropriate Decision-maker depending on whether the Respondent is an employee or a student.

#### **7. Emergency Removal**

City Charter may remove a respondent from the school's education programs or activities on an emergency basis if the respondent poses an immediate threat to anyone's physical health or safety. If the respondent is an employee, the School may place the employee on administrative leave pending the investigation and Decision-maker determination regarding responsibility.

#### **8. Adjudication and Standard of Proof**

The Decision-maker will make a determination whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used.





The Decision-maker cannot make a determination regarding responsibility prior to ten (10) business days from the conclusion of the investigation – when the final investigation report is transmitted to the parties and the Decision-maker—unless all parties and the Decision-maker agree to an expedited timeline.

The Decision-maker will then prepare a written proposed adjudication and deliver it to the Title IX Coordinator.

This proposed adjudication must be submitted to the Title IX Coordinator within two (2) business days after the Decision-maker held their final meeting with the parties/witnesses or concluded the paper evidence exchange/questioning process, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **9. Notice of Outcome**

Using the proposed adjudication, the Decision-maker will work in conjunction with the Title IX Coordinator as needed to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the proposed adjudication, rationale, and any applicable sanction(s) with the Board of Trustees who will take action on the Notice of Outcome after the hearing. The Title IX Coordinator will then share the final Board-approved Notice of Outcome simultaneously with the parties and their Advisors within seven (7) business days of receiving the final Board approval.

Notification to the parties will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official City Charter records, or emailed to the parties' City Charter-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by City Charter from the receipt of the misconduct report to the proposed adjudication, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent City Charter is permitted to share such information under state or federal law; any sanctions issued which City Charter is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to City Charter's educational or employment program or activity, to the extent City Charter is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include the relevant procedures and bases for any available appeal options.

### **10. Sanctions**



Factors to be considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sexual Harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this procedure are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

#### **a. Student Sanctions**

The following are the usual sanctions that may be imposed upon students singly or in combination:

- *Warning*
- *Required Counseling*
- Required substance abuse treatment program
- Exclusion from participating in extra-curricular activities or other school programs/activities
- Alternative placement
- *Suspension; In-school; out-of-school; long-term; short-term; extended, etc.*
- *Expulsion*
- *Other Actions:* In addition to or in place of the above sanctions, City Charter may assign any other sanctions as deemed appropriate.

#### **b. Employee Sanctions/Responsive Actions**

Responsive actions for an employee who has engaged in harassment and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*



- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, City Charter may assign any other responsive actions as deemed appropriate.

### **11. Withdrawal or Resignation While Charges Pending**

- a) *Students:* Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from City Charter, the resolution process ends, as City Charter no longer has disciplinary jurisdiction over the withdrawn student.

However, City Charter will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation.

- b) *Employees:* Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as City Charter no longer has disciplinary jurisdiction over the resigned employee.

However, City Charter will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with City Charter, and the records retained by the Title IX Coordinator will reflect that status. Any state mandates for reporting of this resignation with respect to licensure or certification will be met.

All City Charter responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

### **12. Appeals**

**Any party may file a request for appeal (“Request for Appeal”) in writing to the Title IX Coordinator within seven (7) business days of the delivery of the Notice of Outcome.**



A single Appeal Decision-maker will Chair the appeal. No Decision-maker will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

**a) Grounds for Appeal**

Appeals are limited to the following grounds:

- i. Procedural irregularity that affected the outcome of the matter;
- ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- iii. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

- b) Decision on Appeal:** The Appeal Chair will collect any additional information needed and all documentation regarding the appeal will render a decision in no more than seven (7) business days, barring unusual circumstances. All decisions apply the preponderance of the evidence standard. A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision and rationale on the appeal. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which City Charter is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent City Charter is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' City Charter-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

**c) Sanctions Status During the Appeal**

Any sanctions imposed by the Decision-maker take effect following the appeal process. Supportive measures may remain in effect during an appeal process, subject to the same supportive measure procedures above.



#### d) **Appeal Considerations**

- i. Appeal decisions defer to the original decision, making changes to the determination only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- ii. Appeals are not intended to provide for a full reconsideration of the allegation(s) and evidence. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- iii. The Appeal Chair/Decision-maker(s) may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- iv. Appeals granted based on new evidence should normally be remanded (returned) to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- v. Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). In rare cases where a procedural error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).
- vi. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- vii. In cases in which the appeal results in reinstatement to City Charter or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

#### **13. Long-Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the school community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of school safety escorts



- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by City Charter to the Respondent to ensure no effective denial of educational access.

City Charter will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair City Charter's ability to provide these services.

#### **14. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from City Charter.

#### **15. Disabilities Accommodations in the Resolution Process**

City Charter is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to City Charter's grievance process.

Anyone needing such accommodations or support should contact the Title IX Coordinator.

#### **16. Revision of these Procedures**

These procedures supersede any previous procedures addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. City Charter reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the school website, with the appropriate effective date identified) upon determining that changes to law or regulation require procedural alterations not reflected in these procedures.



If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

These procedures are effective August, 2020.