



## Title IX Procedures for Responding to Reports of Sexual Harassment

### 1. Definitions

#### a) Title IX Official

For the purposes of the formal complaint process, a “Title IX Official” means the Title IX Coordinator/designee and any other campus administrator or individual assigned to investigate, serve as a decision-maker or review an appeal related to a formal complaint.

#### b) Complainant

A complainant is a student who is alleged to be the victim of sexual harassment.

#### c) Respondent

A respondent is the person who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

#### d) Sexual Harassment

Sexual harassment of a student by an Academy employee includes both welcome and unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

- (1) An employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or
- (2) The conduct is so severe, persistent, or pervasive that it: (a) affects the student’s ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student’s educational opportunities; or (b) creates an intimidating, threatening, hostile, or abusive educational environment.

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



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Sexual harassment of an Academy student including harassment committed by another Academy student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it:

- (1) 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;
- (2) Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
- (3) Otherwise adversely affects the student's educational opportunities.

### 2. **Reporting Procedures**

#### a) Student Report

Any student who believes that he or she has experienced sexual harassment or believes that another student has experienced sexual harassment should immediately report the alleged acts to a teacher, school counselor, principal, assistant principal, or the Academy's Title IX Coordinator/designee.

#### b) Parent Report

Any parent who suspects or receives notice that a student or group of students has or may have experienced sexual harassment should promptly notify a campus administrator or the Title IX Coordinator.

#### c) Employee Report

Any Westlake Academy employee who suspects or receives notice that a student or group of students has or may have experienced sexual harassment shall promptly notify a campus administrator or the Title IX Coordinator.

#### d) Alternate Reporting Procedures

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning sexual harassment, including reports against the Title IX coordinator, may be directed to the Executive Director and/or Superintendent. A report against the Superintendent may be made directly to the Board of Directors. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.



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### e) Timely Reporting

Reports of sexual harassment shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair the Academy's ability to investigate and address the prohibited conduct.

### f) Initial Response

When the Academy receives notice or an allegation of conduct that, if proven to be true, would meet the definition of sexual harassment under Title IX, the Title IX coordinator or designee shall contact the complainant to discuss the availability of supportive measures and to discuss the option and process for filing a formal complaint.

## 3. Supportive Measures

The Academy shall offer all parties the opportunity for appropriate supportive measures. Supportive measures may include individualized services that are non-punitive, non-disciplinary, and are designed to restore or preserve a student's equal access to education. Supportive measures may include but are not limited to counseling, extensions of deadlines or other class-related adjustments, modifications of class schedules, stay away orders, increased monitoring of certain areas of the campus, and other similar measures.

## 4. Formal Complaint Procedure

A formal complaint must be filed with the Title IX Coordinator in person, by mail, or by e-mail using the Title IX Coordinator's contact information available on the Academy's website, in the Parent/Student Handbook, and upon request. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the Academy's education program or activities.

A formal complaint alleging sexual harassment must be submitted in writing on the form designated by the Academy, which is available upon request and on the Academy's website. A formal complaint may be submitted by the alleged student victim or the student's parent/legal guardian if a minor student. In cases where an alleged victim does not file a formal complaint, the Title IX Coordinator may initiate the formal complaint process, if warranted.



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The formal complaint process shall be engaged with all deliberate speed for resolving formal complaints of sexual harassment.

a) *Equitability and Objectivity*

Both the complainant and the respondent are to be treated equitably in the grievance process. The Academy must ensure an objective evaluation of all relevant evidence.

b) *No Conflicts of Interest*

The individuals directly involved in the formal complaint process (Title IX Coordinator or designee, investigator, decision-maker, and appellate reviewer) must not have any bias or conflict of interest. These individuals shall also be trained. The materials used to train Title IX personnel may not rely on sex stereotypes, must promote impartial investigations and adjudications, and must be posted on the Academy's website.

c) *Standard of Evidence*

The Academy will use the preponderance of the evidence standard for making a determination of responsibility.

d) *Privileges*

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.

e) *Initial Assessment of Formal Complaint and Potential Dismissal*

Upon receipt of a formal complaint, the Title IX Coordinator or designee shall determine whether the allegations, if proven, would constitute sexual harassment as defined by Title IX.

The Academy must dismiss a formal complaint if the conduct alleged in the formal complaint:

1. Would not constitute sexual harassment, even if proven.
2. Did not occur within Academy's education program or activity; or
3. Did not occur against a person in the United States.



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The Academy may dismiss a formal complaint:

1. If the complainant notifies the Title IX Coordinator in writing that he/she wishes to withdraw the formal complaint or any allegations therein;
2. If the respondent is no longer enrolled in or employed by the Academy; or
3. If circumstances prevent the Academy from gathering evidence sufficient to reach a determination about the allegations.

If the Title IX Coordinator dismisses a formal complaint or any allegations in it, the Title IX Coordinator shall promptly send written notice of the dismissal and the reasons to the parties. Both parties have the right to appeal a dismissal decision.

Dismissal of a formal complaint does not preclude the Academy from conducting an investigation under the Academy's code of conduct and policies related to harassment, bullying or other prohibited conduct.

f) Consolidation of Complaints

The Academy 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.

g) Written Notice of Formal Complaint

When an investigation of a formal complaint begins, the parties will receive written notice. Included in the written notice shall be a copy of this process and the policy concerning prohibited sexual harassment. Written notice shall also include:

1. 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.
2. A statement that the respondent is presumed to be innocent and that a determination regarding responsibility is made at the conclusion of the formal complaint process.
3. A statement that the parties are entitled to an advisor of their choice who may be a parent/guardian or who may be, but is not required to be, an attorney.
4. A statement that the parties can inspect and review relevant evidence



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This written notice must be provided to allow the parties sufficient time to prepare a response before any initial interview.

### h) Investigators

An investigation of a formal complaint may be conducted by a Title IX Coordinator or designee, such as a principal, an assistant principal, the executive director, town administrator or independent investigator.

The Academy shall provide an equal opportunity for the parties to present witnesses to be interviewed and evidence to be considered. The Academy cannot restrict the ability of a party to discuss the allegations under investigation or to gather and present relevant evidence.

### i) Representation

Both parties will have the opportunity to have an advisor of choice accompany them to any meetings throughout the investigation process. A parent/guardian may serve as a student's advisor; a student may also have an advisor in addition to his/her parent present at meetings in the investigation process. However, parents and advisors cannot interfere with interviews.

### j) Conducting the Investigation

The Academy shall provide notice of the date, time, location, participants, and purpose of all interviews, or other meetings with sufficient time for the party to prepare.

The Academy shall provide equal opportunities for the parties and their advisors to inspect and review the evidence obtained as part of its investigation, if the information is directly related to the allegations raised in the formal complaint, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Every party has the right to choose to participate, or not participate, in any part of an investigation. No person shall be forced, threatened, coerced, discriminated against, or retaliated against for participating or choosing not to be part of the grievance process.

The investigation may consist of personal interviews with the person making the report, the complainant, the respondent, and others who may have knowledge of the circumstances surrounding the allegations. The investigation may also include review or analysis of documents, information or other evidence related to the allegations.



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Prior to completing an investigative report, the Academy will 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. The parties must have at least 10 days to submit a written response, which the investigator will consider prior to completing the investigative report.

If a response is submitted, the investigator shall consider that response before finalizing the investigative report. The investigative report can then be finalized and provided to the parties.

### k) Concluding the Investigation

The investigator shall prepare a final written report of the investigation. The report shall not include a determination of whether prohibited conduct occurred but may include recommended findings of fact. The report shall be filed with the Title IX Coordinator and the individual designated by the Title IX Coordinator as the decision-maker.

That report shall be circulated to the parties at least another 10 days before any determination of responsibility. Notification of the outcome of the investigation shall be provided to both parties in compliance with FERPA.

### l) Decision-maker

Title IX Coordinator shall designate an individual as the decision-maker to make a determination regarding responsibility for the allegations in the formal complaint. Before determination of responsibility is made, the parties shall be given an opportunity to submit relevant, written questions to each other. The decision-maker may establish a deadline for a party to respond to questions posed by another party. Responses may be verbal or written at the decision-maker's discretion. Parents/guardians may respond in writing for their children. The decision-maker may ask additional questions of the parties and witnesses before making a determination of responsibility.

The decision-maker shall objectively evaluate the relevant evidence and reach conclusions about whether the respondent is responsible for the alleged sexual harassment. The decision-maker shall use independent judgment and shall not be the Title IX Coordinator or the person(s) who conducted the investigation.

Decision-makers shall be free from conflicts of interest or bias for or against complainants or respondents and shall have received special training about how to be impartial and how to decide what evidence is relevant. The decision-maker will weigh the relevant evidence and decide whether it meets the standard of evidence for sexual harassment allegations.





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After the evidence has been weighed, the decision-maker shall issue a written determination regarding responsibility. It shall include:

1. Identification of the allegations potentially constituting sexual harassment.
2. A description of the procedural steps taken from receipt of the formal complaint through the determination of responsibility, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held, if any.
3. Findings of fact supporting the determination.
4. A statement of, and rationale for, the results.
5. Any disciplinary sanctions that will be imposed on the respondent, and whether remedies will be provided to the complainant to restore or preserve equal access to education program or activities.
6. A statement of appeal procedures and process for the complainant and respondent.

m) *Written Determination of Responsibility and Notification*

The Academy must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the Academy 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

n) *Corrective Action/Remedies*

The Title IX coordinator is responsible for implementing the remedies contained in the written determination regarding responsibility if there is no timely appeal or once the appeal process is completed.

The Academy's remedies are designed to restore or preserve equal access to the school's education programs or activities.

Disciplinary consequences for respondents who are students will range from a verbal warning to expulsion, as allowed under the Student Code of Conduct.

Disciplinary consequences for respondents who are employees will range from a verbal warning to termination of employment, as allowed under the school's standards for employee conduct.





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Corrective actions may also include training programs for those involved in the complaint, a comprehensive education program for the school community, counseling to the complainant and the respondent who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, and increasing monitoring.

o) *Improper Conduct Not Constituting Sexual Harassment*

If the investigation reveals improper conduct that did not rise to the level of sexual harassment, the Academy may take disciplinary action in accordance with the Student Code of Conduct and/or employee standards for conduct, along with any other corrective action reasonably calculated to address the conduct.

p) *Confidentiality*

To the greatest extent possible, the Academy shall respect the privacy of the complainant, respondent, and witnesses. Limited disclosures may be necessary to conduct a thorough investigation, comply with Title IX regulations or other applicable law, and to implement supportive measures.

q) *Retaliation Prohibited*

The Academy prohibits retaliation by an Academy student or employee against anyone alleged to have experienced sexual harassment, or any other person who in good faith, makes a report of sexual harassment, serves as a witness, or participates or refuses to participate in an investigation.

Any person who believes he or she has been retaliated against may file a complaint in accordance with the grievance process described in this regulation.

### 5. **Informal Resolution**

The Academy may offer informal resolution at any time prior to reaching a determination regarding responsibility, except in cases where the respondent is an Academy employee. Informal resolution may be attempted only if each party enters the process voluntarily. The Academy will not require informal resolution as a condition of continuing enrollment or employment, the enjoyment of any other right, or a waiver of the right to an investigation and adjudication of formal complaints. The Academy also will not offer an informal resolution process, as described in these procedures, unless a formal complaint is filed.



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### 6. Records Retention

The Academy shall retain copies of each sexual harassment allegation, investigation report, and related records for the time period required under the Title IX regulations at 34 C.F.R. Part 106.