

Title IX Sexual Harassment Policy and Grievance Procedures

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"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

Feather River Charter School Board complies with Title IX of the Educational Amendments of 1972 as well as the Title IX regulations released by the Department of Education on August 14, 2020. This policy prohibits all forms of sexual and gender-based harassment and discrimination. This policy also covers sexual misconduct that does not fall within the scope.

Title IX of the Education Amendments of 1972 is indeed a federal civil rights law that prohibits discrimination based on sex in any educational program or activity that receives federal financial assistance. It covers a wide range of issues, including, but not limited to, sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, pregnancy, and stalking. Under Title IX, educational institutions are required to respond promptly and effectively to reports of sexual harassment and sexual violence. Additionally, Title IX mandates that schools must have grievance procedures in place for addressing complaints of sex discrimination and sexual misconduct.

Each complaint a school receives alleging sexual harassment should be examined to determine which grievance procedures need to be followed. Some complaints might involve multiple grievance procedures.

DEFINITIONS:

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the School's Title IX Coordinator and Investigator, any official of the School who has the authority to institute corrective measures on behalf of the School, or any other employee. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the School with actual knowledge is the individual accused of harassment ("Accused"). The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has the authority to institute corrective measures on behalf of the School. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator and Investigator as described in 34 C.F.R. § 106.8(a).

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

Education program or activity Per § 106.44(a): An education program or activity includes locations, events, or circumstances over which the recipient exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. At the time of filing the formal complaint, the Complainant must be participating or attempting

to participate in the recipient's education program or activity.

Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator and Investigator alleging sexual harassment against an accused 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 and Investigator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator and Investigator, and by any additional method designated by the School. The phrase "*document filed by a complainant*" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the School) that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the formal complaint.
- Where the Title IX Coordinator and Investigator sign a formal complaint, the Title IX Coordinator and Investigator are not a complainant or otherwise a party.

Notice results whenever any elementary and secondary school employee, any Title IX Coordinator, or any official with authority: witnesses sexual harassment; hears about sexual harassment or sexual harassment allegations from a complainant (i.e., a person alleged to be the victim) or a third party (e.g., the complainant's parent, friend, or peer); receives a written or verbal complaint about sexual harassment or sexual harassment allegations; or by any other means.

Definitions of Sexual harassment: Sexual harassment broadly includes any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect:

1. "Quid pro quo" by an employee of the School conditioning the provision of aid, benefit, or service of the School on an individual's participation in unwelcome sexual conduct;
2. "Hostile Environmental Sexual Harassment" is 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; or Conduct on the basis of sex under one of the following:
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v): includes
 - Forcible and nonforcible sex offenses
 - Dating violence as defined in 34 U.S.C. 12291(a)(10)
 - Domestic violence as defined in 34 U.S.C. 12291(a)(8)
 - Stalking as defined in 34 U.S.C. 12291(a)(30)

GENERAL RESPONSE TO SEXUAL HARASSMENT

When any employee receives notice from a student or employee of sexual harassment or allegations of sexual harassment, the recipient is deemed to have actual knowledge, thereby triggering the recipient's duty to promptly respond. Employees are considered officials with the authority to institute

corrective measures and schools may not exempt any classification of employee, such as counselors or classified employees.

Suppose the School has actual knowledge of sexual harassment in an education program or activity of the School against a person in the United States. In that case, the School must respond promptly in a manner that is not deliberately indifferent. A School is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

Title IX Team:

Any individual designated by the School as a Title IX Coordinator and Investigator, Decision-maker, or any person designated by the School to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or those accused generally or an individual complainant or accused. The School shall ensure that the Title IX Coordinator and Investigator, Decision-Maker, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of the School's education program or activity, how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The School shall ensure that the decision-maker receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth below. The School also ensures that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth below. Any materials used to train Title IX Coordinator and Investigator, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

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MEETING WITH COMPLAINANT

The Title IX Coordinator:

- Promptly schedules a meeting with Complainant and listens to allegations and concerns
- If Complainant describes sexual harassment allegations, the Title IX Coordinator explains the Title IX grievance process
- Informs Complainant of the right to file or not to file a formal complaint and the right to supportive measures even if a formal complaint is not filed
- If no formal complaint is filed, the Title IX Coordinator informs the Complainant of the right to file a formal complaint at a later time. The Title IX Coordinator also assesses, despite the Complainant's decision, whether to independently initiate a complaint if the failure to initiate an investigation would be clearly unreasonable considering the circumstances (e.g., based on a safety threat)
- If a formal complaint is filed, the Title IX Coordinator gathers the signature of the Complainant, parent/guardian, and/or Title IX Coordinator
- Informs Complainant of the right to request an informal resolution process after submission of a formal complaint and the right to exit the informal resolution process at any time
- If a formal complaint is filed, the Title IX Coordinator determines if the complaint falls within the scope of mandatory dismissal and simultaneously informs the Complainant and Respondent in writing
- Best practice to provide a written summary of the intake meeting to the Complainant

SUPPORTIVE MEASURES

The following supportive measures are available to complainants and those accused:

Upon receipt of an informal or formal complaint of sexual harassment, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures. The Title IX Coordinator will 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 of sexual harassment, and explain the process for filing a formal complaint of sexual harassment.

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the accused 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 School's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the School'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 or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The School must maintain as confidential any supportive measures provided to the complainant or accused, to the

extent that maintaining such confidentiality would not impair the school's ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

ADVISOR OF CHOICE

Upon the notice of allegations, the written notice shall inform the parties that they may have an advisor of their choice, who may be, but is not required to be an attorney, and may inspect and review evidence. The written notice must inform the parties of any provision in the School's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

EMERGENCY REMOVAL

The School may remove an accused from the School's education program or activity on an emergency basis, provided that the School 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 accused with notice and an opportunity to challenge the decision immediately following the removal.

ADMINISTRATIVE LEAVE

The School may place an accused non-student employee on administrative leave during the pendency of a grievance process identified below. This administrative leave option cannot be construed to modify any rights under Section 504 or the Americans with Disabilities Act.

RESPONSE TO A FORMAL COMPLAINT

In response to a formal complaint, a School must follow the grievance process outlined below. With or without a formal complaint, a School must comply with the School's General Response to Sexual Harassment process identified above.

GRIEVANCE PROCESS FOR FORMAL COMPLAINTS OF SEXUAL HARASSMENT:

Basic Requirements

1. **Equitability:** Per §106.45(b)(1)(i), treat Complainant and Respondent equitably in the grievance process and related to remedies and sanctions, if any
2. **Objective Evaluation:** Of all relevant evidence, including inculpatory and exculpatory evidence
3. **Credibility Decisions:** Cannot make credibility decisions based on a person's status as Complainant, Respondent, or witness
4. **Presumption:** The School shall include a presumption that the accused is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
5. **Time Frames:** The School shall include reasonably prompt time frames for the conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the School offers informal resolution processes and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the accused 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.

NOTICE OF ALLEGATIONS

- Provide Notice of Allegations to Each Party:
 - Identification of relevant Board Policies & Administrative Regulations which contain the grievance process and informal resolution process
 - Identification of standard of evidence
 - Right to inspect and review evidence
- Notice of allegations with sufficient details, including:
 - Identification of the parties
 - Description of alleged conduct allegedly constituting sexual harassment and the date and location of the alleged incident
- Review Sample Notice Allegations
- Additional Items in Notice of Allegations:
 - Identification of potential policy violations (not just Title IX)
 - Identification of the range of possible disciplinary sanctions and remedies
 - A statement that Respondent is presumed not responsible
 - Notification that a determination of responsibility will be made at the conclusion of the grievance process
 - Notification that each party may have an advisor of choice, who may be an attorney
 - Prohibition against parties knowingly making false statements or knowingly submitting false information
- If additional allegations are discovered, provide a written Notice of Additional Allegations
- Provide written notice of any changes in the process, including:
 - Delays
 - Meetings
 - Interviews
 - Hearings
 - Appeals
 - Decisions
 - Other

DISMISSAL OF A FORMAL COMPLAINT

Required Dismissal

The School shall investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined above even if proven, did not occur in the School's education program or activity, or did not occur against a person in the United States, then the School must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX and implemented regulations; such a dismissal does not preclude action under another provision of the School's code of conduct, board policy or California law.

Permissive Dismissal

The School may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:

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

Upon a dismissal described above, the School must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

CONSOLIDATION OF FORMAL COMPLAINTS

A Charter School may consolidate formal complaints as to allegations of sexual harassment against more than one accused, or by more than one complainant against one or more accused, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one accused, references in this policy to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

Investigation of a Formal Complaint

When investigating a formal complaint and throughout the grievance process, the Charter School shall do the following:

Presume Responsibility

Charter School must presume that the Respondent is not responsible for the alleged conduct.

Gather Evidence

Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the School and not on the parties provided that the School 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 the School obtains that party's voluntary, written consent to do so for a grievance process under this policy. If a student is under the age of 18, the School must obtain the voluntary, written consent of the student's parent/guardian/education rights holder.

Provide a Written Notice with Time to Prepare

Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Provide Equal Opportunity for Parties

Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. To have an advisor present for any meeting, interview, or hearing who may be, but is not required to be, an attorney, and not limit

the choice or presence of an advisor for either the complainant or the accused in any meeting or grievance proceeding.

Ensure No “Gag” Orders or Directives

Cannot restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. Likely can direct parties and witnesses not to tamper with evidence.

Provide Equal Opportunity to Inspect and Review Evidence

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 School 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 before the conclusion of the investigation.

Prepare and Share Draft Report of Evidence

Prior to completion of the investigative report, the School 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 days to submit a written response, which the investigator will consider prior to completion of the investigative report. The 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; Consider and incorporate new information and responses in the Final Investigative Report

Investigator Prepares Final Investigative Report

Create an investigative report that fairly summarizes relevant evidence

Provide Investigate Report to Parties

At least 10 days prior to a hearing (if a hearing is required under this policy or otherwise provided) or other time of 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 their review and written response. Review parties' written response(s), revise the investigation report if needed, and attach written response(s) to the Investigative Report

Written Questions Between Parties

Before making a decision, the Decision-Maker will facilitate:

After the School has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants to be asked of any party or 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

accused 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 accused 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

- Decision-maker must be trained to rule on the relevance of questions and repetitive question
- Must understand the “preponderance of the evidence” or “clear and convincing evidence” standard

Written determination must include

- Findings of fact supporting the determination.
- Conclusions regarding the application of the School's code of conduct to the facts.
- A statement of, and rationale for, the result of each allegation, including a determination regarding responsibility, any disciplinary sanctions the School imposes on the accused, and whether remedies designed to restore or preserve equal access to the School's education program or activity will be provided by the School to the complainant; and
- If the Decision-Maker finds responsibility, the written decision should include recommendations for disciplinary sanctions for the Respondent, remedies to the Complainant, and how to file an appeal.

INFORMAL RESOLUTION PROCESS

The School may not require, as a condition of enrollment or continuing enrollment, 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 policy. Similarly, the School may not require the parties to participate in an informal resolution process under this policy 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 School may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the School:

Provides to both parties a written notice disclosing

1. The allegations, 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, provided, however, 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, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

RECORDKEEPING

A recipient must maintain for a period of seven years, including records of:

1. Each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript of any hearing (if applicable), any disciplinary sanctions imposed on the accused, and any remedies provided to the complainant designed to restore or preserve equal access to the School's education program or activity.

A recipient must maintain for a period of seven years, including records of:

1. Any appeal and the result therefrom
2. Any informal resolution and the result therefrom; and
3. All materials used to train Title IX Coordinator and Investigators, investigators, decision-makers, and any person who facilitates an informal resolution process. The School must make these training materials publicly available on its website, or if the School does not maintain a website, the School must make these materials available upon request for inspection by members of the public.

For each response to a formal complaint required by this policy, the School must create and maintain, for a period of seven years, records:

1. Of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.
2. In each instance, the School must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the School's education program or activity. If a School does not provide a complainant with supportive measures, then the School must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the school from providing additional explanations or detailing additional measures taken in the future.

RETALIATION

Retaliation Prohibited

No recipient or 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 an investigation, proceeding, or hearing.

Avoiding the Title IX Process May Be Retaliation

If the alleged behavior falls under Section 106.30 definitions, a recipient cannot use the student conduct process as a way to avoid the rigorous Title IX grievance procedures; such a decision may constitute retaliation.

Retaliation Complaints Filed Under Same Process

Retaliation complaints may be filed under the Section 106.8(c) grievance process.

Confidentiality Required by Recipient

The recipient must keep the identity of Complainant, Respondent, and witness(es) confidential unless

required by law “or as necessary to carry out Title IX proceedings” Regulations imply that the improper release of this confidential information could be retaliation.

First Amendment Rights

Parties exercising their 1st Amendment rights do not constitute retaliation under Section 106.71(a)

False Statement Charge

Recipient charging an individual with making a false statement in bad faith during the Title IX process is not retaliation. A responsibility determination (or no responsibility determination) is not sufficient evidence to conclude there was a bad faith false statement

APPEALS

The School shall offer both parties an appeal from a determination regarding responsibility within five (5) days of the issuance of the Written Decision, and from the School's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, could affect the outcome of the matter; and
3. The Title IX Coordinator and Investigator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against a complainant or an accused generally or the individual complainant or accused that affected the outcome of the matter.

The Title IX Appeals Officer (not Decision-Maker, Title IX Coordinator and Investigator, or investigators) shall issue a written decision on an appeal within thirty (30) days from the receipt of the appeal.

A recipient may offer an appeal equally to both parties on an additional basis. As to all appeals, the recipient must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. 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, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal is unbiased and meets the training requirements under Title IX;
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties

CONSEQUENCES

Students or employees who engage in misconduct prohibited by this Policy, knowingly make false statements, or knowingly submit false information during the grievance process may be subject to disciplinary action up to and including expulsion from Charter School or termination of employment.

The Coordinator is responsible for the effective implementation of any remedies ordered by Charter School in response to a formal complaint of sexual harassment.



Title IX Sexual Harassment Complaint Form

Instructions: This form can be completed by any individual who has knowledge of a sexual harassment conduct occurring within Feather River Charter School's ("Charter School") education program or activity. Please complete the information below to the best of your ability. Should you need additional space or would like to provide documentation to support the allegations in the complaint, you can attach those to this complaint form. If you have any questions, please contact the School's Title IX Coordinator and Investigator listed below.

Contact Information and Complainant's (Person Making Complaint) Information

Full Name of Person Filing the Complaint Name:

Address:

Phone: Email:

Complainant's Full Name (if different from above):

Respondent's (Accused) Information

Respondent's Full Name:

Is the accused a student? ☐ No ☐ Yes

If yes, what is the student's grade and relation to complainant:

Is the accused a Charter School staff member? ☐ No ☐ Yes ☐ Other

If yes, what is the staff member's relation to the complainant (e.g., teacher)?

If other, what is the affiliation or organization:

Details of Complaint

Date of the Alleged Incident: Location of Alleged Incident:

Please describe the facts underlying your complaint. Provide details such as the names of those involved, the dates of the incident, whether witnesses were present and the names of any witnesses, etc. Please provide any details which you feel might be helpful to the complaint investigator.

Did the harassment occur within or during the Charter School's program or activity? If so, please describe below:

Did this incident interfere with your ability to access or participate in the Charter School's education program or activity? If so, please describe below:

List the individuals involved in the relevant incident(s):

List any witnesses to the incident(s):

Acknowledgements

By submitting this form to the School's Title IX Coordinator, I wish to initiate the School's formal Title IX Grievance Procedures.

Signature of Person Filing Complaint Date

Once you have completed this form, please submit it to:

Title IX Coordinator - Deanna Moreno
deanna.moreno@sequoiagrove.org
Phone Number- 530-927-5137