

ESPERANZA ACADEMY CHARTER SCHOOL

Title IX Policy & Grievance Procedures

Authority

The Board of Trustees (the “Board”) declares it to be the policy of Esperanza Academy Charter School (the “Charter School”) to provide an equal and equitable opportunity for all students to achieve their maximum potential through the programs and activities offered in the schools without discrimination on the basis of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability.

The Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*, protects students from discrimination based on sex in educational programs or activities that receive Federal financial assistance. Title IX states that:

“No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient, which receives Federal financial assistance.”

The Board also declares it to be the policy of this Charter School to comply with federal law and regulations under Title IX prohibiting sexual harassment, which is a form of unlawful discrimination on the basis of sex or sexual orientation. Such discrimination shall be referred to throughout this policy as Title IX sexual harassment. Inquiries regarding the application of Title IX to the Charter School may be referred to the Title IX Coordinator or Assistant Title IX Coordinator(s), to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The Charter School is committed to the maintenance of a safe, positive learning environment for all students that is free from discrimination by providing all students course offerings, counseling, assistance, services, employment, athletics, and extracurricular activities without any form of discrimination, including Title IX sexual harassment. Discrimination is inconsistent with the rights of students and the educational and programmatic goals of the Charter School and is prohibited at or, in the course of, Charter School-sponsored programs or activities, including transportation to or from school or school-sponsored activities.

Violations of this policy, including acts of retaliation as described in this policy, or knowingly providing false information, may result in disciplinary consequences under applicable Board policy and procedures.

Purpose

The purpose of these procedures is to ensure compliance with Title IX's prohibition against sex discrimination by providing a prompt, equitable, and supportive response to individuals who are alleged to have experienced sexual harassment. These procedures are designed to facilitate the timely, thorough, and impartial resolution of allegations of sexual harassment through a predictable and fair grievance process that affords appropriate due process protections to all parties and provides effective remedies where warranted.

These procedures apply exclusively to complaints alleging conduct prohibited by Title IX, including sexual harassment and sexual violence.

To ensure accessibility, these procedures shall be maintained in the administrative office of each school site, posted on the Charter School's website, and included in applicable student handbooks.

This policy reaffirms the commitment of the Charter School to comply with Title IX. This policy covers student on student as well as employee on student sexual harassment.

Definitions

Actual knowledge exists when sexual harassment or allegations of sexual harassment are reported to the Charter School's Title IX Coordinator (identified in Attachment A), any school official authorized to implement corrective measures on behalf of the Charter School, or any employee of the Charter School.

Complainant- A complainant is a student, employee, or other individual participating in or attempting to participate in a Charter School educational program or activity who is alleged to have been subjected to conduct that could constitute sexual harassment.

Respondent shall mean an individual alleged to be the perpetrator of the discriminatory conduct.

Formal Complaint: A formal complaint is a document submitted by a complainant or signed by the Title IX Coordinator or Assistant Title IX Coordinator, alleging Title IX sexual harassment and requesting that the Charter School investigate the allegation through its formal grievance process. If the Title IX Coordinator or Assistant Title IX Coordinator signs a formal complaint, this action does not make them a party to the grievance process. A "document submitted by a complainant" includes a written or electronic filing that contains the complainant's physical or electronic signature or

otherwise indicates that the complainant is the individual submitting the formal complaint. At the time the formal complaint is filed, the complainant must be participating in, or attempting to participate in, a Charter School education program or activity. Formal complaints may be submitted to the Title IX Coordinator in person, by mail, by email, or through any other reporting method designated by the Charter School using the contact information provided in Attachment A. A formal complaint must contain the complainant's physical or electronic signature or otherwise indicate that the complainant is the individual filing the complaint. The form provided in Attachment B may be used to submit a formal complaint but is not required.

Parties-The parties are the complainant(s) and respondent(s) involved in the complaint process.

Harassment is a form of discrimination based on the protected classifications listed in this policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related performance when such conduct is:

1. Sufficiently severe, persistent, or pervasive; and
2. A reasonable person in the complainant's position would find that it creates an intimidating, threatening or abusive educational environment such that it deprives or adversely interferes with or limits an individual or group of the ability to participate in or benefit from the services, activities or opportunities offered by a school.

Day- For purposes of calculating timelines under this policy, a "day" means a business day and excludes Saturdays, Sundays, federal holidays, Pennsylvania state holidays, school holidays, emergency closures, and any day the Charter School is officially closed, unless otherwise specified.

Supportive measures means 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

Sexual violence means physical or sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual may also be unable to give consent due to an intellectual or other disability. Sexual violence includes but is not limited to rape, sexual assault, sexual battery, and sexual coercion.

Application of Title IX

Title IX covers sexual harassment that happens in a school's "education program or activity." This includes locations, events, and circumstances where a school exercises substantial control over the context of the alleged harassment and the person accused of committing the sexual harassment.

For conduct to qualify as Title IX sexual harassment, it must occur within a Charter School education program or activity over which the Charter School has substantial control and must take place against a person in the United States. Title IX applies to both on-campus and off-campus educational programs and activities under the Charter School's authority.

Sexual harassment is a form of sex-based discrimination prohibited under this policy. It includes unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, nonverbal, written, graphic, or physical conduct of a sexual nature when:

- a) Acceptance of or submission to the conduct is made, either explicitly or implicitly, a condition of a student's participation in or access to educational programs, activities, or opportunities;
- b) A student's acceptance or rejection of the conduct is used as a basis for decisions affecting their educational status, opportunities, or benefits;
- c) The conduct results in the denial of educational aid, benefits, services, or opportunities to a student or group of students; and/or
- d) The conduct is so severe, persistent, or pervasive that a reasonable person in the complainant's position would find it creates an intimidating, hostile, or offensive educational environment, or otherwise unreasonably interferes with the student's ability to participate in or benefit from school programs or activities.

Title IX Sexual Harassment **refers to conduct based on sex** that includes one or more of the following:

- Quid pro quo harassment – when a Charter School employee conditions an educational aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
- Hostile environment harassment – unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a Charter School educational program or activity.
- Federal law declares sexual violence a form of sexual harassment.
- Sexual violence and related offenses, including:
 - Sexual assault – as defined in 20 U.S.C. 1092(f)(6)(A)(v) "dating violence," as defined in 34 U.S.C. 12291(a)(10) "domestic violence," as defined in 34

U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30) includes any forcible or nonforcible sex offense recognized under state or federal law.

- Dating violence – violence committed by a current or former romantic or intimate partner.
- Domestic violence – violence committed by a current or former spouse, intimate partner, co-parent, cohabitant, or other person protected under domestic violence laws.

Title IX prohibits the following conduct on the basis of sex that satisfies one or more of the following:

- a) 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 activity.
- b) School employee conditioning educational benefits on participation in unwelcome sexual conduct, otherwise known as “Quid pro Quo” harassment

Charter School’s Response to Allegations/Knowledge of Sexual Harassment

Once the Charter School has actual knowledge of sexual harassment or allegations of sexual harassment occurring within its education program or activity, it must take prompt and appropriate action. An “education program or activity” includes any location, event, or circumstance over which the Charter School exercised substantial control over both the respondent(s) and the context in which the alleged sexual harassment occurred.

The Charter School is considered to have “actual knowledge” when it receives notice that an individual may have experienced sexual harassment. A report may be made by the alleged victim or by any other person, including a parent, friend, bystander, or witness. Notice provided to any Charter School employee constitutes actual knowledge on the part of the Charter School. In addition, actual knowledge may exist when Charter School personnel personally observe conduct that may constitute sexual harassment.

When responding to reports or complaints of sexual harassment, the Charter School may not act with deliberate indifference. In other words, its response must not be clearly unreasonable in light of the known circumstances.

Upon receiving a report or complaint of sexual harassment, the Title IX Coordinator must respond promptly and inform the complainant of:

- a) The availability of supportive measures;
- b) The right to file a formal complaint; and
- c) The process for filing a formal complaint.

Title IX Coordinator

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board shall designate the CEO or a designee as the Charter School's Title IX Coordinator.

Per Title IX federal funding mandates, the Charter School's designated Title IX Coordinator **duties include:**

- (a) receiving reports from victims and third parties of sexual discrimination or sexual harassment in person or by mail, telephone, email, or any other means that results in the Title IX Coordinator receiving the report at any time, including non-business hours;
- (b) oversee mandated (seven-year) recordkeeping regarding investigations, appeals, informal resolutions, and training for Coordinator, investigators and decision-makers on the definition of sexual harassment in the Final Rule, the application of the Title IX policy, how to make relevancy determinations (including how to apply rape shield protections for complainants), the Charter School's education program or activity, and the grievance process, including how to conduct investigations, hearings (including technology for live hearings), appeals, informal resolution processes, how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- (c) maintaining current contact information in Charter School's nondiscrimination notices and website;
- (d) ensuring Charter School is compliant with Title IX, coordinating the investigation and disciplinary process and looking for patterns or systematic problems with compliance to ensure Charter School fulfills federal obligations;
- (e) signing formal complaints alleging sexual harassment;
- (f) receiving notice of sexual harassment or allegations of sexual harassment (or authorized Charter School representative authorized to institute corrective measures), triggering actual knowledge designation;
- (g) upon receipt of a complaint, providing prompt info to complainants about availability of supportive measures, the right to file a complaint and how to file a complaint and consideration of complainant's wishes regarding supportive measures;
- (h) ensuring the Charter School grievance process and the Title IX Coordinator, investigator, decision-maker, and facilitator of an informal resolution process is free of conflicts of interest or bias against a party;
- (i) dismissing a complaint
 - i. when complainant provides written notice to the Title IX Coordinator to do so;
 - ii. when allegations do not constitute sexual harassment;

- iii. if the allegations did not occur in the Charter School's educational program or activity;
- iv. if the allegations did not occur in the United States;
- v. if respondent is no longer enrolled or employed by the Charter School; or
- vi. when specific circumstances prevent the gathering of evidence sufficient to reach a determination;
- (j) coordinating Charter School efforts to comply with Title IX; and
- (k) respecting a complainant's wishes regarding whether the Charter School investigates, unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

The Charter School's Title IX Coordinator's **duties do not include:**

- (a) the ability to be named the decision-maker tasked with issuing a written determination regarding responsibility with findings of fact, conclusion 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 (Title IX Coordinator or the investigator cannot be named decision-maker);
- (b) the ability to be named as the decision-maker on any appeal (cannot be the same person as the initial decision-maker on the formal complaint, the investigator, or the Title IX Coordinator);
- (c) any other job responsibility that creates a conflict of interest with responsibilities under Title IX;
- (d) becoming a complainant or a party during the grievance process upon the signing of a formal complaint; and
- (e) a requirement that the Title IX Coordinator file a formal complaint any time the Charter School receives notice of multiple reports against a particular respondent and corresponding safe harbor.

Supportive Measures

Supportive measures are free individualized, non-disciplinary, and non-punitive services offered, as appropriate and reasonably available, without charge to either the complainant or respondent. Such measures may be provided before or after a formal complaint is filed, or when no formal complaint has been filed.

Supportive measures are designed to restore or preserve equal access to the Charter School's educational programs and activities, protect the safety of all parties, maintain a safe educational environment, and deter sexual harassment without unreasonably burdening either party.

Supportive measures are intended to support a student and are not punitive or disciplinary with respect to another student. These measures do not unreasonably burden any other person. Each student, the complainant and respondent, must have equal access to education prior to any determination of responsibility.

Examples of supportive measures include:

- a) Counseling services;
- b) Academic accommodations, course-related adjustments, or deadline extensions;
- c) Modifications to class, work, or activity schedules;
- d) Escort services on Charter School property;
- e) Mutual restrictions on contact between parties;
- f) Changes in classroom, work, transportation, or activity assignments;
- g) Leaves of absence;
- h) Increased supervision, security, or monitoring of certain locations; and
- i) Other similar supportive services deemed appropriate by the Charter School.

Supportive measures may also include assessments or evaluations to determine eligibility for special education or related services, or the need to review an Individualized Education Program (IEP) or Section 504 Service Agreement based on a student's behavior. This could include, but is not limited to, a manifestation determination or functional behavioral assessment (FBA), in accordance with applicable law, regulations or Board policy.

The Title IX Coordinator is responsible for implementing these supportive measures and must consider the alleged victim's wishes when it comes to requests for supportive measures. Generally, these measures must remain confidential.

The Charter School shall maintain the confidentiality of supportive measures to the extent possible, provided that doing so does not impair its ability to implement such measures effectively. The Title IX Coordinator is responsible for coordinating the implementation of supportive measures.

Grievance Procedures

Procedures outlining the Title IX Grievance Process that are consistent with this policy and final rules from the United States Department of Education are attached to this policy.

The Charter School will follow a grievance process that complies with the Final Rule before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

The Charter 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.

The Charter School will investigate sexual harassment allegations in any formal complaint, which can be filed by a complainant, or signed by a Title IX Coordinator.

The Charter School's grievance process shall:

1. Ensure Equitable Treatment

Treat complainants and respondents fairly and equitably throughout the grievance process. When a respondent is determined to be responsible for sexual harassment, the Charter School shall provide remedies to the complainant that are designed to restore or preserve equal access to the Charter School's educational programs and activities. Remedies may include supportive measures but are not required to be non-disciplinary, non-punitive, or without impact on the respondent.

2. Conduct an Objective Evaluation of Evidence

Require an impartial and objective evaluation of all relevant evidence, including evidence that supports or does not support the allegations. Credibility determinations shall not be based on an individual's status as a complainant, respondent, or witness.

3. Ensure Impartiality and Appropriate Training

Require that the Title IX Coordinator, investigators, decision-makers, and any individual facilitating an informal resolution process be free from conflicts of interest and bias for or against complainants or respondents generally or any specific party. The Charter School shall provide appropriate training to these individuals regarding Title IX requirements, the definition of sexual harassment, the scope of the Charter School's education programs and activities, investigation and grievance procedures, hearings and appeals when applicable, informal resolution processes, relevance of evidence, and the obligation to serve impartially. Training materials shall not rely on sex stereotypes and shall promote fair and unbiased investigations and decision-making.

4. Presume Non-Responsibility

Include a presumption that the respondent is not responsible for the alleged conduct unless and until a determination of responsibility is made at the conclusion of the grievance process.

5. Provide Prompt Resolution

Establish reasonably prompt timeframes for the completion of investigations, grievance proceedings, appeals, and informal resolution processes, when offered. The Charter School may allow temporary delays or limited extensions for good cause, provided written notice is given to both parties explaining the reason for the delay or extension. Good cause may include the absence of a party, advisor, or witness; concurrent law enforcement activity; the need for language assistance; or the need to provide disability-related accommodations.

6. Identify Possible Sanctions and Remedies

Describe the range of disciplinary sanctions and remedies that may be imposed following a determination that a respondent is responsible for violating this policy.

7. Apply a Consistent Standard of Evidence

Specify the standard of evidence used to determine responsibility and apply that standard consistently to all formal complaints of sexual harassment involving students, employees, and other members of the Charter School community, as applicable.

8. Provide Appeal Rights

Include procedures and permissible grounds for appeal available to both complainants and respondents.

9. Describe Supportive Measures

Identify and describe the supportive measures available to complainants and respondents, regardless of whether a formal complaint is filed.

10. Protecting Legally Privileged Information

Not require, permit, rely upon, or otherwise use questions or evidence that seek disclosure of information protected by a legally recognized privilege unless the individual holding the privilege has voluntarily waived that privilege.

Additional Mandates for Addressing Grievances

It is the policy of the Charter School during the grievance process to treat complainants and respondents equitably. That includes providing remedies to a

complainant if a respondent is found responsible, and by following these policies in imposing discipline on the respondent.

The Title IX Coordinator shall be capable of conducting a thorough and complete investigation and shall seek advice and assistance from the Board of Trustees if the Title IX Coordinator believes that he or she lacks the capacity to conduct a thorough and complete investigation of the alleged misconduct, so long as it does not create a conflict of interest or bias in the appeals process. If the Title IX Coordinator or the CEO is the one accused of sexual harassment, or the Title IX Coordinator has bias or a conflict of interest, the Board will appoint a qualified individual who is not employed by the Charter School to conduct the investigation.

If the Title IX Coordinator submits the complaint, the Title IX Coordinator must recuse him/herself from the investigation and allow the Board to appoint a qualified individual who is not employed by the Charter School to conduct the investigation.

Once the Title IX Coordinator completes the investigatory report, the case will be turned over to a neutral decision maker for the hearing process. A neutral decision maker must be a person(s) who is free from all conflicts of interest or bias for or against complainants or respondents and must receive special training about how to be impartial and how to decide what evidence is relevant.

A school can remove a respondent from the Charter school's educational 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 Charter school may place the employee on administrative leave pending the investigation.

No one will be forced, threatened, coerced, or discriminated against for choosing not to be a part of this grievance process.

Both complainant and respondent have equal rights throughout the entire investigation and hearing process, including, but not limited to, the opportunity to present witnesses and evidence, including expert witnesses, as well as inculpatory and exculpatory evidence. The Charter School will further comply with all disability laws to ensure that all participants are appropriately accommodated.

Publishing Requirements of this Policy

The Charter School will disseminate a notice of nondiscrimination, which the U.S. Department of Education recommends should specify that sexual harassment and violence are prohibited. Such notice shall appear in the Charter School's student handbook and/or code of conduct, on the Charter School's website, and be available in

print on campus so that school members may understand its purpose and utility. The policy will include enough detail so that members of the community realize that sexual harassment and sexual violence are prohibited forms of sex discrimination.

The Charter School will adopt and publish a grievance procedure outlining the complaint, investigation, and disciplinary process for addressing sex discrimination, sexual harassment, and sexual violence occurring within its educational programs. This process should address discrimination perpetrated by students, employees, and third parties. Additionally, school security and/or law enforcement personnel must notify victims of their rights to use the Charter School's grievance procedure in addition to being able to file a criminal complaint.

This grievance procedure requires the Charter school's process be "prompt and equitable," meaning it must be a timely response to discrimination and provide both parties equivalent rights during the disciplinary process rather than having one-sided due process. For example, if the accused student is given a right to have an attorney present, so may the complainant student.

While sexual misconduct complaints may be resolved through informal mechanisms, such as mediation, students are not required to use informal methods of grievance resolution and should not be pressured into such a process.

The Charter School will provide educational and awareness programming on sexual harassment and discrimination. The Charter School must address hostile educational environments created by sex discrimination, sexual harassment, and sexual violence school-wide. Addressing a hostile environment means remedying a current situation, addressing its effects, and preventing its recurrence in the future.

The Charter School will maintain and make publicly available on its website all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process (or make the materials available in response to a request from the public if it does not maintain a website).

The Charter School shall designate an individual as its Title IX Coordinator and publish the Coordinator's name, title, office address, email address, and phone number on its website, notifying applicants for admission or employment, students, parents, legal guardians, employees, and unions of this designation. Designating one employee as the Title IX Coordinator ensures that students and employees know that notifying the Title IX Coordinator triggers the Charter School's legal obligations to respond to sexual harassment under the regulations. The Charter School may have more than one Title IX Coordinator, should it choose to do so.

Training

Title IX mandates that Charter School employees that address sexual violence complaints have appropriate training. The U.S. Department of Education (ED) recommends that teachers, campus security, administrators, counselors, nurses, cleaning staff, coaches, and others likely to receive reports be trained on how to identify and report sexual harassment and violence.

Per the Department of Education, the Charter School will ensure that responsible employees with the authority, including the Title IX Coordinator, are trained to address sexual violence and know how to respond appropriately to reports of sexual violence; and includes the following training, as required or appropriate to their specific role:

- a) The applicable definition of sexual harassment;
- b) The scope of the Charter School's education program or activity, as it pertains to what is subject to Title IX regulations.
- c) How to conduct an investigation and grievance process for formal complaints, including examination of evidence, drafting written determinations, handling appeals and informal resolution processes, as applicable.
- d) How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias.
- e) Use of relevant technology.
- f) Issues of relevance including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- g) Issues of relevance, weight of evidence and application of standard of proof and drafting investigative reports that fairly summarize relevant evidence.
- h) How to address complaints when the alleged conduct does not qualify as Title IX sexual harassment but could be addressed under another complaint process or Board policy.

The Charter School will ensure that counselors and advocates understand the extent to which they may and will keep a report confidential.

The Charter School will provide training to all employees likely to witness or receive reports of sexual violence, including teachers, campus security, school administrators, school counselors, general counsels, athletic coaches, and nurses.

The Charter School will train responsible employees to inform students of:

- 1) The reporting obligations of responsible employees, including the obligation to report sexual violence to appropriate school officials;

- 2) Students' option to request confidentiality and available confidential advocacy, counseling, or other support services; and
- 3) Their right to file a Title IX complaint with the Charter School and to report a crime to campus security or local law enforcement.

The Charter School shall maintain and make publicly available on its website all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process (or available in response to a request from the public if it does not maintain a website).

All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes. Additionally, the Charter School will ensure that staff members can provide culturally competent counseling to all complainants. It will ensure that its counselors and other staff who are responsible for receiving and responding to complaints of sexual violence, including investigators and hearing board members, receive appropriate training about working with Lesbian/Gay/Bi- sexual/Transgender and gender-nonconforming students and same-sex sexual violence while remaining compliant with federal and state law.

The Charter School will also ensure that any reporting forms, information, or training about sexual violence be provided in a manner that is accessible to students and employees with disabilities, for example, by providing electronically-accessible versions of paper forms to individuals with print disabilities, or by providing a sign language interpreter to a deaf individual attending a training.

To ensure that students understand their rights under the laws cited herein, the Charter School will provide age-appropriate training to its students regarding Title IX and sexual violence. Training may be provided separately or as part of the Charter School's broader training on sex discrimination and sexual harassment.

The Charter School may include these education programs in its orientation programs for new students, faculty, staff, and employees, training for student athletes and coaches, and assemblies and "back to school nights." These programs will include a discussion of what constitutes sexual harassment and sexual violence, the Charter School's policies and disciplinary procedures, and the consequences of violating these policies.

The Charter School also will include such information in their employee handbook and any handbooks that student athletes and members of student activity groups receive. These materials will include where and to whom students should go if they are victims of sexual violence. These materials also will tell students and Charter School employees what to do if they learn of an incident of sexual violence

Other Reporting Requirements in Compliance with Local and State Laws

If the complaint involves sexual assault, rape or conduct of a criminal nature, the local Police Department shall be contacted and a report of the incident made by the Charter School, in accordance with applicable laws. A report must also be made by the mandatory reporter to ChildLine and the Department of Public Welfare in accordance with the Charter School's Board approved Mandatory Reporter Policy. If there is any question of whether the conduct complained of constituted criminal activity, the Charter School's Board Solicitor should be contacted immediately. Knowledge of a law enforcement investigation does not relieve the Charter School of its independent obligation to investigate and report the misconduct.

Documents regarding substantiated charges of sexual harassment shall be placed in the accused student's file. Documents regarding unsubstantiated charges shall not be placed in student files but shall be maintained by the Board of Trustees in a confidential file established expressly for retaining Title IX complaints against students. These documents will be stored in compliance with the School's recordkeeping requirements under Title IX.

Retaliation

Retaliation means charging an individual with code of conduct violations that do not involve sexual harassment but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.

The Charter School will keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to conduct a Title IX proceeding.

Complaints alleging retaliation may be filed according to the Charter school's prompt and equitable grievance procedures. 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 Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility alone, is not sufficient to conclude that any party made a bad faith materially false statement.

Conclusion

THIS POLICY IS INTENDED AT ALL TIMES TO CONFORM WITH THE MOST CURRENT TITLE IX REGULATIONS, FEDERAL, AND STATE LAW. ANY FUTURE REVISIONS OR CHANGES FROM THE DATE OF THE ADOPTION OF THIS POLICY THAT RENDER IT NONCOMPLIANT SHALL BE DEEMED INCORPORATED INTO THE POLICY UNTIL SUCH TIME THAT THE SCHOOL FORMALLY ADOPTS A REVISED WRITTEN POLICY.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

IF ANY SECTION OF THIS POLICY IS DECLARED INVALID, THE REMAINING SECTIONS SHALL REMAIN VALID AND UNAFFECTED.

ADOPTED this _____ day of _____, 2026.

President

Secretary

ESPERANZA ACADEMY CHARTER SCHOOL

Title IX Complaint Grievance Procedures

When a formal title IX complaint is filed, the Esperanza Academy Charter School (the “Charter School”) student may seek either an informal or formal resolution of his or her complaint. A formal complaint is an official document alleging sexual harassment. Formal complaints shall be taken in writing by the Title IX Coordinator and signed by the complainant. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail at the Title IX Coordinator’s posted contact information on the Charter School’s website. In cases where an alleged victim does not file a formal complaint, a Title IX Coordinator may file a complaint and initiate grievance procedures where appropriate.

A. Informal Complaint

When a Title IX Coordinator receives a formal complaint, the Title IX Coordinator may offer an informal resolution process. An informal resolution process is only appropriate if each party enters the process voluntarily and the respondent is a student. The Charter School will not force, threaten, or require any party, complainant, or respondent, into participating in informal resolution.

The Charter School will provide a facilitator to oversee the informal resolution process, who is free from conflicts of interest or bias, and who has received special training.

The Charter School will provide both complainants and respondents with notice of the allegations, notice of their rights, information about whether an informal process is confidential, and about withdrawing from the process.

Any party, at any time prior to agreeing to a resolution, can decide to stop participating in an informal resolution process and instead go to a formal grievance procedure process.

The Charter School may 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 an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Nor can the Charter School require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the Charter School may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the Charter School implements the following:

- a) Provided the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances that would preclude the parties from resuming a formal complaint arising from the same allegations;
- b) Each party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- c) Obtains the parties' voluntary, written consent to the informal resolution process; and
- d) Does not offer or facilitate an informal resolution process to resolve allegations that a Charter School employee or contractor sexually harassed a student.

B. Formal Complaint

Upon receipt of the complaint, the Title IX Coordinator must provide the parties with written notice including the names of the parties, the date and location of the alleged misconduct, and a description of the alleged misconduct. The notice must further:

- a. Provide the allegations and facts that would constitute sexual harassment;
- b. State the presumption of innocence;
- c. A statement that the parties are entitled to an advisor of their choice;
- d. A statement that the parties can request to inspect and review certain evidence;
- e. Provide information regarding the Charter School's Code of Conduct and penalties for false statements; and
- f. If additional allegations become known, notice must be supplemented.

When a formal grievance procedure is elected, a thorough and complete investigation shall be conducted by the Title IX Coordinator. This investigation shall determine:

- a. whether or not the conduct occurred;
- b. whether the conduct constitutes a violation of this policy; and
- c. if the conduct was a violation, what actions the Charter School will take to end the violation.

To the extent possible and allowed by law, confidentiality shall be maintained within the confines of the investigation of the alleged prohibited behavior. All parties will be treated equitably with dignity and due process. The Charter School is not allowed to access a party's personal records if they are maintained by a physician, psychiatrist, psychologist, or other professional for the purpose of treatment to the party, without consent.

C. Dismissals

The Charter School **is mandated to** dismiss a complaint:

- a) That does not describe conduct that meets the definition of sexual harassment;
- b) That alleges sexual harassment that did not occur in the Charter school's educational program or activity; and/or
- c) That alleges sexual harassment that did not occur in the United States.

The Charter School **is permitted to** dismiss a complaint:

- a) If the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or some of its allegations;
- b) If the respondent is no longer enrolled or employed by the Charter School;
- c) If specific circumstances prevent the Charter school from gathering specific evidence sufficient to reach a determination about the allegation.

The Charter School **is prohibited from** dismissing a complaint:

- a) The alleged conduct meets the definition **of** sexual harassment or sex-based misconduct;
- b) The incident happened in a Charter School education program or activity (this includes classrooms, extracurricular activities, school-sponsored trips);
- c) The alleged event occurred against a person physically located in the United States; and
- d) The Title IX Coordinator received and signed a valid formal complaint.

When the Charter School dismisses a formal complaint, or any allegations in it, the Charter School must promptly send written notice of the dismissal to the parties. That notice must also clearly state the reasons. The Charter School can still address dismissed Title IX complaints under the Student Code of Conduct, even if the misconduct is not sexual harassment under Title IX.

D. Conducting Investigations

For each formal complaint investigation:

1. The Title IX Coordinator receiving a complaint, including a Title IX complaint, shall take the details of the complaint in writing and have the complainant sign it. All Title IX complaints against a student shall be received, investigated, and disposed of in accordance with the procedures set forth in this Policy;
2. The Charter School bears the responsibility for gathering sufficient evidence and proving whether a policy violation occurred. This responsibility does not rest with the parties involved. The Charter School may not access, consider, disclose, or use

treatment records maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional in connection with providing treatment, unless the Charter School obtains the party's voluntary written consent. If the party is under 18 years of age, voluntary written consent must be obtained from the party's parent, guardian, surrogate parent, or guardian ad litem;

3. No information protected by a legal privilege, such as the attorney-client privilege, or the doctor- patient privilege, can be used during an investigation unless the person holding that privilege has waived it;
4. During the investigation, the Respondent shall be presumed not responsible.
5. The Title IX Coordinator shall meet with every complainant and respondent. The complainant may have his or her Parent(s) present during any such meeting. The respondent, if he or she is a student, shall also have the right to have his or her parent(s) present at any meetings with the Title IX Coordinator, as well.
6. All parties shall be provided an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
7. The Charter School shall not limit the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
8. The Charter School shall provide written notice of the date, time, location, participants, and purpose of all interviews, or other meetings, with sufficient time for the party to prepare;
9. The Title IX Coordinator will conduct an adequate, reliable, and impartial investigation of complaint(s), which includes interviewing and obtaining statements from any witnesses of both the complainant and alleged perpetrator, and the review of all evidence presented. Parties will be provided updates until a determination is made in writing.
10. Each party shall be provided the same opportunities to have their chosen guest present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the Charter School may establish restrictions regarding the extent to which the advisor may participate in the proceedings, provided that the restrictions apply equally to both parties;
11. Both parties shall be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the Charter School will not rely upon in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation;
12. After gathering evidence, the Charter School must prepare an investigative report on the allegations of the formal complaint. The report, along with physical evidence (including written witness statements), must be provided to the parties.

The Charter School will give each party ten (10) days to respond to the evidence in writing. The Charter School will review and consider the response of any party before making a final determination. After allowing time for a response, the Charter School will then finalize the report and submit it to the parties at least ten (10) days prior to any determination of responsibility or a hearing.

13. The Charter School must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

E. Hearings/Final Determination of Responsibility

A hearing may be conducted if the decision-maker(s) determines it is appropriate. The Charter School has the option to hold a live hearing or provide an opportunity for parties to submit questions and answers, after which a Final Determination of Responsibility will be provided. Whether an optional hearing is held is at the School's sole discretion.

Regardless of whether a hearing takes place, once the investigative report has been provided to both parties, each party must have the chance to submit relevant written questions for parties or witnesses before a responsibility determination is made. The answers must be shared with both parties, who may also ask a limited number of follow-up questions.

Information or questions regarding the complainant's sexual behavior or sexual predisposition are generally inadmissible unless they are intended to demonstrate that someone other than the respondent committed the alleged misconduct, or they relate to specific prior sexual interactions between the complainant and the respondent and are offered as evidence of consent. Any decision to exclude a question as irrelevant must be explained by the decision-maker(s) to the party who proposed it.

Live Hearings. If a live hearing is held, the complainant can request that he/she be in a separate room from the respondent, with technology allowing everyone to see/hear each other. A court reporter will be present at a live hearing, and a transcript will be provided to all parties at the conclusion of the hearing. The Charter School shall provide written notice of the date, time, location, participants, and purpose of the hearing, with sufficient time for the party to prepare.

If a live hearing is held, the Charter School must provide each party with an advisor, of the Charter school's own choosing, free of charge, solely for the purpose of conducting cross examination on that party's behalf. **No party is ever permitted to personally cross examine anyone.** Live cross examination must only be done through an attorney or advisor provided by the Charter School.

Determinations without a Live Hearing. In the absence of a live hearing, the Charter School will provide the parties equal opportunity to submit relevant, written questions

to each other, before the Charter School reaches a determination of responsibility. If a party refuses to answer any questions, the party must state the reasons why.

Questions and evidence about the complainant's prior sexual history are not relevant, except:

- a) Where such information is offered to prove that someone other than the respondent committed sexual harassment; and/or
- b) Where it relates to sexual behavior between the complainant and respondent and if offered to prove consent.

A neutral decision maker, who did not prepare the investigatory report, will preside over the optional hearing or review the submitted questions and responses and make the final determination of responsibility.

If a party or witness chooses not to appear at a live hearing, or not to answer cross examination questions, the decision-maker excludes that party or witness's statements and evaluates any evidence that does not include those statements.

The neutral decision maker will not make inferences about the determination regarding responsibility based on the fact that a party or witness did not come to the hearing or submit answers to cross examination.

The neutral decision maker will make a determination on whether the respondent is responsible within sixty (60) days of the receipt of a complaint unless good cause is shown. Good cause can include law enforcement activities, the absence of a party or witness, the absence of a party's advisor of choice, or the need to provide language assistance or accommodation of a disability.

The complaint will be decided using a preponderance of the evidence standard (*i.e.*, it is more likely than not that sexual harassment or violence occurred).

Outcome. The determination will be in writing, and shall include:

- a) The Charter School Policies that were violated;
- b) Identification of the allegations potentially constituting sexual harassment;
- c) A description of the procedural steps that were taken by the Charter School, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- d) The standard of proof applied in the determination;
- e) A findings of fact section supporting the determination;

- f) A section that draws conclusions after applying the facts to the applicable portions of the Charter school's policies
- g) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Charter School imposes on the respondent, and whether remedies designed to restore or preserve equal access to the Charter School's education program or activity will be provided by the Charter School to the complainant;
- h) Disciplinary sanctions that the Charter School will impose on the respondent;
- i) Possible remedies for the complainant (see supportive measures above); and
- j) The right and procedure for each party to file an appeal.

The written determination will be provided to both parties simultaneously.

The Title IX Coordinator is responsible for effective implementation of any remedies.

Both parties have ten (10) calendar days to file an appeal.

Discipline for a respondent found responsible for sexual harassment can include but not be limited to in-school suspension, out-of-school suspension, or expulsion. If the Title IX Coordinator or the CEO believes that expulsion against an accused student may be appropriate, then a formal hearing shall be held pursuant to the Pennsylvania Code of Regulations, 22 Pa.Code §12.6 and §12.8. The formal disciplinary procedures contained in the Charter School's Code of Conduct shall be followed for such hearings to ensure due process protection for the respondent.

Even though FERPA limits disclosure of certain information in disciplinary proceedings, the Charter School will disclose information to the complainant about the sanction imposed on the perpetrator when the sanction directly relates to the complainant. This could include an order that the perpetrator stay away from the complainant, or that the perpetrator is prohibited from attending the Charter School for a period of time or is transferred to other homeroom/classes in the Charter School building.

The Title IX Coordinator is responsible for conducting the remedies contained in the written decision.

F. Appeals

Both parties will have equal opportunities to submit a written statement supporting or challenging the outcome to the Board of Trustees or neutral hearing officer. Permissible reasons for appeal include:

- a) Procedural issues that affected the outcome of the matter;
- b) 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;
- c) 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 individual complainant or respondent that affected the outcome of the matter; and/or
- d) additional grounds deemed appropriate and/or necessary and offered equally to both parties.

Appeals can be raised by either party:

- a) After a dismissal before the grievance process, whether mandatory or discretionary; or
- b) At the end of the grievance process.

Appeals will be referred to the Charter School Board of Trustees unless the Board has or is scheduled to preside over a formal disciplinary hearing pursuant to 22 Pa.Code §12.6 and §12.8. In those cases, the Charter School Board of Trustees will appoint a neutral hearing officer to hear appeals of a determination of responsibility who is:

- a) not an employee of the Charter school;
- b) not the investigator of the complaint; and
- c) not the neutral decision-maker who made the initial determination.

If *any* party appeals, the Charter School shall:

- a) Provide written notification to the other party when an appeal is filed and implement appeal procedures equally for both parties
- b) Ensure that the decision maker(s) for the appeal complies with this section;
- c) Provide both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- d) Prepare a written decision describing the result of the appeal and the rationale for the result; and
- e) Provide the written decision simultaneously to both parties.

After considering the parties' written statements, the Board of Trustees or neutral hearing officer must issue a written decision and send it to the parties simultaneously. This decision is final.

THIS PROCEDURE IS INTENDED AT ALL TIMES TO CONFORM WITH THE MOST CURRENT TITLE IX REGULATIONS, FEDERAL, AND STATE LAW. ANY

FUTURE REVISIONS OR CHANGES FROM THE DATE OF THE ADOPTION OF THIS PROCEDURE THAT RENDER IT NONCOMPLIANT SHALL BE DEEMED INCORPORATED INTO THE PROCEDURE UNTIL SUCH TIME THAT THE SCHOOL FORMALLY ADOPTS A REVISED WRITTEN PROCEDURE.

TO THE EXTENT THAT ANYTHING IN THIS PROCEDURE COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

IF ANY SECTION OF THIS PROCEDURE IS DECLARED INVALID, THE REMAINING SECTIONS SHALL REMAIN VALID AND UNAFFECTED.

ADOPTED this _____ day of _____, 2026.

President

Secretary