



TMSA PCS Title IX Policy on Sex Discrimination and Sexual Harassment

Policy Number: EP303

Version: [2025-04-15]

Document status: Active

Date issued: April 15, 2025

Related Statutes and Policies:

- [34 CFR Part 106](#)
- [TMSA PCS Policy E.16, Student Discipline Policy](#)
- [TMSA PCS Policy O.18, Removal and Banning Individuals from School Property](#)

Additional References:

Authority and Approved by: TMSA Public Charter Schools (TMSA PCS) Board of Directors on April 15, 2025]

Date for review: April 15, 2028

Record of policy development:

Version number	Date of issue	Lead author/ reviewer	Consultative persons	Significant changes on previous version
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SECTION 1: POLICY FRAMEWORK

1.1 Policy Statement

This Policy shall be adopted in accordance with the provisions of 34 CFR Part 106 to ensure equal access to education for all students—from pre-K through 12th grade—in accordance with the U.S. Department of Education’s Office for Civil Rights. This includes protecting rights of students and others to an educational environment free from discrimination based on sex, including discrimination in the form of sexual harassment as guaranteed by Title IX of the Education Amendments of 1972.

Title IX prohibits sex discrimination in education programs and activities that receive Federal financial assistance. Title IX obligates all recipients to comply with Title IX and the Department's Title IX regulations, with some limited exceptions set out in the statute and regulations. The treatment of a complainant or a respondent in response to a formal complaint shall be equitable.

Triad Math and Science Academy (TMSA PCS) Company (herein referred to as “TMSA PCS” or the “Corporation”) shall be accountable for ensuring compliance with applicable laws related to Title IX in elementary and secondary schools. This Policy is intended to ensure that schools provide a safe and supportive educational environment for all students where no student is denied equal access to a school’s educational program or activity under the “unwelcome” category of sexual harassment and that responsibilities for addressing allegations of sexual harassment and sex discrimination are clearly defined.

1.2 Purpose and Scope

The purpose of this policy is to publish the TMSA PCS Notice of Nondiscrimination, define sexual discrimination and harassment, establish parameters that define activities under a school’s operational control, outline the Title IX grievance procedures, and establish a mechanism for reporting and investigating allegations of sexual discrimination as it pertains to students attending TMSA schools and employees or other individuals who are participating or attempting to participate in its education programs or activities.

The adoption of grievance procedures outlined herein provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in a TMSA PCS education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by the Title IX regulations.

Reports of sex discrimination, to include sexual harassment, in education programs and activities apply only to US based programs and all school-sponsored activities and programs, including those that take place in athletic programs and TMSA PCS facilities. The definition of education program or activity does not create a distinction between sexual harassment occurring in person versus online.

The obligation to comply with Title IX is not obviated or alleviated by any State or local law or other requirement that conflicts with Title IX.

1.3 Definitions

1.3.1 Actual Knowledge: Means notice of sexual harassment or allegations of sexual harassment to the school Title IX Coordinator or any official of the school who has the authority to institute corrective measures on behalf of the school, or to any employee of an elementary or secondary school. In the case of a notice or receipt of allegations conveyed by a member of the central office staff, the notice should be made to an official who has the authority to institute corrective measures. This standard is not met when the only official with actual knowledge is the respondent.

1.3.2 Allegation: An assertion that someone has engaged in sex discrimination or sexual harassment.

1.3.3 Complainant: A student or employee who is alleged to be the victim of conduct that could constitute sexual harassment. Parents and guardians have a legal right to act on behalf of a complainant, respondent, or party including but not limited to filing a formal complaint.

1.3.4 Formal complaint: A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that TMSA PCS investigate the allegation of sexual harassment. It may be hard copy or an electronic document and must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the person filing the formal complaint. 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 a TMSA PCS.

1.3.5 Consent: Consent means that a person voluntarily and willfully agrees in response to another person's proposition. The person who consents must possess sufficient mental capacity. Consent also requires the absence of coercion, fraud, or error.

1.3.6 Dating Violence: Means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- a. The length of the relationship
- b. The type of relationship.
- c. The frequency of interaction between the persons involved in the relationship.

1.3.7 Decision-maker: The decision-maker, who cannot be the same person as the Title IX Coordinator or investigator, reviews the investigative report and makes a determination regarding responsibility using the standard of evidence in accordance with section 5.10.

1.3.8 Disciplinary Sanctions: Consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

1.3.9 Domestic Violence: Includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or

attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim; is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; shares a child in common with the victim; or commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

1.3.10 Education Program or Activity: Includes locations, events, or circumstances over which TMSA PCS exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

1.3.11 Grievance Process: This is the formal name used in the Title IX regulations for a school's process for addressing formal complaints of sex discrimination, to include sexual harassment, under Title IX.

1.3.12 Notice: Includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

1.3.13 Relevant: Means related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex discrimination occurred.

1.3.14 Remedies: Measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

1.3.15 Respondent: A person who is alleged to be the perpetrator of conduct that could constitute sexual harassment.

1.3.16 Retaliation: Means intimidation, threats, coercion, or discrimination against any person to include a student, an employee, or other person authorized by TMSA PCS to provide aid, benefit, or service under an education program or activity, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing, including in an informal resolution process or in grievance procedures.

1.3.17 Sexual Assault: Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

1.3.18 Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following: An employee conditioning the provision of an aid, benefit, or service of TMSA PCS on an individual's participation in an unwelcome sexual conduct; 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 TMSA PCS program or activity; sexual assault, dating violence, domestic violence, or stalking as defined herein.

13.3.19 Substantial Control: Activities or events that are sponsored and/or promoted by the school. A student using a personal device to perpetrate online sexual harassment during class time may constitute a circumstance over which the school exercises substantial control.

1.3.20 Supportive Measures: 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 measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

SECTION 2: NOTICE OF NONDISCRIMINATION

2.1 TMSA PCS does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admissions and employment. The TMSA nondiscrimination policy and grievance procedures are contained herein. To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination, to include sexual harassment under Title IX, please refer to the appropriate TMSA school website to contact the Title IX Coordinator at the school.

2.1.1 Inquiries about Title IX may be referred to the appropriate TMSA PCS Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

2.1.2 The Title IX Coordinator for each school, the TMSA PCS policy, and grievance procedures shall be posted on each school's website.

2.1.3 All elements of the nondiscrimination notice shall be prominently displayed on each school website and in each handbook, catalog, announcement, bulletin, and application form that is made available to people entitled to notice, or which are otherwise used in connection with the recruitment of students or employees.

SECTION 3: APPOINTMENT AND RESPONSIBILITIES OF TITLE IX COORDINATOR AND STAFF TRAINING

3.1 Appointment of Title IX Coordinator

Each school within TMSA PCS shall appoint an appropriately trained Title IX Coordinator.

3.2 Responsibilities of Title IX Coordinator

- a. Coordinate school compliance with its obligations under Title IX.
- b. When reported, take actions to promptly and effectively end any sexual harassment in the school's education program or activity, prevent its recurrence, and remedy its effects.
Upon receipt of a complaint:
 1. Treat the complainant and respondent equitably.

2. Offer and coordinate supportive measures.
 3. Notify parties of the grievance procedures.
 4. Upon receipt of a formal complaint or upon initiating a formal complaint, provide the parties and advisors with written notice of the allegations within two (2) school days of receipt of the formal complaint or initiation of the formal complaint.
 5. Ensure that personnel involved in handling a complaint (Title IX Coordinator, investigator or decision-maker) have no conflict of interest or potential bias against complainants and/or respondents.
- c. Ensure the privacy and confidentiality of the parties by taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through grievance procedures.
 - d. Ensure the effective implementation of any remedies.
 - e. If the complainant or respondent is a student with a disability, consult with one or members, as appropriate, of the student's Individualized Education Program (IEP) team if the change would constitute a modification of the IEP or if the respondent is found responsible and disciplinary action is considered.
 - f. If there is a determination that sex discrimination occurred, coordinate the provision and implementation of remedies to a complainant.

3.3 Staff Training

3.3.1 Specialized training is required of school Title IX Coordinators, investigators, decision-makers, and any person designated to facilitate an informal resolution process.

3.3.2 All TMSA employees shall complete Safe School training within 30 days after beginning employment. All employees must be trained and know the identity of the Title IX Coordinator.

3.3.3 Training of those personnel listed in 3.3.1 must include training on the definition of sexual harassment in the Final Rule; 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; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train personnel must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

3.3.3.1 Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

3.3.3.2 Personnel must receive training related to their duties under Title IX promptly (within 14 school days of hiring or change of position that alters their duties under Title IX).

3.3.3 Schools must prominently display materials used to train Title IX Coordinators on their websites and provide contact information for the Title IX Coordinator.

SECTION 4: RECEIPT OF ALLEGATIONS OF SEXUAL HARASSMENT OR SEX DISCRIMINATION

4.1 Reporting Allegations and the Grievance Process

TMSA PCS has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX regulations.

4.1.1 Complaints of Sexual Harassment

The following persons have a right to make a complaint of sexual harassment, including requesting that the applicable TMSA PCS school investigate and make a determination about alleged discrimination or harassment under Title IX:

- a. A “complainant,” which includes a student or employee of TMSA PCS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX.
- b. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant.
- c. Any designated TMSA PCS Title IX Coordinator.

4.1.2 Basic Requirements of the Grievance Process

There are basic requirements to which TMSA must adhere with respect to the grievance process. These include –

- a. Treating complainants and respondents equitably.
- b. Requiring an objective evaluation of all relevant evidence.
- c. Requiring that the Title IX Coordinator, investigator, decision-maker, or facilitator in an informal resolution process, not have a conflict of interest or bias against either party.
- d. Ensuring that the Title IX Coordinator, investigator, decision-maker, or facilitator in an informal resolution process receive training on
 1. The Title IX definition of sexual harassment;
 2. The scope of TMSA PCS’s education program or activity;
 3. How to conduct an investigation and grievance process, as applicable; and
 4. How to serve impartially, including by avoiding prejudgment of facts, conflicts of interest, and bias.
- e. Ensure that decision-makers receive training 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.
- f. Ensure that investigators received training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- g. 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.
- h. Reasonably prompt timeframes for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes; and a process that allows for temporary delay of the grievance process or the limited extension of time frames for good cause.
- i. Describing the range of possible sanctions and remedies following any determination of responsibility.
- j. Stating the standard of evidence to be used.
- k. The procedures and bases for complainant and respondent appeal.
- l. Describing the range of supportive measures for both complainants and respondents.

- m. Not require, allow, rely upon, or otherwise use evidence that constitute, or seek disclosure of, information protected under legally recognized privilege unless waived by the person holding such privilege.

4.1.3 Informal Resolution. In lieu of resolving a complaint through TMSA PCS grievance procedures, the parties may instead elect to participate in an informal resolution process. TMSA PCS does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of a student, or when such a process would conflict with Federal, State, or local law.

- a. If the allegations are not against an employee, the Title IX Coordinator will reach out to the parties to determine if the parties want to engage in the informal resolution process. TMSA PCS shall offer the opportunity for the parties to participate in an informal resolution process based on both of the following requirements.
 - 1. Respondent is willing to accept responsibility for each allegation in the formal complaint or respondent is amenable to a mutually agreeable outcome without accepting responsibility for any allegation.
 - 2. Both parties voluntarily provide written consent to the informal resolution process.
- b. If the parties agree to participate in the informal resolution process, the impartial facilitator for the informal resolution will communicate with both parties to facilitate a meeting date that works for both parties. The informal resolution meeting shall take place no more than 21 days from the date both parties agreed to engage in informal resolution.
- c. No more than three (3) hours will be allotted for the informal resolution meeting.
- d. Unless otherwise requested, the informal resolution meeting will take place using a videoconferencing tool that will be identified by the facilitator.
- e. Once a meeting date is determined, on the meeting date, the facilitator will gather with both parties simultaneously to review the informal resolution process and confirm that both parties agree to engage in the informal resolution process. If either party plans to use an advisor, the name and relationship of the advisor to the party shall be provided to the facilitator.
- f. Once both parties confirm the desire to resolve the complaint informally, the facilitator will place each party into separate breakout rooms.
- g. The facilitator will first separately confer with the complainant to get the complainant's account of the events. The facilitator will then solicit the complainant's desired remedies to resolve the matter and provide any feedback.
- h. The facilitator will then separately confer with the respondent to get the respondent's account of the events. The facilitator will communicate the complainant's desired remedies and solicit any remedies the respondent suggests. The facilitator will provide feedback.
- i. The facilitator will go back and forth communicating desired remedies and feedback until the parties agree to remedies that will resolve the complaint. Advisors will be permitted to speak as well.
- j. If the parties agree to a resolution, the facilitator will draft a written resolution that reflects the parties' agreement and obtain both parties' signature. The facilitator will then submit the signed, written resolution to the Title IX Coordinator.

- k. If the parties agree to a written resolution, the parties are precluded from bringing a formal complaint arising from the same allegations that are the subject of the written resolution.
- l. If the parties are not able to agree to a written resolution within 24 days from the date both parties agreed to the informal resolution process, TMSA PCS shall resume the grievance process, unless the parties required more time to coordinate a mutually agreement date for the informal resolution meeting.

4.2 Receipt of Allegation by School Personnel

The school must respond whenever any school employee has notice of sexual harassment. This includes notice to a teacher, teacher's aide, bus driver, food service worker, counselor, school resource officer, nurse, maintenance staff, coach, athletic trainer, or any other school employee.

4.2.1 Any school employee observing or receiving a notice of alleged sexual harassment must report the complaint to the school Title IX Coordinator.

4.2.2 TMSA PCS requires that any Title IX Coordinator, investigator, or decision-maker be free of a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

4.3 Response to Formal Complaint

The school must respond as promptly as possible, but within no more than two (2) school days and in a manner that is not purposely indifferent when it receives notice of alleged sexual harassment. A school is deliberately indifferent only if its response to sexual harassment is clearly unreasonable considering the known circumstances.

4.3.1 The Title IX Coordinator must promptly contact the complainant to discuss the availability of and offer supportive measures, regardless of whether a formal complaint is filed, and explain the process for filing a formal complaint. The Title IX Coordinator shall also ensure that the complainant understands their rights and options under the Title IX policy.

4.3.2 If a formal complaint is filed, either by the complainant or the Title IX Coordinator, the school must offer supportive measures to the complainant and follow the Title IX grievance procedures outlined herein. The school must also consider the complainant's wishes with respect to supportive measures.

4.3.2.1 The school must offer supportive measures that are designed to restore or preserve equal access to the school's education program or activity. These include measures to protect the safety of all parties or the school's educational environment or deter sexual harassment.

4.4 Supportive Measures

It is the discretion of school administrators to determine which supportive measures are appropriate based on the facts and each set of unique circumstances. Supportive measures may include:

- a. Counseling
- b. Extensions of deadlines or other course-related adjustments
- c. Modifications of class schedules or work schedules
- d. Changes in work location
- e. Leaves of absence

- f. Mutual restrictions on contact between the parties

4.5 Emergency Removal of Any Respondents from Campus

The school must undertake an individualized safety and risk analysis, determine 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 provide the respondent with notice and an opportunity to challenge the decision immediately following the removal in accordance with TMSA PCS policies.

4.6 Administrative Leave for Employees

TMSA PCS shall have the authority to place employee respondents on paid or unpaid administrative leave during the pendency of the Title IX grievance process. The standard for administrative leave is not the same as the standard for emergency removal. Before placing an employee respondent on administrative leave, TMSA PCS shall evaluate the level of risk, including but not limited to the nature of the allegations, the employee's role, and potential for ongoing access to students.

SECTION 5: GRIEVANCE PROCEDURES

5.1 Presumption of No Responsibility

The presumption should be made that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. However, the presumption does not imply that the alleged sexual harassment did not occur, or that the respondent is truthful, or a complainant is untruthful. Instead, the presumption is designed to ensure that investigators and decision-makers serve impartially and do not prejudge that the respondent is responsible for the alleged harassment.

5.2 Applicability of Grievance Procedures

The grievance procedures outlined herein apply only to formal complaints of sexual harassment.

5.2.1 Initial Receipt of Allegation

Upon receipt of a formal Title IX complaint, the Title IX Coordinator must implement the grievance procedures identified herein and provide the written notice to the parties (complainant and respondent(s)) who are known in accordance with section 5.2.2 below.

5.2.2 Notice to Parties of Allegations

Upon initiation of TMSA PCS Title IX grievance procedures via a formal complaint, the school's Title IX Coordinator shall provide written notice to the parties and their advisors of the following:

- a. Title IX grievance process and the informal resolution process. If the respondent is an employee, informal resolution is not an option.
- b. Notice of the allegations of sexual harassment that comply with the Title IX definition of sexual harassment.
- c. Sufficient details known at the time and with sufficient time to allow the parties to prepare a response to the allegations before an interview, including the identities of the parties involved in the incident(s), if known, the conduct alleged to constitute sexual harassment, and the date(s) and location(s) of the alleged incident(s), if known.

- d. 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.
- e. The parties are entitled to have an advisor of their choice, who may be, but is not required to be, an attorney.
- f. Parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint.
- g. Retaliation is prohibited.
- h. Any provision that knowingly making false statements or knowingly submitting false information during the grievance process is a violation of the Code of Conduct/Code of Ethics.

5.2.2.1 If TMSA PCS provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party. If, in the course of an investigation, TMSA PCS decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the school will notify the parties of the additional allegations.

5.2.3 Preventing Conflicts of Interest or Bias in the Grievance Process

Any Title IX Coordinator, investigator, or decision-maker shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decision-maker may not be the same person as the Title IX Coordinator or investigator, but the Title IX Coordinator is able to serve the role as investigator.

5.2.4 Appointment of an Investigator

The investigator shall be a staff member employed by TMSA PCS who is formally trained in conducting Title IX investigations. Where conflicts of interest or resource constraints arise, the Title IX Coordinator may assign a Title IX trained investigator from another TMSA PCS school. An investigator cannot be a decision-maker.

5.2.5 Investigation of the Allegation

The investigation may include, among other things, interviewing the complainant, the respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files (preserving confidentiality wherever necessary); and gathering and examining other relevant documents, social media, and evidence. When investigating a complaint, TMSA shall do the following.

- a. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on TMSA and not on the parties. While the investigator will have the burden of gathering evidence, it is crucial that the parties present evidence and identify witnesses to the investigator so that they may be considered during the investigation.
- b. Provide an equal opportunity for the parties to present witnesses and other evidence suggesting responsibility or innocence.
- c. Not restrict either party from discussing the allegations under investigation or to gather and present relevant evidence.
- d. Provide the parties with the same opportunities to have others present during a meeting. The level of participation for an advisor in a meeting may be restricted as long as the restriction is applicable to both parties. For TMSA, while advisors are permitted to speak

to the person for whom they're providing advisement, advisors shall not be permitted to speak on behalf of the complainant or respondent.

- 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 in sufficient time for the party to prepare to participate in the meeting.

5.2.6 Protection of Privacy

TMSA PCS will take reasonable steps to protect the privacy of the parties and witnesses during the grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking with witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

5.2.7 Opportunity for Parties to Submit Written, Relevant Questions

Each party must be afforded the opportunity to submit written, relevant questions that a party wants asked of any party or witness to the decision-maker and Title IX Coordinator. Each party is to be provided with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant. The school may exclude as not relevant questions that are duplicative or repetitive.

5.2.7.1 All evidence gathered during the investigative process and obtained through the exchange of written questions will be considered, however, the decision-maker may in his or her discretion grant lesser weight to last-minute information or evidence introduced through the exchange of written questions that was not previously presented for investigation by the Investigator.

5.8 Time Frame for the Grievance Process and Investigating Allegations

TMSA PCS has established the following timeframes for major stages of the grievance process, including for example, evaluation (i.e. the decision whether to dismiss or investigate a complaint); investigation; determination; and appeal, if any. The time frame for concluding the grievance process, to include filing and resolving appeals, must be reasonably prompt and account for the entire grievance process.

5.8.1 Receipt of Notice by Title IX Coordinator

Upon receipt of notice of allegations of conduct that could constitute sexual harassment, the Title IX Coordinator, within no more than two (2) school days, shall evaluate the allegation to determine whether it meets the definition of sexual harassment and assign an Investigator as appropriate or dismiss the complaint. The investigation into allegations of sexual harassment shall begin within 48 hours of receipt of a formal complaint on a normal workday. If the notification is received on a weekend day or holiday, the investigation shall begin within 48 hours on the first regular workday. The investigation shall be conducted in a timely and efficient manner, generally within 30 days. However, temporary extensions may be granted on a case-by-case basis due to factors such as absence of a party, a party's advisor, or a witness; the need for language assistance or accommodation of disabilities; the complexity of the case; or concurrent law enforcement activity. Any delay will be communicated in writing to all parties involved.

5.8.2 Dismissal of a Complaint

The school must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in section 1.3.19 even if proved, did not occur in a TMSA education program or activity, or did not occur against a person in the United States, then TMSA must dismiss the formal complaint with regard to that conduct for the purposes of sexual harassment under Title IX.

5.8.2.1 Other Causes for Dismissal

A formal complaint and allegations identified therein may be dismissed at any time during the investigation if:

- a. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein,
- b. The respondent(s) are no longer enrolled or employed by TMSA, or
- c. Specific circumstances prevent TMSA from gathering sufficient evidence to reach a determination as to the formal complaint or allegations.

5.8.2.2 Upon dismissal, TMSA shall promptly provide written notice of the dismissal with the rationale simultaneously to the parties.

5.8.3 TMSA PCS has established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay such as, the absence of a party, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

5.8.3.1 The investigator assigned to a case notifies the school Title IX Coordinator in writing of the need for an extension, providing sufficient justification for the extension request. The request must be submitted to the Title IX Coordinator no less than three (3) days prior to the established timeline for completion.

5.8.3.2 The Title IX Coordinator either grants or denies the investigator's request in writing, and immediately notifies the parties if an extension is granted, for what reason, and the new completion timeline.

5.9 Opportunity for Parties to Submit Written, Relevant Questions

Each party must be afforded the opportunity to submit written, relevant questions that a party wants asked of any party or witness. Each party is to be provided with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant. The school may exclude as not relevant questions that are duplicative or repetitive.

5.10 Standard of Evidence

The standard of evidence or proof that shall be used to determine responsibility is the clear and convincing evidence standard. This standard means the decision-maker must determine whether it is highly probable that the alleged facts are true.

5.11 Evaluation of Evidence

An objective evaluation of the relevant evidence is required, to include inculpatory and exculpatory evidence. Credibility determinations shall not be based on a person's status as a complainant, respondent, or witness.

5.11.1 Impermissible Evidence. The following types of evidence shall be excluded:

- a. Evidence that is protected under privilege as recognized under Federal or State law or evidence provided to a confidential employee unless waived by the person to which it is owed.
- b. A party's or witness's records that are made or maintained by a healthcare provider unless consent is provided by the party or witness to which they apply in connection with the grievance.
- c. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct.

5.12 Determination Regarding Responsibility

The appropriate individual designated by the school will review the evidence provided by all parties and will make a final determination of responsibility after the investigation. No person designated as decision-maker shall have a conflict of interest. The final determination will be provided to the parties simultaneously, in writing, with appeal rights provided. The determination will:

- a. Identify the allegations potentially constituting sexual harassment as defined herein.
- b. Explain if any policies were violated.
- c. Outline the steps and methods taken to investigate.
- d. Document the findings of fact supporting the determination.
- e. Identify conclusions regarding the application of the code of conduct to the facts.
- f. Provide a statement of, rationale for, and the result of each allegation.
- g. Determination regarding responsibility.
- h. Any disciplinary sanctions that will be imposed on the respondent, and any remedies available to the complainant to restore or preserve equal access.
- i. Explain any remedies to be implemented to restore or preserve equal access to TMSA PCS education programs and activities.
- j. Notify parties of the appeals process and timelines for submitting an appeal.

5.13 Disciplinary Sanctions and Remedies

5.13.1 Disciplinary Sanctions

The school will take reasonable steps to address any violations of this policy and to restore or preserve equal access to the school's education programs or activities. Following a determination that sex-based harassment occurred, TMSA PCS may impose disciplinary sanctions, depending on the nature and gravity of the misconduct, any record of prior discipline for similar violations, or both.

5.13.1.1 Determination of Sexual Harassment by Students. The range of potential sanctions and corrective actions that may be imposed on a student includes, but is not limited to the following:

- a. Counseling
- b. Remedial education
- c. Suspension

- d. Expulsion

5.13.1.2 Determination of Sexual Harassment by Staff. Potential sanctions that may be imposed on staff following a determination of sexual harassment against another staff member or student includes suspension or termination.

5.13.2 Remedies

The Title IX Coordinator is responsible for effective implementation of any remedies. If a complainant misses a scheduled exam due to the aftermath of a sexual violence incident, the complainant should not be academically penalized. The school must allow the student to reschedule the exam and take it at a later date. Other potential remedies for the complainant include:

- a. Providing access to medical, mental health, victim advocacy, and academic support services.
- b. Implementing a no contact order on the perpetrator.
- c. Making adjustments to class schedules so that the perpetrator and complainant do not share classes or extracurricular activities.
- d. Allowing the complainant to rearrange their exam schedule or switch classes without academic or financial consequences.
- e. Informing the complainant of their right to file a report with the police.

SECTION 6: APPEAL PROCESS

The TMSA PCS Board of Directors (“Board”) shall offer both the complainant and the respondent (“the parties”) the opportunity to appeal the determination regarding responsibility in a Title IX case. The Board shall serve as the appellate body in Title IX cases. When an appeal is filed, TMSA PCS shall provide written notice to the other party that an appeal has been filed. The following appeal procedures shall apply.

6.1 Appeal Eligibility. TMSA PCS shall only allow the parties to appeal the following:

- a. A determination regarding responsibility;
- b. Dismissal of a formal complaint; and
- c. Dismissal of any allegations in the formal complaint.

6.2 Appeal Bases. TMSA PCS shall only allow the parties to appeal on one or more of the following bases:

- a. Procedural irregularity that affected the outcome of the matter;
- b. 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
- c. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the parties generally or against individual complainant(s) or individual respondent(s).

6.3 Appeal Dismissal. The TMSA PCS Superintendent shall have the authority to dismiss any appeals that do not meet one or more of the bases identified above in Paragraph 6.1 and Paragraph 6.2.

6.4 Information Supporting Appeal Required. The parties shall provide information to support each basis for appeal identified. Simply listing the appeal basis without any information to support the basis will result in the appeal being dismissed.

6.5 Timelines

- a. The parties shall have ten (10) calendar days from receipt of the written determination regarding responsibility to file an appeal. The appeal must be in writing to the Title IX Coordinator with a copy to the Head of School and the decision-maker. Failure to file an appeal within ten (10) calendar days following receipt of the written determination regarding responsibility will result in the determination regarding responsibility being final. The non-appealing shall have the right to submit a written statement in support of the determination of responsibility to the Title IX Coordinator with a copy to the Head of School and the decision-maker within ten (10) calendar days of receipt of the written determination regarding responsibility.
- b. The Board shall have ten (10) school days after receipt of the appeal to meet to consider the appeal, unless the Board is not able to achieve quorum. If the Board is not able to achieve quorum within ten (10) school days after receipt of the appeal, the Board shall consider the appeal at the next regularly scheduled board meeting or within 21 school days after receipt of the appeal, whichever date is earlier.
- c. If both parties appeal and submit their appeals on different dates within the ten (10) calendar day time frame for filing an appeal, the Board may consolidate the consideration of both appeals.
- d. Notwithstanding Paragraph 6.3(b) above, the Board is authorized to consider both appeals within ten (10) school days after receipt of the latest filed appeal.
- e. The Board shall have the authority to waive the ten (10) day requirement in Paragraph 6.3(b) based on unexpected circumstances warranting an extension of time or to promote fairness towards one or more of the parties.

6.6 Board Review Process on Appeal. The Board shall review the formal complaint, the investigation report, any written responses from the parties, the written determination regarding responsibility, information provided in support of the appeal and written information submitted by the non-appealing party in support of the determination regarding responsibility. Using a clear and convincing evidence standard, the Board shall take into consideration all of the documents reviewed and evaluate each factor identified by either party to determine whether there is sufficient evidence to overturn the written decision regarding responsibility. After consideration, the Board shall adopt, modify, overturn the determination regarding responsibility, or remand the case back to the Administration with specific instructions on what to address.

6.7 Written Decision. Within ten (10) school days of the Board's consideration of the appeal(s), the Board shall simultaneously provide the parties with a written decision specifying whether the Board adopted, modified, overturned, or remanded the determination regarding responsibility. The written decision shall provide the rationale for the Board's decision. Unless the Board remands the matter back to the TMSA PCS Administration, the Board's decision is final.

6.7.1 If the Board remands the determination regarding responsibility back to the TMSA PCS Administration, within ten (10) school days of the Board’s written decision, the Administration shall determine a timeline for addressing the areas specified in the remand and communicate that timeline to the parties. The Administration’s timeline to address the areas specified in the remand shall not exceed twenty-one (21) school days from receipt of the Board’s written decision.

6.7.2 Once the Administration has addressed the areas identified in the remand, the Administration shall specify the areas addressed, modify the written decision accordingly, and provide the revised written decision to the parties and any advisors with a copy to the Board.

6.7.3 Within ten (10) school days of receipt of the revised written decision or at the next regularly scheduled Board meeting, whichever date is earlier, the Board shall meet to evaluate whether the Administration has addressed the areas identified in the remand. If the Board has determined that the Administration has satisfactorily addressed the areas identified in the remand, the Board shall adopt the revised written decision, and the Board’s decision shall be final. If the Board determines that the Administration has not satisfactorily addressed the areas identified in the remand, the Board shall modify or overturn the written decision, and the Board’s decision shall be final.

SECTION 7: RETALIATION

7.1 Retaliation in a TMSA PCS education program or activity against a complainant is strictly prohibited, including peer retaliation. Retaliation against any individual involved in the Title IX grievance process is strictly prohibited and may result in disciplinary action, up to and including termination or expulsion.

7.1.1 If a TMSA PCS employee is alerted about conduct that reasonably may constitute retaliation under Title IX

SECTION 8: POLICY COMMUNICATION

8.1 Communication

8.1.1 The school Title IX Coordinator is to inform the TMSA PCS Compliance and Risk Consultant upon receipt of an allegation of sexual harassment and/or discrimination.

8.1.2 A link to this policy is to be provided on each school’s website.

8.1.3 The school is to monitor the status of Safe Schools training for each of its employees.

8.1.4 All training materials and Title IX policies will be made available in accessible formats upon request, in compliance with the Americans with Disabilities Act (ADA).

SECTION 9: RECORD RETENTION STANDARDS

9.1 The school is to retain complete records related to Title IX sexual harassment and/or discrimination complaints according to record retention standards for a period of seven (7) years. These include:

- a. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript; any disciplinary sanctions imposed; and any remedies provided to the complainant designed to restore or preserve equal access to the school's education program or activity.
- b. Any appeal and results.
- c. Any informal resolution and the result.
- d. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

Audience: TMSA PCS Board of Directors, Employees, Students, and Stakeholders