



Carlstadt Public School

550 Washington Street ◇ Carlstadt, NJ 07072
Phone: 201-672-3000 ◇ www.carlstadt.org

Diana Gutierrez, Director of Special Services

Title IX Grievance Procedure

The Title IX Grievance Procedure listed below is meant to provide for prompt and equitable resolution of student and employee complaints.

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 of sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a resort may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

Should any School employee, or School official who has authority to institute corrective measure on behalf of the School, receive notice of sexual harassment or allegations of sexual harassment, they shall immediately report it to the Title IX Coordinator.

Grievance Process for Complaints Not Alleging Sexual Harassment

Level I - Informal Procedure

Upon receiving a report of sexual discrimination that does not allege sexual harassment (as defined below), the Title IX Coordinator shall facilitate resolution through an informal procedure, if possible. This informal procedure is not required as a precursor to the filing of a complaint. The informal procedure is only available in those circumstances where the parties agree to participate in it. Individuals who believe that they have been unlawfully sexually discriminated/retaliated against may proceed immediately to the complaint procedure and individuals who seek resolution to move to the complaint procedure. While there are no set time limits within which an informal procedure must be resolved, the Title IX Coordinator or his/her designee will exercise his/her authority to attempt to resolve the informal procedure within fifteen (15) business days of receiving the report.





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Parties who are dissatisfied with the results of the informal procedure may proceed to file a complaint with the Title IX Coordinator.

Level II - Complaint Procedure

If a report is not resolved through the informal procedure, if one of the parties requests that the informal procedure be terminated to move to the complaint procedure, or if the individual elects to file a complaint initially, the complaint procedure shall be implemented. The School also reserves the right to investigate and resolve a complaint or report of sex discrimination /retaliation regardless of whether the individual alleging the unlawful discrimination/retaliation pursues a complaint.

The complaint should be in writing and state the date and nature of the alleged discrimination/retaliation and the relief sought. If the grievant is a student, the Title IX Coordinator shall assist in preparing the written complaint.

Upon receipt of the written complaint of sexual discrimination that does not allege sexual harassment, the Title IX Coordinator or his/her designee shall begin an investigation. The investigation will include, but not be limited to, interviews and a consideration of documentation or other information presented by any party that is reasonably believed to be relevant to the allegations, as applicable. Although certain cases may require additional time, the Title IX Coordinator or his/her designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the written complaint. The School reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

If an individual is alleged to have engaged in discrimination/retaliation, that individual shall be presumed to not be responsible for the alleged conduct until the conclusion of the complaint procedure. That individual must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

At the conclusion of the investigation, the Title IX Coordinator or his/her designee shall issue a written decision to the parties.

Level III - Appeal





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If the student or employee believes that there still is a basis for a grievance, he or she may make a written statement of appeal to the Board. This written statement of appeal must be filed within ten (10) business days of the date of the Title IX Coordinator's decision.

The Board or its designee (1-4 members of the Board) shall make a decision on the grievance appeal in a timely manner (ordinarily within fifteen (15) business days of the appeal being received), and shall give that decision in writing to the Title IX Coordinator and the Student or employee.

Grievance Process for Complaints of Sexual Harassment

Definitions

For purposes of this grievance process,

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

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that 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 electronic mail, by using the contact information listed for the Title IX Coordinator.

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

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

1. An employee of the School conditioning the provision of an aid, benefit or service of the School 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 the School's education program or activity, or





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3. “Sexual assault” as defined in 10 U.S.C 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 1229 (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).

“*Supportive measure*” means non-disciplinary, non-punitive individualized services offered as appropriate, as 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 measure 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 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 respondent, to the extent that maintaining such confidentiality would not impair the ability of the School to provide the supportive measure. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Level I - Response to Report

Upon receiving a report of sexual harassment, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measure, 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. The School will maintain as confidential any supportive measures provided before or after the filing of a formal complaint or where no formal complaint has been filed. To the extent that maintaining such confidentiality would not impair the ability of the School to provide the supportive measure.

Level II - Formal Complaint

Upon receipt of a formal complaint (or later as additional allegations become known), the School will provide the following written notice to parties who are known:





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- (A) Notice of the School's grievance process that complies with this section, including any informal resolution process.
- (B) Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date of the location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must 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 also inform the parties of any provision in the School's code of conduct that prohibits knowingly making false statement or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the School decides to investigate allegations about the complainant or respondent that are not included in the foregoing notice provided, the School must provide notice of the additional allegations to the parties whose identities are known.

The School 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, where the allegations of sexual harassment arise out of the same facts or circumstances.

Investigation:

The Title IX Coordinator or his/her designated investigator will investigate the allegations in a formal complaint. When investigating a formal complaint and throughout the grievance process, the Title IX Coordinator or his/her designated investigator must:

- (A) 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 paraprofessionals' capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to





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the party, unless the School obtains that party's voluntary, written consent to do so for a grievance process (if a party is not an "eligible student", as defined in 34 CFR 99.3, then the School must obtain the voluntary, written consent of a "parent" as defined in 34 CFR 99.3);

- (B) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- (C) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- (D) 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 advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the School 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;
- (E) 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;
- (F) 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 prior to conclusion of the investigation. 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 ten (10) business days to submit a written response, which the investigator will consider prior to completion of the investigative report; and
- (G) Create an investigative report within thirty (30) business days of receipt of a formal complaint that fairly summarizes relevant evidence and, at least ten (10) business days prior to a 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.

Office for Civil Rights





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If the student (or their parent or guardian) or employee is not satisfied with the grievance process determination, he or she may appeal it to the Office for Civil Rights. However, use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

A student (or their parent or guardian) or employee who believes there is a basis for a grievance related to Title IX may file a written complaint with the Office for Civil Rights, U.S. Department of Education, 600 Superior Avenue East, Suite 750, Cleveland, Ohio 44114-2611. Any such written complaint must be filed within one hundred eighty (180) days from the date of the alleged discrimination, or, if this grievance procedure is utilized, with sixty (60) days after the last act of the grievance process.

Retaliation Prohibited

Neither the School, 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 this grievance procedure, or because the individual has made a report of complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding in this grievance procedure. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this grievance procedure, constitutes retaliation.

The School 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 the FERPA statute, 20 U.S.C 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination complaints not alleging sexual harassment. The exercise of rights protected under the First Amendment does not constitute prohibited retaliation under this grievance





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procedure. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of this grievance procedure does not constitute prohibited retaliation under this grievance procedure, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

See 34 CFR part 106; see also Policy 5751.

