

# Title IX Sex-based Discrimination

Adopted: 7/21/20

Revised:

Version: 1

## A. Purpose

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. Title IX protects students, employees, applicants for admission, and applicants for employment from all forms of sex discrimination, including discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity. All students (as well as other persons) at schools are protected by Title IX—regardless of their sex, sexual orientation, gender identity, part- or full-time status, disability, race, or national origin—in all aspects of WCS’s educational programs and activities.

## B. Definitions

**Actual Knowledge:** means notice of sexual harassment or allegations of sexual harassment to WCS’s Title IX Coordinator or to any employee of WCS.

**Complainant:** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**Respondent:** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**Formal complaint:** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that WCS investigate the allegation of sexual harassment. A formal complaint should include: Name and telephone number of the individual making the report; the factual allegations that would constitute sexual harassment; the name of the person against whom the complaint is made; and the names of any witnesses.

**Sexual Harassment:** means conduct on the basis of sex that satisfies one or more of the following:

- (i) A school employee conditioning education aids, benefits, or services on participation in unwelcome sexual conduct (i.e., quid pro quo); or
- (ii) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- (iii) Sexual assault (as defined in the Clery Act to mean an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation); or
- (iv) Dating violence (as defined in the Violence Against Women Act to mean violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim); or

(v) Domestic violence (as defined in the Violence Against Women Act to mean a felony or misdemeanor crime of violence under Utah state law committed by a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, or by a person who is or has cohabitated with the victim); or

(vi) Stalking (as defined in the Violence Against Women Act to mean engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress ).

Supportive measures: means nondisciplinary, non-punitive individualized services offered without fee or charge to the complainant or the respondent, designed to restore or preserve equal access to WCS's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or WCS's educational environment, or deter sexual harassment. Supportive measures may include, for example, counseling, extensions of deadlines or other course-related adjustments, or modifications of work or class schedules.

### **C. Title IX Coordinator**

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim) to the Title IX Coordinator. Any WCS employee who has actual knowledge of sexual harassment must report it to the Title IX Coordinator. Reports can be made in person, by mail, by telephone, or by email. The Title IX Coordinator can be reached at:

Heather Campbell, Student Support Director

[hcampbell@wasatchwaldorf.org](mailto:hcampbell@wasatchwaldorf.org)

801-871-3950

Wasatch Charter School

1458 East Murray-Holladay Road

Holladay, UT 84117

### **D. Complaints**

Upon receipt of a complaint of sexual harassment (whether formal or informal), the Title IX Coordinator shall:

promptly contact the complainant to discuss the availability of supportive measures;

consider the complainant's wishes with respect to supportive measures;

inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and

explain to the complainant the process for filing a formal complaint.

In addition, upon receipt of a formal complaint of sexual harassment, the Title IX Coordinator shall provide all parties (complainant and respondent) with the following:

written notice of the grievance process set forth in this policy;

written notice of the allegations of sexual harassment, including the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;

a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;

notice to the parties that they may have an advisor of their choice for the grievance process, who may be, but is not required to be, an attorney; and

notice to the parties of their right to inspect and review evidence.

## **E. Grievance Procedures**

Wasatch Charter School will initiate a grievance process in response to formal complaints of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in a WCS education program or activity. his grievance process is intended to ensure students and employees are treated fairly and receive prompt responses to complaints of sexual harassment. The Title IX Coordinator is available to assist with this process, which can be used without fear of retaliation.

### **a. Informal Resolution**

WCS offers a mediation process modeled off of the No Blame Meeting and moderated by a neutral party to attempt to informally resolve complaints of sexual harassment when appropriate. In no event is informal resolution available for formal complaints of sexual harassment of a student by a teacher or WCS employee. In order to participate in informal resolution, both the complainant and respondent must voluntarily agree to participate. Any party has the right to withdraw from the informal resolution process at any time and resume the grievance process with respect to the formal complaint.

This informal resolution should take place within 10 business days of the receipt of the formal complaint whenever possible.

If informal resolution is not possible or appropriate, or if the parties do not reach a resolution, the Title IX Coordinator will initiate the grievance process for the investigation and resolution of formal complaints.

### **b. Interim Measures**

WCS may offer supportive measures (i.e. schedule changes and or chaperones) for both the complainant and respondent during the investigation period so each party can continue with his and or her academic studies free of discrimination. Supportive measures may include, but are not limited to:

- No contact orders
- Academic accommodations
- Counseling
- Health and mental health services

- Disability services

If warranted, the respondent may be temporarily removed from the school pending an investigation if he/she poses an immediate threat to anyone's physical health or safety. The Title IX Coordinator shall perform a risk analysis to provide a basis for their decision in this regard. The respondent will be notified and provided an opportunity to challenge the decision immediately following the removal.

### **c. Investigation**

The Title IX Coordinator will appoint an unbiased investigator to investigate the complaint. The investigation should be completed within 30 days whenever possible.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility for the alleged sexual harassment rest on WCS and not on the parties. The investigation shall carry a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. Depending upon the nature of the allegations, the investigation could include interviews with the reporting party, complainant, respondent, and witnesses. Both the complainant and respondent have the equal right to present witnesses and evidence to the investigator. Both parties are entitled to have an advisor of their choice present for all investigative interviews or meetings. Parties can inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. Each party will be provided at least 10 days to respond to the evidence prior to conclusion of the investigation. .

If the allegations have also been reported to the local law enforcement agency, the investigator will make every attempt to gather information from the agency to aid in the institutional investigation but will not wait for any law enforcement investigation before conducting his or her own. The investigator will use different standards of investigations than that of law enforcement. The investigator will apply a preponderance of evidence standard (more likely than not) involving allegations of discrimination.

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence. The investigator will send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

### **F. Responsibility Determination**

The investigator will submit his/her investigative report and the parties' responses to the report to the school's director, unless there is a conflict of interest in which case the Title IX Coordinator would appoint another, neutral, qualified individual. Following receipt of the investigative report, the decision-maker shall afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

The decision-maker shall determine whether the respondent is responsible for sexual harassment by a preponderance of the evidence. The decision-maker will also assess consequences against the respondent when he or she determines this to be necessary. These consequences include the range of sanctions detailed in the Student Discipline Policy and/or Employee Handbook, including suspension or expulsion from school or suspension or termination of employment when the responsible party is a

faculty or staff member. The decision-maker's determination will be presented to both the complainant and respondent in writing within 15 business days from the conclusion of the investigation. The written determination shall fairly summarize the procedural history, factual allegations, factual findings, bases for the determination, whether any disciplinary sanctions will be imposed, and avenues for appeal. The written determination shall also set forth whether remedies designed to restore or preserve equal access to WCS's education program or activity will be provided by WCS to the complainant.

If disciplinary sanctions or restorative justice remedies are imposed, the Title IX Coordinator shall be responsible for implementing them.

### **G. Appeal**

Both the complainant and respondent have the right to appeal the decision to the school's Board of Directors on the following bases:

- (A) Procedural irregularity 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; and
- (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.

Appeals on any other basis are not permitted.

The Appeal must be in writing and submitted to the Board Chair within 10 business days of receipt of the written determination. In no event shall the investigator, Title IX Coordinator, or decision-maker participate in deciding the appeal. Upon receipt of an appeal, the Board Chair shall notify the other party and provide both sides a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. Upon review of both sides' written submissions, the Board shall promptly issue a written determination.

This decision will be final and may not be appealed again.

### **H. Abandonment or Dismissal of Complaint**

The following may constitute abandonment of a complaint:

- Failing to respond or take an action within the specified time limit.
- Failing to appear for a scheduled meeting during an investigation or failure to provide any requested documentation to aid in the investigation; and
- Otherwise failing to advance the complaint in a timely manner.

The following may be used as a basis for dismissal of the complaint:

- The complaint does not describe conduct that meets the definition of sexual harassment.
- The complaint did not occur in the school's education program or activity.
- The complaint of the alleged sexual harassment did not occur in the United States.
- The complaint can be addressed under the school's code of conduct.

No further appeal will be allowed if the complaint is found to be abandoned or dismissed by any of the reasons above.