

Harding Charter Preparatory School District Title IX Policy

HCP complies with the Civil Rights Laws, including but not limited to Title IX of the Education Amendments of 1972. It is the express policy of the HCP Governance Board to encourage student victims of sexual harassment to come forward with such claims. Students who feel that they have experienced sexual harassment while on any HCP campus or at any HCP-sponsored event are encouraged to report these conditions, or have their parents report these conditions, to the Title IX coordinator. Any employee to whom such a report was made will provide notice of the report to the Title IX coordinator. No reprisals or retaliation will be allowed to occur as a result of the good faith reporting of charges of sexual harassment. Every attempt will be made to maintain confidentiality; however, absolute confidentiality cannot be guaranteed because of due process concerns that arise in sexual harassment investigations.

The District Title IX coordinator oversees compliance efforts and the investigation complaints of alleged sexual harassment against students.

District Title IX Coordinator

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District administrators, teachers, and counselors shall be made aware of their obligation to receive complaints and forward them to the Title IX coordinator in a timely manner.

I. Definitions

Complainant: Individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent: The alleged perpetrator of the conduct in the complaint. The term may be used to designate persons with responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the complaint.

District Title IX Coordinator: The District Title IX coordinator oversees compliance efforts and complaint investigations of alleged sexual harassment against students. The District Title IX coordinator may not be a Title IX investigator or decision maker.

Title IX Investigator: Title IX investigators investigate complaints of alleged sexual harassment against students. Title IX investigators may not be the District Title IX coordinator or decision maker.

District Title IX Decision Maker: The Title IX decision maker reviews reports compiled by Title IX investigators and makes a determination. The District Title IX decision maker may not be a Title IX investigator or coordinator.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, 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. Such measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The District must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the school to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Formal Complaint: A document filed by a complainant and/or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment. 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 the school with which the formal complaint is filed. A formal complaint may be filed with the Title IX coordinator in person, by mail, or by email, by using the contact information listed for the Title IX coordinator.

Informal Complaint: A voluntary, structured interaction between involved parties (complainant and respondent) to help them address and resolve an issue at the earliest stage possible. Informal complaints are flexible, meaning the process can proceed in many different ways. As a general rule, an informal complaint (1) will not receive a comprehensive investigation, (2) can be kept fully confidential, and (3) will not be referred for official disciplinary action if an agreement between the parties and the school is reached.

Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the District conditioning the provision of an aid, benefit, or service of the District 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 a School's education program or activity; or (3) "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).

For the purpose of this policy, examples of sexual harassment include, but are not limited to:

- A. Verbal comments of a sexual nature or physical sexual advances, including subtle pressure for sexual activity; touching, pinching, patting, or brushing against (unwanted body contact); comments regarding physical or personality characteristics of a sexual nature; sexual name-calling; repeated propositions; and sexually oriented "kidding," "teasing," double meanings, and jokes.

- B. Demeaning comments about a girl's ability to excel in a class historically considered a "boy's" subject, or about a boy's ability to excel in a class historically considered a "girl's" subject; privately talking to a student about sexual matters; and/or hugging or touching a student inappropriately.
- C. Writing graffiti that names a student or otherwise identifies a student is potentially slanderous and may constitute sexual harassment. Use of email, the internet, or technology may constitute sexual harassment as much as use of in-person, postal mail, handwritten or other communication.
- D. Any of the aforementioned conduct that effectively deprives a student of access to educational opportunities or benefits provided by the school.

Threshold to Meet Title IX Complaint: If the sexual harassment occurs under the following conditions it could meet the definition of a Title IX complaint: (1) The behavior is so severe (for example, a single incident of rape) or it happened so often (for example, numerous harassing insults in the classroom) that the acts would deprive a student of equal access to education, or to an educational activity like being on a team or in the band, AND (2) HCP has authority over the person or people committing the harassing behavior or violence, AND (3) HCP has authority over the environment where the behavior is happening, including where the environment is an event involving HCP students and/or staff occurring at a non-HCP campus location, i.e., a sporting event at the opposition's location or a neutral location.

Good Cause Delay: A temporary delay of the grievance process or a limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the 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.

Presumption of No Responsibility: There shall be 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. In addition, the District shall not require, allow, rely upon, or otherwise use questions or evidence that constitutes information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The District shall not require or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

II. Reporting Allegations of Sexual Harassment

Reports of sexual harassment may be submitted to any District employee, who then shall immediately notify the Title IX coordinator. Upon receiving a report of sexual harassment from an employee that a student or parent/guardian has reported possible sexual harassment, the Title IX coordinator will promptly contact the complainant to explain the grievance procedure, discuss the availability of supportive measures, and consider the student's wishes with regard to supportive measures.

Formal Complaint Procedure: The following shall be the procedural steps:

- A. Formal Complaint
- B. Supportive Measures (if necessary)
- C. Notice of Allegations
- D. Response
- E. Investigation
- F. Hearing
- G. Determination of Responsibility
- H. Appeal (if requested)
- I. Recordkeeping

A. *Formal Complaint:* If a complainant desires to proceed with a formal complaint, then, within thirty (30) school days of an alleged violation, the complainant shall submit a written and signed formal complaint to the Title IX coordinator.

B. *Supportive Measures:* Upon receiving the complaint, the Title IX coordinator shall determine whether supportive measures should be taken pending the initiation and outcome of the investigation. Such interim measures may include, but are not limited to, separating the complainant from the respondent, suspending the implementation of a policy, practice, or procedure, and, in cases involving potential criminal conduct, determining whether law enforcement officials should be notified.

C. *Notice of Allegations:* Within five (5) school days of receiving the complaint, the Title IX coordinator shall notify the respondent of the formal complaint. If, in the course of an investigation, the District obtains additional information about the respondent or complainant that was not included in the original written notice, notice of the additional allegations must be provided in writing to both parties. The Notice shall include:

1. Notice of the formal complaint process;
2. Notice of the allegations, including sufficient details to allow the respondent to prepare a response;
3. A statement that the respondent is presumed not responsible for the conduct and that responsibility will be determined at the conclusion of the formal complaint process;
4. Notice of the parties' right to have an advisor and to inspect and review evidence. The advisor may be, but is not required to be, an attorney. If the advisor is not an attorney, then the parent/guardian shall provide written authorization for the advisor's participation if the respondent is under the age of 18 years; if the respondent is over the age of 18 years, then the respondent shall provide such authorization.
5. Notice of any provision in the student discipline code that prohibits knowingly making false statements or providing false information in the grievance process.

D. *Response:* As soon as reasonably possible, but no later than ten (10) school days from the date of notification, the respondent shall submit a written response to the allegation to the Title IX coordinator.

- E. *Investigation:* Upon receipt of the respondent's response, HCP will designate an investigator to conduct a thorough investigation of allegations. The investigator's contact information will be provided to both the complainant and the respondent.
1. The burden of proof and gathering evidence remains on the District.
 2. An equal opportunity will be provided to both parties to present witnesses and evidence during the investigation.
 3. Neither complainant nor respondent will be prohibited from discussing the allegations with the investigator or gathering and presenting evidence to the investigator.
 4. Both parties will have the opportunity to have others present during interviews or related proceedings. This may include an advisor who may but is not required to be an attorney, provided the required authorization has been submitted to HCP.
 5. Written notice of the date, time, participants, purpose and location of any investigative interview, hearing, or other meeting shall be provided to the parties and any party who is invited or expected to attend.
 6. Both parties and their advisors, if any, will be provided an opportunity to review all evidence that is directly related to the allegations in the formal complaint. This would include any evidence on which the District does not intend to rely and any exculpatory or inculpatory evidence from any source. Such evidence must be provided to the parties at least ten (10) school days prior to the completion of the final investigation report in time to give the parties the opportunity to submit a written response to such evidence, which the investigator must consider prior to completing the investigation report.
 7. A written investigation report will be provided to Title IX decision maker that summarizes the relevant evidence. This report will be provided to the parties and their advisors, if any, for their review and written response at least ten (10) school days before a hearing or determination of responsibility.
- F. *Hearing:* The Title IX decision maker will conduct a hearing, whereby each party will have ten (10) school days from the receipt of the investigation report to submit written, relevant questions that the party wants asked of the other party or any witness. Both parties will be provided with the answers to the submitted questions. Federal law determines when questions regarding a complainant's prior sexual behavior or sexual predisposition are considered relevant in a hearing provided by a school district.
- G. *Determination of Responsibility:* A decision maker, who is not the Title IX coordinator nor the investigator, will apply a preponderance of the evidence standard to determine responsibility.

Any employee found to have engaged in sexual harassment of students shall be subject to discipline, including, but not limited to: warning, suspension, administrative leave, or termination subject to applicable procedural and due process requirements.

Any student found to have engaged in sexual harassment of other students, either on school premises or off school premises at school-sponsored activities, shall be subject to

discipline, including, but not limited to: warning, suspension, or other appropriate punishment subject to applicable procedural and due process requirements. The school's normal disciplinary procedures will be followed in determining the appropriate consequence for the sexual harassment. In the event the administration recommends suspension as a result of the conduct, due process will be afforded to the student in accordance with the District's suspension procedures.

The decision maker will issue a written determination of responsibility that:

1. Identifies the allegations that potentially constitute sexual harassment;
2. Describes the District's procedural steps taken from the receipt of the complaint to the determination;
3. Includes findings of fact to support the determination;
4. Includes conclusions regarding application of the discipline code to the facts;
5. Includes a statement of, and rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions, and any remedies necessary to restore or preserve equal access to the school's educational programs or activities; and
6. Includes the procedures and permissible basis for appeals.

H. *Appeal*: Within ten (10) school days of a determination of responsibility, dismissal of a complaint or any allegations therein, either party may appeal for one of the following reasons:

1. A procedural error that affected the outcome;
2. New evidence that was not reasonably available at the time of the determination and could affect the outcome;
3. Conflicts of interest on the part of the Title IX coordinator, investigator or decision maker that affected the outcome.

If an appeal is made, HCP will provide written notice to both parties of the appeal. Both parties will be provided an equal opportunity to submit a written statement in support of or challenging the initial determination within ten (10) school days of the written notice to both parties of the appeal being filed. The appeal will be heard by the HCP Governance Board, which shall provide its written decision to the parties. No member of the board can have a conflict of interest or bias against complainants or respondents generally or the particular complainant or respondent. If a board member does have a conflict of interest, they will recuse themselves from the appeal process. The decision of the board will be final and non-appealable. The written decision of the board will be provided within ten (10) school days of the determination.

Records will document in each instance that the District's response was not indifferent and that measures were taken to restore or preserve equal access to educational programs or activities. If the school does not offer supportive measures in response to a report, the

records should document why the response was not clearly unreasonable under the known circumstance.

- I. *Recordkeeping*: The District will keep records related to reports of alleged sexual harassment for a minimum of seven (7) years. Records maintained will include investigation records, disciplinary sanctions, remedies, appeals, and records of any action taken including supportive measures.

III. Retaliation

The HCP Governance Board prohibits retaliation by the District or any employees of the District against any person for the purpose of interfering with Title IX rights or because the person has participated or refused to participate in any manner in a proceeding under Title IX regulations. Complaints of retaliation will be addressed under the District's complaint process. Charging a person with a discipline violation or code of conduct violation based on a person's knowingly making a materially false statement in bad faith in an investigation is not retaliation.