

## Updated Title IX Regulations

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### **Statement of Nondiscrimination**

EFWMA Schools (“EFWMA” or the “School”) does not discriminate on the basis of race, religion, color, national origin, sex or gender, disability, or age in providing educational services, activities, and programs, including vocational and career technology programs. EFWMA complies with Title VI of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972 (“Title IX”); Title II of the Americans with Disabilities Act of 1990 (“ADA”), as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; and any other legally protected classification or status protected by applicable law.

As required by Title IX, EFWMA does not (and is required not to) discriminate on the basis of sex in its educational programs or activities. This non-discrimination requirement applies to admission to and employment with EFWMA. Inquiries into issues related to Title IX may be referred to EFWMA’s Title IX Coordinator (identified below), to the Assistant Secretary for Civil Rights of the Department of Education, or both.

Any questions or concerns about EFWMA’s compliance with these federal programs should be brought to the attention of the following persons designated as being responsible for coordinating compliance with these requirements:

- The Title IX Coordinator, for concerns regarding discrimination on the basis of sex/gender (including sexual harassment), is Aida Aguilar, 501 Oakland Blvd, Fort Worth TX 76103, 817-496-3003, [aida.aguilar@efwma.org](mailto:aida.aguilar@efwma.org).
  - The ADA/Section 504 Coordinator, for concerns regarding discrimination on the basis of disability, is Akweta Clemmer, 501 Oakland Blvd, Fort Worth TX 76103, 817-496-3003, [akweta.clemmer@efwma.org](mailto:akweta.clemmer@efwma.org)
  - The Age Discrimination Coordinator, for concerns regarding discrimination on the basis of age, is Aida Aguilar, 501 Oakland Blvd, Fort Worth TX 76103, 817-496-3003, [aida.aguilar@efwma.org](mailto:aida.aguilar@efwma.org).
  - All other concerns regarding discrimination may be directed is Aida Aguilar, 501 Oakland Blvd, Fort Worth TX 76103, 817-496-3003, [aida.aguilar@efwma.org](mailto:aida.aguilar@efwma.org).
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## **Freedom from Discrimination, Harassment, and Retaliation**

### ***Statement of Nondiscrimination***

EFWMA prohibits discrimination, including harassment, against any student on the basis of race, color, religion, gender, national origin, disability, age, sexual orientation, or any other basis prohibited by law. EFWMA also prohibits dating violence, as defined by this Handbook. Retaliation against anyone involved in the complaint process is a violation of EFWMA policy.

### ***Discrimination and Harassment (Prohibited Conduct)***

For purposes of EFWMA policy, the term “Prohibited Conduct” means discrimination or harassment against a student involving conduct directed at a student on the basis of race, color, religion, gender or sex, national origin, disability, age, or any other basis prohibited by law and that adversely affects the student, and/or that is so severe, persistent, or pervasive that the conduct:

- Affects a student’s ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
- Has the purpose or effect of substantially or unreasonably interfering with the student’s academic performance; or
- Otherwise adversely affects the student’s educational opportunities.

Examples of Prohibited Conduct may include offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, or need for accommodation; threatening or intimidating conduct; offensive jokes; name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

EFWMA also considers gender-based harassment to be Prohibited Conduct. Gender-based harassment includes harassment based on a student’s gender, expression by the student of stereotypical characteristics associated with the student’s gender, or the student’s failure to conform to stereotypical behavior related to gender. Examples of gender-based harassment directed against a student, regardless of the student’s or the harasser’s actual or perceived sexual orientation or gender identity, may include, but not be limited to, offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property

“Prohibited Conduct” may also include dating violence, which occurs when one partner in a dating relationship, either past or current, intentionally uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other partner. Examples of dating violence against a student may include physical or sexual assaults, name-calling, put-downs, threats to hurt the student or the student’s family members or members of the student’s household, destroying property belonging to the student, threats to commit suicide or homicide if the student ends the relationship, attempts to isolate the student from friends and family, stalking, or encouraging others to engaged in these behaviors.

### ***Retaliation***

Retaliation against a person who makes a good faith report of Prohibited Conduct is prohibited. Retaliation against a person who is participating in an investigation of reported Prohibited Conduct is also prohibited. A person who makes a false claim or offers false statements or refuses to cooperate with a EFWMA investigation, however, may be subject to appropriate discipline.

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty

slights or annoyances.

### ***Reporting Prohibited Conduct***

Any student who believes that he or she has experienced Prohibited Conduct or retaliation, or believes that another student has experienced Prohibited Conduct or retaliation should immediately report the alleged acts to a teacher, counselor, the Principal, or other school employee. The report may also be made by the student's parent. Alternatively, a report may be made directly to the appropriate Compliance Coordinator identified in this Handbook.

Upon receiving a report of potential Prohibited Conduct, EFWMA will determine whether the allegations, if proven, would constitute prohibited discrimination, harassment, dating violence, or retaliation. If not, EFWMA will determine if the allegations, if proven, would constitute bullying. If the alleged prohibited conduct, if proven, would constitute prohibited conduct and would also be considered bullying, an investigation of bullying will also be conducted.

**\*\*NOTE\*\*** EFWMA's process concerning formal complaints of sexual harassment is outlined in "Freedom from Sexual Harassment" below.

### ***Investigation***

To the extent possible, EFWMA will respect the privacy of the student; however, limited disclosures may be necessary to conduct a thorough investigation and to comply with law. Allegations of Prohibited Conduct will be promptly investigated. The investigation may be conducted by the Compliance Coordinator or designee, or by a third party designated by EFWMA, such as an attorney. When appropriate, the Principal or the student's teacher(s) will be involved in or informed of the investigation.

If a law enforcement or other regulatory agency notifies EFWMA that it is investigating the matter and requests that the school delay its investigation, EFWMA will resume the investigation at the conclusion of the agency's investigation.

During the course of an investigation and when appropriate, EFWMA will take interim action to address the alleged Prohibited Conduct.

If the school's investigation indicates that Prohibited Conduct occurred, appropriate disciplinary action and, in some cases, corrective action, will be taken to address the conduct. EFWMA may take disciplinary and corrective action even if the conduct that is the subject of the complaint was not unlawful.

All involved parties will be notified of the outcome of the investigation within the parameters and limits allowed under the Family Educational Rights and Privacy Act ("FERPA").

### ***Appeal***

A student or parent who is dissatisfied with the outcome of the investigation may appeal through the school's student and parent complaint process, beginning at Level Two.

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## **Freedom from Sexual Harassment**

EFWMA prohibits discrimination on the basis of sex, including sexual harassment, by an employee, volunteer, or another student.

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

1. A school employee conditioning the provision of aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to EFWMA's educational programs or activities;
3. Sexual assault, dating violence, domestic violence, or stalking (as those offenses are defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act, 34 U.S.C. § 12291(a)).

Examples of sexual harassment may include, but are not limited to, touching private body parts or coercing physical contact that is sexual in nature; sexual advances; jokes or conversations of a sexual nature; sexually-motivated physical, verbal, or nonverbal conduct; or other sexually motivated conduct, communications, or contact.

Romantic or inappropriate social relationships between students and school employees are prohibited. Any sexual relationship between a student and a school employee is always prohibited, even if consensual.

### ***General Definitions***

A "complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

A "respondent" means an individual who is reported to be the perpetrator of conduct that could constitute sexual harassment.

A "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 EFWMA investigate the allegation of sexual harassment.

"Supportive measures" means non-disciplinary, non-punitive individualized services offered appropriate and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to EFWMA's educational program or activity without unreasonably burdening either party, including measures designed to protect the safety of all parties or EFWMA's educational environment, or deter sexual harassment. Examples of supportive measures include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of class schedules, mutual restrictions on contact between the parties, and other similar measures.

### ***Reporting Sexual Harassment***

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator in the "Statement of Nondiscrimination" section of this handbook, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

EFWMA's response to a report of sexual harassment must treat complainants and respondents equitably by offering supportive measures and by following a grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

After a report of sexual harassment has been made, the Title IX Coordinator must 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.

### ***Notice of Allegations***

Upon receipt of a formal complaint, EFWMA must provide the following written notice to the parties who are known:

- Notice of EFWMA's grievance process, including any informal resolution process.
- Notice of the allegations of sexual harassment, including, to the extent known, the identity of the parties, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident.
- Notice that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made known at the conclusion of the grievance process.
- Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- Notice that the parties may inspect and review evidence related to the complaint.
- Notice that EFWMA prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, during an investigation, EFWMA decides to investigate allegations about the complaint or respondent that are not included in the initial notice of the complaint, EFWMA must provide notice of the additional allegations to the parties whose identities are known.

### ***Grievance Process***

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of EFWMA.

The following guidelines apply when EFWMA receives a formal complaint of sexual harassment. This process is designed to incorporate due process, principles, treat all parties fairly, and to assist EFWMA reach reliable responsibility determinations.

- EFWMA will require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
- Any individual designated by EFWMA as a Title IX Coordinator, investigator, decision-maker, or to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or responsible. EFWMA will ensure that Title IX Coordinators, investigators, decision-makers, and anyone who facilitates an informal resolution process receive appropriate training related to the requirements of Title IX and EFWMA's sexual harassment policy.
- EFWMA recognizes a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the complaint process.

- EFWMA shall attempt to complete an investigation of reported sexual harassment within 60 calendar days of receiving a complaint. However, the investigation process may be delayed or extended for a limited time for good cause with written notice to the complainant and the respondent of the delay or extension. Good cause may include considerations such as absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
- Students found to have engaged in sexual harassment are subject to disciplinary action as outlined in the Student Code of Conduct.
- EFWMA shall employ the preponderance of the evidence or the clear and convincing evidence standard to determine responsibility when reviewing formal complaints.
- EFWMA may not require, allow, rely upon, or otherwise use questions of evidence that constitute, or seek disclosure, of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

### ***Consolidating Formal Complaints***

EFWMA may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

### ***Dismissal of Formal Complaints***

EFWMA must investigate the allegations in a formal complaint.

EFWMA must dismiss a formal complaint if the conduct alleged in the formal complaint:

- Would not constitute sexual harassment, even if proved;
- Did not occur in EFWMA's education program or activity; or
- Did not occur against a person in the United States.

EFWMA may dismiss a formal complaint or any allegations therein if, at any time during the investigation:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by EFWMA; or
- Specific circumstances prevent EFWMA from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal, EFWMA must promptly send simultaneous written notice to the parties of the dismissal and the reason(s) for the dismissal. Dismissal of a formal complaint does not preclude EFWMA from taking appropriate action under the Student Code of Conduct or any other school policy that may apply to the alleged conduct.

### ***Investigating Formal Complaints***

The following guidelines apply during the investigation of a formal complaint and throughout the grievance process.

- EFWMA will ensure the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on EFWMA and not on the parties.
- EFWMA cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that

capacity, and which are made and maintained in connection with the provision of treatment to the party, unless EFWMA receives that party's voluntary, written consent to do so.

- EFWMA will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- EFWMA will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- EFWMA will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisory of their choice, and not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding. EFWMA may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
- EFWMA will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings with sufficient time for the party to prepare to participate.
- EFWMA will provide both parties 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 recipient does not intend to rely 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.
- Prior to completing an investigative report, EFWMA must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 calendar days to submit a written response, which the investigator will consider prior to completing the investigative report.
- EFWMA must create an investigative report that fairly summarizes relevant evidence and, at least 10 calendar days prior to a determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for review and written response.
- After sending the investigative report to the parties and before reaching a determination of responsibility, the decision-maker(s) must afford each party the opportunity to submit written relevant questions that a party wants asked of any witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

### ***Determination Regarding Responsibility***

The decision-maker(s) making a determination regarding responsibility cannot be the same person(s) as the Title IX Coordinator or the investigator(s). The decision-maker(s) must review the investigation report and make a written determination, based on the preponderance of the evidence or the clear and convincing evidence standard, regarding responsibility. The written determination must include:

- Identification of the allegations potentially constituting sexual harassment;
- A description of the procedural steps taken from receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, or methods used to gather other evidence;

- Findings of fact supporting the determination;
- Conclusions regarding application of EFWMA's Code of Conduct to the facts.
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to EFWMA's education program or activities will be provided to the complainant; and
- EFWMA's procedures and permissible bases for the complainant and respondent to appeal.

EFWMA must provide the written determination to the parties simultaneously. The determination becomes final either on the date EFWMA provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

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

### ***Appeals***

EFWMA will offer both parties an appeal from a determination regarding responsibility, and from EFWMA's dismissal of a formal complaint or any allegations therein, on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- 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
- 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.

As to appeals, EFWMA will ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, or the investigator(s), or the Title IX Coordinator. EFWMA will provide both parties a reasonable equal opportunity to submit a written statement in support of, or challenging, the outcome.

The decision-maker(s) for the appeal will issue a written decision, based on the preponderance of the evidence or the clear and convincing evidence standard, describing the result of the appeal and the rationale for the result, and provide the written decision simultaneously to both parties.

A party who is dissatisfied with the appeal decision may file an appeal through the student and parent complaint process, beginning at Level Two.

### ***Emergency Removals***

EFWMA is able to remove a respondent from EFWMA's education program on an emergency basis, provided that EFWMA undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. EFWMA's ability to do so may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504, or the Americans with Disabilities Act.

### ***Informal Resolution***

At any time prior to reaching a determination regarding responsibility, EFWMA may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. However,



EFWMA may not require as a condition of enrollment or continuing enrollment, or employment or continued employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints. Additionally, EFWMA may not require the parties to participate in an informal process and may not offer an informal resolution process unless a formal complaint is filed.

Prior to facilitating an informal resolution process, EFWMA must:

- Provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations. The notice must also inform that, at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, as well as of any consequence resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- Obtain the parties' voluntary, written consent to the informal resolution process.

EFWMA may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

### ***Retaliation Prohibited***

Neither EFWMA nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding under this policy.

Examples of retaliation may include, but are not limited to, intimidation, threats, coercion, or discrimination.

Complaints alleging retaliation may be filed according to the grievance procedure described above.

### ***Confidentiality***

EFWMA must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by FERPA or as required by law, or for purposes related to the conduct of any investigation, hearing, or judicial proceeding arising under the Title IX regulations.

### ***Non-Sexual Harassment Sex Discrimination***

The formal complaint investigation and resolution process outlined above in "Freedom from Sexual Harassment" applies only to formal complaints alleging sexual harassment as defined by Title IX, but not to complaints alleging sex discrimination that do not constitute sexual harassment. Complaints of non-sexual harassment sex discrimination may be filed with the Title IX Coordinator and will be handled under the process described in the "Freedom from Discrimination, Harassment, and Retaliation" section of this Handbook.