



RISE CHARTER SCHOOL

Policy 3085P: **Sexual Harassment, Discrimination, and Retaliation Policy - Title IX Sexual Harassment Grievance Procedure, Requirements, and Definitions**

Status: ADOPTED

Original Adopted Date:

Last Reviewed Date:

Title IX Sexual Harassment Grievance Process

When This Process Will Be Used

The procedures outlined in this process apply only to qualifying allegations of Title IX sexual harassment involving members of the RISE Charter School community, which include students, staff, administrators, and faculty members. A qualifying allegation must include all of the following elements:

- 1.—The alleged conduct would constitute Title IX sexual harassment as defined below;
- 2.—The conduct occurred in a Charter School educational program or activity as defined below;
- 3.—The respondent is a member of the Charter School community as defined below;
- 4.—The conduct occurred against a person in the United States; and
- 5.—In cases where formal complaints are filed, at the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the Charter School's education program or activity.

Allegations of sexual misconduct that do not meet the criteria above will be addressed through the applicable procedures outlined in Policy 3085, as determined by the Title IX Coordinator.

Collateral Misconduct

This procedure may be used to address collateral misconduct (e.g., vandalism, physical abuse of another, retaliation, etc.) arising from the investigation of, or occurring in conjunction with, reported conduct that meets the criteria of a qualifying allegation of Title IX sexual harassment as described above. For example, if a formal complaint is filed alleging that a qualifying allegation of Title IX sexual harassment and an act of vandalism occurred

during the same incident, both allegations may be addressed using the procedures described below.

Terms Used For This Process

“Advisor” means a person chosen by a party to accompany the party to meetings, interviews, or hearings related to this grievance process and to advise the party on the process.

“Appeal Decision-maker” refers to those who have decision-making authority during the appeals phase of the Charter School’s formal grievance process.

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute Title IX sexual harassment, as defined below.

“RISE Charter School” community means, for the purpose of this process, Charter School students, staff, administrators, and faculty members. 3085P-2

“Education Program or Activity” means locations, events, or circumstances where the Charter School exercises substantial control over both the respondent and the context in which the Title IX sexual harassment occurs. For example, this could include, but is not limited to, conduct that takes place within the Charter School or on property owned or controlled by the Charter School, or at Charter School-sponsored events.

“Formal complaint” means a document submitted by a complainant or their parent/guardian or signed by the Title IX Coordinator alleging Policy 3085 and requesting that the Charter School investigate.

“Formal grievance process” is the method of formal resolution used to determine whether a qualifying allegation of Title IX sexual harassment as described above violates Policy 3085. The formal grievance process is used in a manner that complies with the requirements of the 34 CFR §106.45.

“Decision-maker” refers to those who have decision-making and sanctioning authority within the Charter School’s formal grievance process.

“Investigator” means the person or persons assigned by the Charter School to gather facts during the formal grievance process, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report.

“Notice” means that any Charter School employee, including the Title IX Coordinator, is made aware of conduct that may constitute a violation of Policy 3085. “Parties” include the complainant(s) and respondent(s), collectively.

“Remedies” are applied to the complainant and/or the Charter School community, following a resolution, to address safety, prevent recurrence, and restore access to the Charter School's educational program.

“Respondent” means someone who has been reported as having engaged in conduct that could constitute Title IX sexual harassment, as defined below.

“Sanction” means a consequence imposed by the Charter School on a respondent who is found to have violated Policy 3085 subsequent to engaging in the formal grievance process.

“Title IX Coordinator” is the official(s) designated by the Charter School to ensure compliance with Title IX and the Charter School’s Title IX program. References to the Title IX Coordinator throughout this document may also include a designee of the Title IX Coordinator for specific tasks.

Definition of Title IX Sexual Harassment

Title IX sexual harassment, as an umbrella category, includes the actual or attempted offenses of quid pro quo harassment, sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following criteria:

- 1.—Quid pro quo harassment: An employee of the RISE Charter School conditions, explicitly or implicitly, the provision of an aid, benefit, or service of the Charter School on an individual’s participation in unwelcome sexual conduct.
- 2.—Sexual harassment: Unwelcome conduct determined by a reasonable person to be so severe and pervasive and objectively offensive that it effectively denies a person equal access to the Charter School’s Education Program or Activity. Unwelcomeness, severity, pervasiveness, and objective offensiveness shall be determined as described in the U.S. Equal Employment Opportunity Commission’s Policy Guidance on Current Issues of Sexual Harassment.
- 3.—Sexual assault: Sexual assault shall mean forcible and non-forcible sex offenses as defined in the Clery Act, or dating violence, domestic violence, stalking as defined in the Violence Against Women Act (VAWA).

Acts of Title IX sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Definitions of Force, Coercion, Consent, and Incapacitation

As used in the definitions referenced for the offenses listed above, the following definitions and understandings apply:

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

~~Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.~~

~~Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.~~

~~Consent is knowing, voluntary, and clear permission by word or action to engage in sexual activity.~~

Scope of Procedure

This Title IX Grievance Process applies to all members of RISE Charter School's community, including students, employees, and Board members as well as Charter School patrons, guests, visitors, volunteers, and invitees.

Purpose of This Policy and Procedure

RISE Charter School is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, which are free from sex and gender-based harassment, discrimination, and retaliation. Accordingly, the Charter School prohibits harassment and discrimination on the basis of sex, sexual orientation, gender, gender identity, and pregnancy, as well as retaliation against individuals who report allegations of sex and gender-based harassment and discrimination, file a formal complaint, or participate in a grievance process.

Students, employees, or other members of the Charter School community who believe that they have been subjected to sex or gender-based harassment, discrimination, or retaliation should report the incident to the Title IX Coordinator, who will provide information about supportive measures and the applicable grievance procedure. Violations of this Charter School procedure or its related policy may result in discipline to either students or employees.

Guiding Principles

Title IX requires school Charter Schools to put into place policies and procedures that promote the goal of Title IX, specifically, to prohibit discrimination based on sex, and to respond appropriately if and when sex discrimination occurs or may occur. Title IX explains that when an appropriate official at the Charter School has "actual knowledge" of "sexual harassment" of a student or employee that occurs in one of its educational programs or activities, the Charter School must respond promptly and in a manner that is not "deliberately indifferent." This standard does not require a perfect response; rather, it requires a response that is not "clearly unreasonable" in light of the known circumstances over which the Charter School exercises control.

Grievance Procedure

1. Receipt of a Complaint, Report, or Information Alleging Sexual Harassment

Upon receipt of a complaint or report (whether verbal or written) of possible sexual harassment, the Charter School shall first determine whether to initiate a formal or informal response. Thus, any and all complaints, reports, or information received by any Charter School employee that sexual harassment is occurring or has occurred shall be immediately forwarded to the Charter School's Title IX Coordinator or other designated employee for review and action as appropriate.

The Title IX Coordinator (Coordinator) shall promptly contact the complainant or reporting party and discuss with them the availability of supportive measures, and will consider the complainant's wishes with respect to the provision of supportive measures. The Coordinator shall explain the availability of these measures to the complainant with or without the filing of a "formal complaint." During this initial meeting, the Coordinator or designee shall explain to the complainant the process for filing a written formal complaint, and shall provide assistance to the complainant to ensure the written formal complaint is properly prepared and submitted.

Emergency Removal (of students): Nothing in this procedure prevents the Charter School from removing a respondent from a Charter School education program or activity on an emergency basis, provided that an individualized safety and risk analysis is performed by the Coordinator and Executive Director who determine that an immediate threat to the physical health or safety of any student or other individual arise from the allegations of sexual harassment that justify removal. The Coordinator and Executive Director shall provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights and requirements under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Administrative Leave (of employees). Nothing in this procedure precludes the Charter School from placing a non-student employee respondent on administrative leave during the pendency of a grievance investigation under this procedure. Notwithstanding the above, prior to placing an employee respondent on administrative leave, the Coordinator or designee shall ensure any rights provided by Section 504 of the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act are not impaired or violated.

2. Providing Supportive Measures

If an informal complaint is filed, (for instance, because the complainant does not wish to file a written formal complaint,) as well as during the pendency of the investigation and the decision concluding a formal complaint, the following supportive measures may be implemented to restore or preserve the complainant's access to the Charter School's educational programs without unreasonably burdening the other party (also referred to herein as respondent).

Supportive measures may include actions taken to protect the safety of all parties or the Charter School's educational environment, or which otherwise deter sexual harassment

from occurring in the future. Additional supportive measures may include, but are not limited to: counseling, the availability of a safe place or person in the event complainant feels threatened or uncomfortable, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services at school, mutual restriction of contact between the parties, changes in work locations, leaves of absence, increased security and/or monitoring of locations where prohibited conduct has occurred or may occur in the future, as well as additional measures to protect the complainant, provided the supportive measures initiated are not punitive to the respondent.

3. Filing a Written Formal Complaint

Upon receipt of a written formal complaint, the Coordinator or designee is required to provide written notice to all known complainants and respondents of the allegations and the resulting investigation.

- a. General Notice Requirements: The notice will include the Charter School's Title IX grievance process as well as information regarding the Charter School's informal resolution process.
- b. Specific Notice Requirements: The written notice shall include the following information:
 - i. Information describing the alleged conduct potentially constituting sexual harassment, including sufficient details known at the time the notice is prepared to allow the parties to prepare a response prior to the investigator's initial interview. This notice, and shall be delivered to the parties in enough time to allow their preparation for the initial interview.
 - ii. Sufficient details include but are not limited to the identities of the parties involved, the conduct allegedly constituting sexual harassment, the date(s), and location(s) of the incident(s).

A statement that the respondent is presumed to not be Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent to reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn in the middle of a sexual act, that sexual activity should stop immediately. If consent is withdrawn while the other party is not present, the activity shall cease as soon as is practicable. Consent to some sexual contact, such as

kissing or fondling, does not imply there is consent for other sexual activity, such as intercourse. A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the Charter School to determine whether policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. It is a violation of policy if a respondent engages in sexual activity with someone who is incapable of giving consent. It is a defense to a Charter School policy violation that the respondent neither knew nor should have known the complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. Incapacitation also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

Retaliation

RISE Charter School and any member of the Charter School community are prohibited from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Policy 3085 or its associated grievance processes.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated either as collateral misconduct under this process or, as determined by the Title IX Coordinator, through the applicable procedures outlined in Policy 3085. The Charter School will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Filing a complaint under another Charter School policy or procedure related to the incident could be considered retaliatory if those charges are made for the purpose of interfering with or circumventing any right or privilege provided under this process that is not provided under the other Charter School policy/procedure that was used. Therefore, the Charter School vets

all complaints carefully to ensure this does not happen, and to assure that complaints are tracked to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of this grievance process does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties. Supportive measures are designed to restore or preserve access to the Charter School's Education Program or Activity, including measures designed to protect the safety of all parties or the Charter School's educational environment, and/or deter Title IX sexual harassment.

The Title IX Coordinator shall promptly make supportive measures available to the complainant upon receiving notice or a formal complaint alleging they were the victim of Title IX sexual harassment, and to the respondent upon receipt of a formal complaint alleging that they engaged in Title IX sexual harassment in violation of Policy 3085. At the time that supportive measures are offered, the Charter School will inform the complainant, in writing, that they may file a formal complaint with the Charter School either at that time or in the future, if they have not done so already.

The Title IX Coordinator works with the complainant and/or their parent/guardian to ensure that their wishes are considered with respect to the supportive measures that are planned and implemented.

The Charter School shall maintain the privacy of the supportive measures so long as the privacy does not impair the Charter School's ability to provide the supportive measures. The Charter School shall reduce the academic or occupational impact on the parties as much as possible and shall implement measures in a way that does not unreasonably burden the other party.

Examples of supportive measures may include, but are not limited to:

- A.—Referral to counseling, medical, and/or other healthcare services;
- 1.—Referral to the Employee Assistance Program;
 - A.—Referral to community-based service providers;
 - B.—Visa and immigration assistance;
 - C.—Education of the school community or community subgroup(s);
 - D.—Altering work arrangements for employees;
- 2.—Safety planning;
 - A.—Providing school safety escorts;
 - B.—Providing transportation accommodations;
- 3.—Implementing contact limitations, such as no contact orders, between the parties;

- A. ~~Academic support, extensions of deadlines, or other course or program-related adjustments;~~
- 4. ~~Emergency warnings;~~
- 5. ~~Class schedule modifications, withdrawals, or leaves of absence;~~
- 6. ~~Increased security and monitoring of certain areas of the school; and~~
- 7. ~~Any other actions deemed appropriate by the Title IX Coordinator~~

~~Allegations of violations of no contact orders will be investigated either as collateral misconduct under this process or through the applicable procedures outlined in Policy 3085, as determined by the Title IX Coordinator.~~

Emergency Removal

~~The Charter School can act to remove a student respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.~~

~~This risk analysis is performed by the Title IX Coordinator in conjunction with the Charter School threat assessment team. In cases when an emergency removal involves a student with a disability who is receiving services under an Individualized Education Program (IEP), this risk analysis will also be performed in conjunction with the student's IEP Team and may present the need for a manifestation determination.~~

~~In all cases in which an emergency removal is imposed, the student respondent and their parent/guardian will be given notice of the action and the option to request to meet with the Title IX Coordinator OR threat assessment team OR Administrator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to demonstrate why the action/removal should not be implemented or should be modified.~~

~~This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. A student respondent may be accompanied by an advisor of their choice during the meeting. The student respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation. A complainant and their advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.~~

~~When this meeting is not requested, objections to the emergency removal will be deemed waived, except as described below.~~

~~In cases when an emergency removal involves a student with a disability who is receiving services under an IEP, this meeting can serve as the student's manifestation determination hearing and will be conducted in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA). The student will not have to request such a meeting as it will be scheduled and held within ten days of the decision to implement the emergency~~

removal. If it is determined that an emergency removal is necessary for more than ten school days, the removal would constitute a change in placement and shall be addressed in accordance with the requirements of the IDEA. The results of the manifestation determination may be appealed in accordance with the requirements under the IDEA.

This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX sexual harassment. There is no appeal process for emergency removal decisions.

The Title IX Coordinator shall have sole discretion under this process to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal shall be grounds for discipline, which may include expulsion.

The Charter School will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator OR threat assessment team OR Administration, these actions could include, but are not limited to:

- 1.—Temporarily re-assigning an employee;
- 2.—Restricting a student's or employee's access to or use of facilities or equipment;
- 3.—Changing transportation arrangements;
- 4.—Authorizing an administrative leave;
- 5.—Suspending a student's participation in extracurricular activities, student organizational leadership, or athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties. Where the respondent is an employee, existing provisions for interim action are applicable.

Promptness

All allegations of Title IX sexual harassment, whether by notice or formal complaint, shall be acted upon promptly. The Charter School will avoid all undue delays within its control.

If the timeframes for resolution outlined in these procedures will be delayed, the Charter School shall provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

Privacy

The Charter School shall make every effort to preserve the privacy of reports of Title IX sexual harassment.

“Privacy” means that information related to notice or a formal complaint will only be shared with the parties, their advisors, and a limited number of Charter School employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. As required by law, law enforcement may be notified. All employees who are involved in the Charter School's Title IX sexual harassment response under this process shall receive

specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in the Charter School's policies and procedures on student records.

The privacy of employee records will be protected in accordance with Charter School policies regarding personnel records. The Charter School shall not share the identity of any individual who has made a report or formal complaint of Title IX sexual harassment, any complainant, any respondent, or any witness, except as permitted by the 20 U.S.C. 1232g or 34 CFR part 99 or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these procedures.

The Charter School reserves the right to determine which Charter School officials have a legitimate educational interest in information about incidents that fall within this process, pursuant to FERPA.

Time Limits on Reporting

There is no time limit on providing notice or formal complaints to the Title IX Coordinator. However, if the respondent is no longer subject to the Charter School's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/formal complaints significantly impacted by the passage of time shall be at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

Online Harassment

Policy 3085 and these procedures are written and interpreted to include online manifestations of any of the conduct prohibited above, when the conduct occurs in the Charter School's Education Program and Activities or uses the Charter School's networks, technology, or equipment.

When a Complainant Does Not Wish To Proceed

If a complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who shall evaluate that request in light of the duty to ensure the safety of the RISE Charter School community and to comply with state or federal law.

The Title IX Coordinator shall have ultimate discretion over whether the Charter School proceeds when the complainant does not wish to do so, and the Title IX Coordinator may sign

a formal complaint to initiate the applicable grievance process. Any decision to proceed should be due to a compelling risk to health and/or safety that requires the Charter School to pursue formal action to protect the Charter School community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The Charter School may be compelled to act on alleged employee misconduct irrespective of a complainant's wishes.

The Title IX Coordinator shall also consider the effect that non-participation by the complainant may have on the availability of evidence and the Charter School's ability to pursue a grievance process fairly and effectively.

When the Title IX Coordinator signs the formal complaint, they do not become the complainant. The complainant is the individual who is alleged to have experienced conduct that may constitute Title IX sexual harassment.

When the Charter School proceeds, the complainant (or their advisor) may have as much or as little involvement in the process as they wish. The complainant retains all rights of a complainant under this process irrespective of their level of participation. Typically, when the complainant chooses not to participate, the advisor or the complainant's parent/guardian may be appointed as proxy for the complainant throughout the process, acting to ensure and protect the rights of the complainant, though this does not extend to the provision of evidence or testimony except in situations where a complainant is unable to provide evidence or testimony without assistance (e.g. due to age, disability, etc.):

The Charter School's ability to remedy and respond to notice of Title IX sexual harassment may be limited if the complainant does not want the Charter School to proceed with an investigation and/or 3085P-10 grievance process. The goal is to provide the complainant with as much control over the process as possible, while balancing the Charter School's obligation to protect its community.

In cases in which the complainant requests no formal action and the circumstances allow the Charter School to honor that request, the Charter School shall offer informal resolution options as described below, supportive measures, and remedies to the complainant, but will not otherwise pursue the formal grievance process.

If the complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a complainant has the right, and can expect, to have allegations taken seriously by the Charter School, and to have the incident investigated and properly resolved through the applicable procedures, as determined by the Title IX Coordinator, as outlined in Policy 3085. The complainant may withdraw their complaint at any point during the process. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

False Allegations and Evidence

Deliberately false and/or malicious accusations are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under Charter School policy.

Resolution Processes for Qualifying Allegations of Title IX Sexual Harassment

Upon receiving a formal complaint or notice pertaining to a qualifying allegation of Title IX sexual harassment, the Title IX Coordinator initiates a prompt initial assessment. The Title IX Coordinator will initiate at least one of the following responses:

- 1.—Offering and/or implementing only supportive measures because the complainant does not want to file a formal complaint. References to the complainant, respondent, or to the parties collectively throughout these procedures may also include their parent(s)/guardian(s) when applicable.
- 2.—An informal resolution process upon submission of a formal complaint; and/or
- 3.—A formal grievance, upon submission of a formal complaint, including an investigation and a determination of whether Policy 3085 was violated.

The Title IX Coordinator will provide supportive measures throughout the investigation to both the complainant and the respondent. The Charter School shall use the formal grievance process as detailed by the procedures below to determine whether or not a qualifying allegation of Title IX sexual harassment violates Policy 3085P-11-3085. If so, the Charter School will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to Title IX sexual harassment, its potential recurrence, or its effects.

Initial Assessment

The Title IX Coordinator's initial assessment typically occurs within one to three business days. The steps in an initial assessment can include:

- 1.—If notice is given, the Title IX Coordinator seeks to determine whether the complainant wishes to make a formal complaint and will assist them in doing so, if desired. If the complainant does not wish to make a formal complaint, the Title IX Coordinator determines whether to initiate a formal complaint due to a compelling threat to health and/or safety.
- 2.—If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the complainant to make sure it is correctly completed.
- 3.—The Title IX Coordinator reaches out to the complainant to offer supportive measures.
- 4.—The Title IX Coordinator works with the complainant to ensure they are aware of the right to have an Advisor.

5.—The Title IX Coordinator works with the complainant to determine whether the complainant prefers a supportive measures only response, an informal resolution process, or a formal grievance process:

a.—If a supportive measures only response is preferred, the Title IX Coordinator works with the complainant to identify their wishes, assesses the request, and implement the measures accordingly. No formal grievance process is initiated, though the complainant can elect to initiate one later, if desired.

b.—If an informal resolution process is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and may seek to determine whether the respondent is also willing to engage in informal resolution.

c.—If a formal grievance process is preferred, the Title IX Coordinator determines whether the conduct alleged constitutes a qualifying allegation of Title IX sexual harassment:

d.—If it does, the Title IX Coordinator will initiate the formal grievance process:

e.—If it does not, the Title IX Coordinator will “dismiss” the complaint under this process and may address the allegation(s) using the applicable grievance process as outlined in Policy 3085. Dismissing a complaint under this process is solely a procedural requirement under Title IX and 3085P-12 does not limit the Charter School’s authority to address a formal complaint through a different applicable process.

Dismissal—Mandatory and Discretionary

These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45:

The Charter School must dismiss a formal complaint or any allegations therein if, at any time during the investigation or meeting with the Decision-maker, it is determined that the conduct alleged in the formal complaint would not constitute a qualifying allegation of Title IX sexual harassment as defined above, even if proved.

The Charter School may dismiss a formal complaint or any allegations therein if, at any time during the investigation or meeting with the Decision-maker:

- 1.—A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint in whole or in part; or
- 2.—The respondent is no longer enrolled in or employed by the Charter School; or
- 3.—Specific circumstances prevent the Charter School from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the Charter School will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the appeal procedures below:

Counterclaims

The Charter School shall ensure that the grievance process is not abused for retaliatory purposes. The Charter School permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the applicable procedure, as determined by the Title IX Coordinator. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of Policy 3085.

Statement of the Rights of the Parties

Any party, as defined in this procedure, has the following rights: 3085P-13

- 1.—The right to an equitable investigation and resolution of all credible allegations of Title IX sexual harassment made in good faith to Charter School officials.
- 2.—The right to timely written notice of all alleged violations, including the identity of the parties involved, if known; the precise misconduct being alleged; the date and location of the alleged misconduct, if known; the implicated policies and procedures; and possible sanctions.
- 3.—The right to timely written notice of any material adjustments to the allegations; such as additional incidents or allegations, additional complainants, or unsubstantiated allegations; and any attendant adjustments needed to clarify potentially implicated policy violations.
- 4.—The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- 5.—The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- 6.—The right to be treated with respect by Charter School officials.
- 7.—The right to have Charter School policies and procedures followed without material deviation.
- 8.—The right not to be pressured to informally resolve or file a formal grievance regarding any reported misconduct involving violence, including sexual violence.

- 9.—The right not to be discouraged by Charter School officials from reporting Title IX sexual harassment to both Charter School and local authorities.
- 10.—The right to have allegations of violations of Policy 3085 responded to promptly and with sensitivity by Charter School law enforcement and/or other Charter School officials:
- 11.—The right to be informed of available supportive measures, such as counseling; advocacy; health care; legal or student financial aid; visa and immigration assistance; or other services, both in the Charter School and in the community.
- 12.—The right to a Charter School-implemented no contact order when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- 13.—The right to be informed of available assistance in changing academic and/or working situations after an alleged incident of Title IX sexual harassment, if such changes are reasonably available. No formal complaint or investigation, either Charter School or criminal, needs to occur before this option is available. Such actions may include, but are not limited to: 3085P-14
 - a.—Changing an employee’s work environment, such as changing their reporting structure or office or workspace relocation;
 - b.—Transportation accommodations;
 - c.—Visa or immigration assistance;
 - d.—Exam, paper, and/or assignment rescheduling or adjustment;
 - e.—Transferring classes;
 - f.—Temporary leave of absence;
 - g.—School safety escorts;
 - h.—Alternative course completion options.
- 14.—The right to have the Charter School maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the Charter School’s ability to provide the supportive measures.
- 15.—The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- 16.—The right to ask the investigator(s) and decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- 17.—The right to provide the investigator(s)/decision-maker(s) with a list of questions that, if deemed relevant by the investigator(s)/Chair, may be asked of any party or witness.
- 18.—The right not to have irrelevant prior sexual history or character admitted as evidence.
- 19.—The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- 20.—The right to a fair opportunity to provide the investigator(s) with their account of the alleged misconduct.
- 21.—The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law and the right to have at least ten business days to review the report prior to any determination being made.

22. The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report.
23. The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
24. The right to regular updates on the status of the investigation and/or resolution.
25. The right to have reports of alleged policy violations addressed by investigators, Title IX Coordinators, and decision-maker(s) who have received relevant training.
26. The right to preservation of privacy, to the extent possible and permitted by law.
27. The right to meetings, interviews, and/or hearings that are closed to the public.
28. The right to petition that any Charter School representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
29. The right to have an advisor of their choice to accompany and assist the party in all meetings, interviews, and/or hearings associated with the resolution process.
30. The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
31. The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
32. The right to be promptly informed in a written notice of outcome letter of the finding(s) and sanction(s) of the formal grievance process and a detailed rationale of the decision, including an explanation of how credibility was assessed, delivered simultaneously—meaning without undue delay—to the parties.
33. The right to be informed in writing of when a decision by the Charter School is considered final and any changes to the sanction(s) that occur before the decision is finalized.
34. The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the formal grievance process, and the procedures for doing so in accordance with the standards for appeal established by the Charter School.
35. The right to a fundamentally fair resolution as defined in these procedures.

Right to an Advisor

The parties may each have an advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. This could include an attorney, advocate, or support person. The parties may select whoever they wish to serve as their advisor as long as the advisor is eligible and available. “Available” means the party cannot insist on an advisor who simply doesn’t have inclination, time, or availability. Also, the advisor cannot have conflicting roles, such as being a Title IX administrator, who has an active role in the matter, or a supervisor, who must monitor and implement sanctions.

For students, this advisor can be someone in addition to their parent/guardian who may also be present with them for all meetings, interviews, and hearings within the resolution process.

Who Can Serve as an Advisor

The advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose advisors from inside or outside of the RISE Charter School community.

Parties also have the right to choose not to have an advisor during the resolution process.

Advisor's Role in Meetings and Interviews

The parties may be accompanied by their advisor in all meetings, interviews, and hearings at which the party is entitled to be present, including intake and investigation interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The Charter School cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not or cannot afford an attorney, the Charter School is not obligated to provide an attorney.

Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews, meetings, or hearings in advance of these interviews or meetings. This pre-meeting allows advisors to clarify and understand their role and the Charter School's policies and procedures.

Advisor Violations of Charter School Policy

All advisors shall be subject to the same Charter School policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings or meetings. Advisors shall not address Charter School officials in a meeting or interview unless invited to. For example, they should not ask procedural questions unless invited to. The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the investigator(s) or other decision-maker(s), unless so permitted by the provisions of state law or this policy. In situations where the conduct at issue may also be a violation of criminal law, a legal Advisor may direct their client to refrain from answering a question(s) due to 5th Amendment Constitutional Right associated with self-incrimination. In such circumstance, no inferences should be drawn from this action by an accused person:

The parties are expected to ask and respond to questions on their own behalf throughout the resolution process. In cases where a party requires assistance in asking and/or responding to questions on their own behalf, (for example, due to age or disability), the advisor shall be allowed to ask and/or respond to questions on behalf of their advisee, at the discretion of the investigator(s) or decision-maker(s). Although the advisor generally may not speak on behalf

of their advisee, the advisor may consult with their advisee, either privately as needed, or by 3085P-17 conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their advisors should ask for breaks to allow for private consultation.

Any advisor who oversteps their role as defined by this process shall be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator shall determine how to address the advisor's non-compliance and future role.

Sharing Information with the Advisor

The Charter School expects that the parties may wish to have the Charter School share documentation and evidence related to the allegations with their advisors. Parties may share this information directly with their advisor or other individuals, if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The Charter School shall also provide a consent form which authorizes the Charter School to share such information directly with the party's advisor. The parties must submit this completed form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the advisor before the Charter School is able to share records with an advisor.

Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. Advisors may not share these records with third parties, disclose them publicly, or use them for purposes not explicitly authorized by the Charter School. The Charter School may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the Charter School's privacy expectations.

Advisors who are also Charter School staff members may also be subject to more stringent confidentiality law, administrative rules, and policies.

Expectations of an Advisor

The Charter School generally expects an advisor to adjust their schedule to ensure attendance at resolution process meetings when planned but may change scheduled meetings to accommodate an advisor's inability to attend, if doing so does not cause an unreasonable delay.

The Charter School may also make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Expectations of the Parties with Respect to Advisors

A party may elect to change advisors during the resolution process and is not obligated to use the same advisor throughout. The parties are expected to inform the investigator(s) and decisionmaker(s) of the identity of their advisor at least two business days before the date of their first 3085P-18 meeting with investigators and decision-makers, or as soon as possible if a more expeditious meeting is necessary or desired.

If a party changes advisors, consent to share information with the previous advisor is terminated, and a release for the new advisor must be secured before documentation and evidence related to the investigation will be provided to them.

Resolution Process

Resolution processes are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with Charter School policy. Although there is an expectation of privacy around what investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to an informal resolution, if applicable, and as discussed below. The Charter School encourages parties to discuss any sharing of information with their advisors before doing so.

Informal Resolution Process

An informal resolution process can include the following different approaches:

- 1.—The Title IX Coordinator resolves the matter informally by providing supportive measures only to remedy the situation.
- 2.—The parties agree to resolve the matter through an alternate resolution mechanism as described below, including mediation, restorative practices, or other resolution methods, usually before a formal grievance process takes place.
- 3.—The respondent accepts responsibility for violating Policy 3085 and desires to accept a sanction and end the resolution process. This usually occurs after the investigation phase of the formal grievance process.
- 4.—The Title IX Coordinator negotiates a resolution that is satisfactory to the parties and the Charter School.

To initiate the informal resolution process, a complainant must first submit a formal complaint. A respondent who wishes to initiate the informal resolution process should contact the Title IX Coordinator.

It is not necessary to pursue informal resolution first in order to engage in the formal grievance process. Any party participating in the informal resolution process can stop the process at any time and begin or resume the formal grievance process.

Prior to implementing the informal resolution process, the Charter School shall provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the Charter School.

The Charter School shall obtain voluntary, written confirmation that all parties wish to resolve the matter through an informal resolution process before proceeding and shall not pressure the parties to participate in informal resolution.

Informal resolution shall not be used to resolve allegations or complaints where the complainant is a student and the respondent is an employee.

Alternate Resolution Mechanisms

An alternate resolution is an informal mechanism, including mediation or restorative practices, or other resolution methods, by which the parties mutually agree to resolve an allegation. All parties must consent to the use of an alternate resolution mechanism.

The Title IX Coordinator may consider the following factors to assess whether alternate resolution is appropriate, or which form of alternate resolution may be most successful for the parties:

- 1.—The parties' preference for alternate resolution;
- 2.—The likelihood of a potential resolution, considering any power dynamics between the parties;
- 3.—The parties' motivation to participate;
- 4.—The civility of the parties;
- 5.—The disciplinary history of the parties;
- 6.—Whether an emergency removal is needed;
- 7.—The skill of the alternate resolution facilitator with this type of allegation;
- 8.—The complexity of the complaint;
- 9.—The capacity of the parties to understand and fully participate in the process;
- 10.—The goals of the parties; and
- 11.—Adequate resources to invest in alternate resolution, such as time and staff.
- 12.—The ultimate determination of whether an alternate resolution is available or successful shall be made by the Title IX Coordinator. The Title IX Coordinator shall maintain records of any resolution that is reached. Failure to abide by the resolution agreement may result in appropriate disciplinary actions. The results of complaints resolved by an alternate resolution are not appealable.

Respondent Accepts Responsibility for Alleged Violations

The respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal grievance process will be paused; and the Title IX Coordinator will determine whether informal resolution can be used

according to the criteria above. If so, the Title IX Coordinator shall determine whether all parties and the Charter School are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator shall implement the accepted finding that the respondent is in violation of Policy 3085 and implement 3085P-20 agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written agreement to the terms of resolution. If the parties cannot agree on all terms of resolution, the formal grievance process shall resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanctions shall be promptly implemented in order to effectively stop the Title IX sexual harassment, prevent its recurrence, and remedy its effects.

Negotiated Resolution

The Title IX Coordinator may, with the consent of the parties, negotiate and implement an agreement to resolve the allegations that satisfies all parties and the Charter School. Negotiated resolutions are not appealable.

Formal Grievance Process

The formal grievance process described below is the method of formal resolution used to determine whether a qualifying allegation of Title IX sexual harassment violates Policy 3085, as determined by an investigation and determination of responsibility made by a decisionmaker. The formal grievance process shall be used in a manner that complies with the requirements of 34 CFR §106.45.

Grievance Process Pool

The formal grievance process relies on a pool of personnel (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of Policy 3085 to all students, parents/guardians of students, employees, prospective students, and prospective employees.

Pool Member Roles

Members of the Pool are trained, and can serve in any of the following roles, at the direction of the Title IX Coordinator:

1. To provide appropriate intake of and initial guidance pertaining to formal complaints;
2. To act as an advisor to the parties;

3. To serve in a facilitation role in alternate resolution if appropriately trained in appropriate resolution modalities;
4. To perform or assist with initial assessment;
5. To investigate complaints;
6. To serve as a meeting and/or hearing facilitator as a process administrator with no decision-making role;
7. To serve as a decision-maker regarding the formal complaint; and
8. To serve as an appeal decision-maker.

Pool Member Training

The Pool members receive training based on their respective roles. This training includes, but is not limited to:

1. The scope of the Charter School's Title IX sexual harassment policies and procedures;
2. How to conduct investigations, meetings, and hearings in a manner that protects the safety of complainants and respondents and promotes accountability;
3. Reporting, confidentiality, and privacy requirements;
4. How to implement appropriate and situation-specific remedies;
5. How to investigate in a thorough, reliable, and impartial manner;
6. How to uphold fairness, equity, and due process;
7. How to weigh evidence;
8. How to conduct questioning;
9. How to assess credibility;
10. Impartiality and objectivity;
11. How to render findings and generate clear, concise, evidence-based rationales;
12. The definitions of all offenses;
13. How to apply definitions used by the Charter School with respect to consent or the absence of consent consistently, impartially, and in accordance with Charter School policies and procedures;
14. How to conduct an investigation and grievance process including meetings, hearings, appeals, and informal resolution processes;
15. How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
16. Any technology to be used during an interview, meeting, or hearing;
17. Issues of relevance of questions and evidence;
18. Issues of relevance to create an investigation report that fairly summarizes relevant evidence; and
19. How to determine appropriate sanctions in reference to Title IX sexual harassment.

The materials used to train all members of the Pool are publicly posted here:
<https://www.kimberly.edu/>:-

Notice of Investigation and Allegations

The Title IX Coordinator will provide written Notice of the Investigation and Allegations (NOIA) to the respondent upon commencement of the formal grievance process. This facilitates the respondent's ability to prepare for the interview and to identify and choose an advisor to accompany them. A copy of the NOIA shall also be provided to the complainant, who shall be given advance notice of when the NOIA will be delivered to the respondent.

The NOIA will include:

- 1.—A meaningful summary of all of allegations;
- 2.—The identity of the involved parties, if known;
- 3.—The precise misconduct being alleged;
- 4.—The date and location of the alleged incident(s), if known;
- 5.—The specific policies implicated;
- 6.—A description of the applicable procedures;
- 7.—A statement of the potential sanctions that could result;
- 8.—A statement that the Charter School presumes the respondent is not **responsible for the reported misconduct unless and alleged conduct, and that a determination of responsibility will not be made until the** evidence supports a different determination;
 - iii. A statement that determinations of responsibility are made at the conclusion of the formal grievance process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;grievance process.
- 9.—A statement about the Charter School's policy on retaliation;
- 10.—Information about the privacy of the process;
- 11.—Information on the need for each party to have an advisor of their choosing;
 - iv. A statement informing the parties that **the Charter School's policies and procedures**they are entitled to have an advisor or representative of their choosing who may be, though is not required to be, an attorney, and that the advisor is authorized to review all evidence submitted in the matter.
 - v. The notice must inform the parties that Charter School policy and procedure prohibit knowingly making false statements, including or knowingly submitting false information to the investigator or at any other time during the resolutiongrievance process;.
 - vi. The notice must warn the parties that retaliation is prohibited. Accordingly, the parties must by informed that no Charter School employee 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 this procedure, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this procedure. Retaliation includes circumstances where intimidation, threats, coercion, or discrimination are made for the purpose of interfering with any right or privilege secured by Title IX or this procedure. This includes threatening 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. The Charter School shall keep confidential the identity of:

1. 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;
2. Any complainant;
3. Any individual who has been reported to be the perpetrator of sex discrimination;
4. Any respondent; and
5. Any witness

except:

- a. As may be permitted by FERPA (20 U.S.C. § 1232g) or a FERPA regulation (34 CFR Part 99);
- b. As required by law; or
- c. To carry out the purposes of this procedure, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Complaints alleging retaliation may be filed as an additional charge or counter-charge under these procedures.

- C. Additional Charges: If, during the course of the investigation, it is determined based on the information gathered that additional allegations or charges are warranted, an amended notice shall be prepared and submitted to the parties including the new allegations and charges as appropriate.
- Cl. Consolidation: The Coordinator may consolidate two or more formal complaints into a single action provided that the allegations of sexual harassment and retaliation arise out of a common set of facts or circumstances and if in the course of an investigation, it is determined that:

- a. There is more than one respondent and/or more than one complainant; or
- b. There are cross-complaints, or additional complaints raised by the original complainant against the original respondent (such as retaliation), or by the respondent against any other party.

4. Conduct of the Investigation, Informal Resolution

In the course of their investigation, the Charter School's Coordinator and designees shall comply with the following requirements.

Investigation

- a. Burden of Investigation: The burden of gathering evidence sufficient to make a determination of responsibility is the responsibility of the Charter School's investigator(s) and not the parties. However, the Charter School's investigator is not authorized to access a party's records that are made or maintained by a health care provider such as a physician, psychiatrist, psychologist, or other recognized health care provider, if the record was made in the course of providing treatment to the party, unless and until written consent from an authorized person is provided to obtain such privileged records for purposes of investigating and resolving the allegations of the formal complaint.
 - b. Evidence Offered by Parties: The parties shall be provided an equal opportunity to call witnesses, including fact and expert witnesses, as well as other inculpatory and exculpatory evidence.
 - c. No Restrictions: The ability of the parties to discuss the allegations under investigation or to gather and present evidence shall not be restricted.
 - d. Equal Representation Rights: All parties shall have the same opportunity to have others present, or to be represented by the advisor of their choice throughout the grievance process, including attendance at related meetings or proceedings.
[OPTIONAL If the Charter School limits access to representation in any way at any time during the proceedings, such limitation shall be equally applied to all parties in the same manner. Access to representation may be limited only where a party is already represented as authorized by this procedure, and the additional representation will unduly increase the cost to the parties, and/or will not otherwise serve to significantly promote a legitimate purpose under this procedure.]
 - e. Notice of Interviews and Hearings: Adequate notice of the purpose, date, time, place, and the identities of all participants involved shall be provided to any party whose participation at a hearing, interview, or meeting is invited or expected, and allowing sufficient time for the party to prepare and fairly participate.
 - f. Evidentiary Considerations: The investigation shall not consider:
 - i. Incidents not directly related to the possible violation, unless they evidence a pattern;
 - ii. The character of the parties; or
12. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove

consent. Detail on how the party may request disability accommodations during the resolution process;

13. The name(s) of the investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the investigator(s) may have, and

14. Instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of any allegations.

Notice shall be made in writing and may be delivered by one or more of the following methods:

1. In person;

2. Mailed to the local or permanent address(es) of the parties as indicated in official Charter School records; or

3. Emailed to the parties' Charter School-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Format Grievance Process Timeline

The Charter School will make a good faith effort to complete the formal grievance process within 30 to 60 business days, including appeal. This time frame can be extended as necessary by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

Appointment of Investigators

Once the Title IX Coordinator decides to begin an investigation as part of the formal grievance process, the Title IX Coordinator shall appoint Pool members to conduct the investigation, usually within two business days of determining that an investigation should proceed.

Ensuring Impartiality

Any individual materially involved in the administration of the formal grievance process including the Title IX Coordinator, investigator(s), decision-maker(s) and appeal decisionmaker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific complainant or respondent.

The Title IX Coordinator shall vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the formal grievance process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator shall determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of

the bias or conflict, if any, shall be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Kimberly School Charter School Superintendent.

The formal grievance process involves an objective evaluation of all relevant evidence obtained, including evidence that supports the conclusion the respondent engaged in a policy violation and evidence that supports the conclusion the respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a complainant, respondent, or witness.

iii. The Charter School presumes that the respondent is not responsible for the reported misconduct unless and until a final determination is made, in accordance with this policy, that

- b. Right to Inspect Evidence: All parties shall be provided equal access to inspect and review any or all evidence gathered during the investigation related to the allegations of the formal complaint, whether or not relied upon or referred to in the investigator's report. This will ensure that the parties can respond to the evidence prior to the conclusion of the investigation. Prior to completion of the investigation report, the investigator shall provide the parties and their respective advisors, when advisors are identified, a secured electronic or hard copy of the evidence subject to inspection. The parties must have at least ten [business, or school, or calendar] days to submit a written response which the investigator shall consider prior to completion of the investigative report. All such evidence shall be made available to all parties at any hearing to give the parties equal opportunity to refer to such evidence during the hearing, including cross-examination of adult parties.
- c. Investigative Report: At least ten [business, or school, or calendar] days prior to a hearing, or other time of determination regarding responsibility, the investigator shall send to all parties and their advisors, if any, by electronic format or hard copy, a copy of the investigative report for the parties' review and written response. The parties' responses shall be made part of the record.

Informal Resolution: The informal resolution process may include mediation, or other meeting of the parties that does not involve a full investigation and adjudication of the complaint. The Charter School may not require the parties to participate in an informal resolution process. Informal resolution is available only if a written formal complaint was submitted to the Coordinator. If these conditions are satisfied, then at any time during the course of an investigation, but prior to the time of the Decision-Maker's final determination of responsibility, the parties may request the Coordinator to initiate the informal resolution by process. In so doing, the Coordinator is required to comply with the following:

- A. Provide the parties with written notice informing them of the allegations at issue and the requirements of the resolution process. These requirements include the fact that a written agreement signed by the parties that resolves the allegations at issue will preclude the parties from resuming the formal complaint process that arose from the same allegations. The parties will also be informed that at any time prior to reaching 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 will be

notified that the records submitted or discussed during the informal process will be maintained by the Charter School as part of the record, and may be used by the Decision-Maker to determine responsibility.

B. Require the parties submit voluntary, written consent to participate in the informal resolution process.

C. Ensure that the informal resolution process is not made available to resolve allegations that an employee sexually harassed a student.

D. An informal resolution, signed and agreed to by the parties thereto, is not appealable.
Dismissal of a Formal Complaint: A written formal complaint may be dismissed by the Coordinator under any of the following circumstances, and prior to a finding of responsibility:

A. After investigating the allegations of the written formal complaint, dismissal is required if:

a. The Coordinator or designee determines that the conduct alleged in the complaint, even if proven, would not constitute sexual harassment as defined herein; or

b. The alleged conduct did not occur in a Charter School education program or activity; or

c. The alleged conduct did not occur against a person in the United States.

Dismissal of the Title IX formal complaint, however, does not preclude action under another provision of the Charter School's Code of Conduct or other Charter School Policy.

B. If the Complainant notifies the Coordinator in writing that ~~they~~ ~~he or she~~ would like to withdraw the formal complaint or any allegations contained therein.

C. If the respondent is no longer enrolled or employed by the Charter School.

D. If specific circumstances exist which prevent the investigator from gathering evidence sufficient to reach a determination regarding the merits of the formal complaint or allegations therein.

Upon dismissing a formal complaint, the Coordinator shall simultaneously inform the parties in writing that the complaint has been dismissed, and shall identify the reason(s) for the dismissal. This decision may be appealed in accordance with the Appeals portion of this procedure, below.

5. Decision-Maker's Participation

If the matter is not dismissed for one of the reasons set forth above and is not resolved by the parties through the informal resolution process then, (following completion of the investigation, including issuance of the investigator's final investigation report,) the matter shall be submitted to the Decision-Maker for review and issuance of a determination of responsibility. The Decision-Maker cannot make a determination regarding responsibility until ten **business OR school OR calendar** days after the date the final investigation report is transmitted to the parties and the Decision-Maker, unless all parties and the Decision-Maker agree to an expedited timeline.

The Coordinator shall designate a single Decision-Maker **OPTIONAL: or a three-member panel**, and inform the parties and their advisors.

The Decision-Maker(s) may not have had any previous involvement with the investigation.

Those who have served as investigators in the investigation cannot serve as Decision-Makers. Those who are serving as advisors for any party cannot serve as Decision-Makers in that matter. The Coordinator is also prohibited from serving as a Decision-Maker in the matter.

All objections to any Decision-Maker must be raised in writing. Any written objection must detail the rationale for the objection and must be submitted to the Coordinator no later than **[two] [business OR school OR calendar]** days after being notified of the Decision-Maker's identity. Decision-Makers shall not be removed unless the Coordinator concludes that the Decision-Maker's bias or conflict of interest precludes a fair and impartial consideration of the evidence.

The Coordinator shall give the Decision-Maker(s) a list of the names of all parties, witnesses, and advisors. Upon review thereof, if any Decision-Maker believes they cannot make an objective determination, they must recuse themselves from the proceedings. If a Decision-Maker is unsure whether a bias or conflict of interest exists, they shall immediately disclose their concern(s) to the Coordinator and simultaneously inform the parties and their advisors.

No less than ten business days prior to any meeting or the decision-making phase of the process, the Coordinator or the Decision-Maker shall send notice to all parties. Once mailed, emailed, or received in-person, Notice will be presumptively delivered.

The Notice shall contain the following:

- a. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions that could result.
- b. The time, date, and location of any meeting.
- c. Any technology that will be used to facilitate the meeting.
- d. The name and contact information of the Decision-Maker, along with an invitation to object to any Decision-Maker on the basis of demonstrated bias. Such objections must be raised with the Coordinator at least **[two] [business OR school OR calendar]** days prior to the meeting.
- e. Information on whether the meeting will be recorded and, if so, information on access to the recording for the parties after the meeting.
- f. **[OPTIONAL: A statement that if any party does not appear at the scheduled meeting, the meeting will only be rescheduled for compelling reasons.]**
- g. Notification that the parties may have the assistance of an advisor of their choosing at the meeting.
- h. A copy of all the materials provided to the Decision-Maker(s) about the matter.
- i. An invitation for the parties to review and submit a written response to the final investigation report within **[three to seven] [business OR school OR calendar]** days of the date of the notice.
- j. An invitation to each party to submit to the Decision-Maker any written, relevant questions they want the Decision-Maker to ask of any other party or witness within **[three to seven] [business OR school OR calendar]** days of the date of the notice.
- k. An invitation to each party to submit to the Decision-Maker an impact statement, pre-meeting, that the Decision-Maker will review during any sanction determination.

- l. An invitation to contact the Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at any meeting or in the decision-making process, at least [three to seven] [business OR school OR calendar] days prior to the meeting/final determination.
- m. Whether parties can or cannot bring mobile phones or devices into the meeting.

Meetings for possible violations that occur near or after the end of a school year, assuming the respondent is still subject to Policy 3085 has been violated:

Investigation Timeline

~~Investigations are completed promptly, normally within 30 business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations;~~ and Procedure 3085P, and are unable to be resolved prior to the end of the school year will typically be held as soon as possible given the availability of witnesses; police involvement; and other factors:

The Charter School shall make a good faith effort to complete investigations as promptly as possible and will communicate regularly with the parties to update them on the progress and timing of the investigation:

Delays in the Investigation Process and Interactions with Law Enforcement

The Charter School may undertake a delay in its investigation, lasting from several days to a few weeks, if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence 3085P-24 of parties and/or witnesses, and/or a need for accommodations for disabilities or health conditions:

the parties, but no later than immediately upon the start of the following school year. RISE Charter School shall communicate in writing the anticipated duration of the delay and the reason for it to the parties and provide the parties with status updates if necessary. The Charter School will promptly resume its investigation and formal grievance process as soon as feasible. During such a delay, the Charter School will implement appropriate supportive measures as deemed appropriate:

~~Charter School action(s) or processes may be~~ intended to correct and remediate any hostile environment while the resolution is ~~delayed, but are not stopped by, civil or criminal charges involving the underlying incident(s).~~ Dismissal or reduction of those criminal charges may or may not impact on the Charter School's action(s) or processes:

Steps in the Investigation Process

All investigations shall be thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary:

The Title IX Coordinator may act as the investigator.

All parties shall have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The investigator(s) will typically take(s) the following steps, if not already completed. The steps will not necessarily be completed in this order:

1. Determine the identity and contact information of the complainant;
2. In coordination with school partners, initiate or assist with any necessary supportive measures;
3. Identify all policies implicated by the alleged misconduct and notify the complainant and respondent of all of the specific policies implicated;
4. Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation;
5. Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties;
6. Meet with the complainant to finalize their interview or statement, if necessary;
7. Meet with the respondent to finalize their interview or statement, if necessary;
8. Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations;
9. Provide each interviewed party and witness an opportunity to review and verify the investigator's summary notes or transcript of the relevant evidence/testimony from their respective interviews and meetings;
10. Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible;
11. When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose;
12. Interview all available, relevant witnesses and conduct follow-up interviews as necessary;
13. Allow each party the opportunity to suggest witnesses and questions they wish the investigator(s) to ask of the other party and witnesses, and document in the investigation report which questions were asked and the rationale for any changes or omissions;
14. Complete the investigation promptly and without unreasonable deviation from the intended timeline;
15. Provide regular status updates to the parties throughout the investigation;
16. Prior to the conclusion of the investigation, provide the parties and their respective advisors, if so desired by the parties, with a list of witnesses whose information will be used to render a finding;

17. Write a comprehensive investigation report fully summarizing the investigation and all witness interviews and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included;
18. The investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report;
19. Prior to the conclusion of the investigation, provide the parties and their respective advisors, when advisors are identified, a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the Charter School does not intend to rely in reaching a determination, for a ten business day review and comment period so that each party 3085P-26 may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
20. The investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses;
21. The investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report;
22. The Investigator(s) shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback;
23. The Investigator will incorporate any relevant feedback, and the final investigation report is then shared with all parties and their advisors through secure electronic transmission or hard copy at least ten business days prior to a meeting with the decision-maker. The parties are also provided with a file of any directly related evidence that was not included in the report

Role and Participation of Witnesses in the Investigation

Witnesses, as distinguished from the parties, who are employees of the Charter School are expected to cooperate with and participate in the Charter School's investigation and formal grievance process. Failure of such witnesses to cooperate with and/or participate in the formal grievance process constitutes a violation of policy and may warrant discipline. Student witnesses and witnesses from outside the Charter School community are encouraged to share what they know about the complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (such as summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The Charter School will take appropriate steps to reasonably ensure the security and privacy of remote interviews.

Though not preferred, witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the investigator(s).

Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If investigator(s) elect to make an audio and/or video record of interviews, all involved parties will be made aware of audio and/or video recording.

Evidentiary Considerations in the Investigation

The investigation shall not consider:

- A. Incidents not directly related to the possible violation, unless they evidence a pattern; Evidentiary Consideration by the Decision-Maker: Whether at a hearing or through an exchange of questions, only relevant, credible evidence will be admitted into evidence and considered by the Decision-Maker. Any evidence that the Decision-Maker(s) determine(s) is relevant and credible may be considered. The Decision-Maker will not consider:
 - 1. Incidents not directly related to the possible violation, unless they evidence a pattern;
 - a.
 - ii. The character of the parties; or
 - iii. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Referral to a Decision-maker

If the complaint is not resolved through informal resolution as described above, and after the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter to a Decision-maker to make a determination regarding responsibility.

The Decision-maker cannot make a determination regarding responsibility prior to ten business days from the conclusion of the investigation – when the final investigation report is transmitted to the parties and the decision-maker – unless all parties and the decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate decision-maker or Decision-makers from the Pool depending on whether the respondent is an employee or a student.

Decision-Maker Designation

The Charter School shall designate a single Decision-maker, at the discretion of the Title IX Coordinator, and inform the parties and advisors:

The Decision-maker(s) shall not have had any previous involvement with the investigation. Those who have served as investigators in this investigation may not serve as decision-makers. Those who are serving as advisors for any party may not serve as decision-makers in that matter. The Title IX Coordinator may not serve as a decision-maker in the matter.

All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator no later than two business days after being notified of the identity of the Decision-maker. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial consideration of the evidence.

The Title IX Coordinator shall give the decision-maker(s) a list of the names of all parties, witnesses, and advisors. Any decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, 3085P-28 and advisors. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they shall raise the concern with the Title IX Coordinator as soon as possible.

Evidentiary Consideration by the Decision-Maker

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The decision-maker will not consider:

1. Incidents not directly related to the possible violation, unless they evidence a pattern;
2. The character of the parties; or
3. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the respondent may be considered in determining an appropriate sanction upon a determination of a policy violation: responsibility. This information is may only be considered at the sanction stage of the process and is not cannot be shared with the Decision-maker Maker until then that time.

The parties may each submit a written impact statement for the consideration of the Decision-Maker(s) at the sanction stage of the process when a determination of responsibility is reached.

B. The Hearing Procedure and Exchange of Questions Procedure: At the time the matter is referred to the Decision-Maker(s), the Coordinator shall determine, based on the parties may each submit a written impact statement for the consideration of the decisionmaker(s) at the sanction stage involved and the circumstances of the process when alleged sexual harassment, whether to hold a hearing or to initiate an exchange of questions procedure, and shall so inform all parties and their advisors. Both of these decision-making procedures are discussed below. Upon their selection, the Decision-Maker(s) shall review the evidence and issue a determination of responsibility is reached. Exchange of Questions The decision-maker shall facilitate the exchange of written questions between the parties and direct any written based on the following circumstances and procedures.

C. Exchange of Questions Procedure: Where a party involved is an elementary student, or where the Coordinator otherwise determines that a hearing is not appropriate under the circumstances, the Coordinator will initiate the Exchange of Questions Procedure, which provide as follows.

After the Coordinator or designee has submitted the investigative report to the parties pursuant to this procedure and before reaching a determination regarding responsibility, the Decision-Maker(s) shall provide each party an opportunity to submit written, relevant questions that party desires to ask of any witnesses before a final determination is made. The decision-maker party or witness, and shall invite subsequently provide each party to submit proposed written questions for with the answers. The Decision-Maker will also allow for additional, limited follow-up questions from each party to the other parties and witnesses, and provide both with complete copies of the answers. Upon receipt of the proposed questions, the decision-maker Decision-Maker will review the proposed questions and determine which questions will be permitted, disallowed, or rephrased. The decision-maker Decision-Maker shall limit or disallow any questions on the basis that they are irrelevant, repetitive (and thus irrelevant), or abusive. The decision-maker Decision-Maker shall have full authority to decide all issues related to questioning and determinations of relevance. The decision-maker Decision-Maker may ask a party to explain why a question is or is not relevant from their perspective. The decision-maker Decision-Maker shall explain any decision to exclude a question as not relevant or to reframe it for relevance. Whether a hearing is held or not, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant:

- a. Unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or
- b. If the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. This basis for asking questions or presenting evidence shall not be allowed if the respondent is an adult, non-student employee, because consent

is not a recognized defense in cases where the complainant is a student and the respondent is an employee.

The ~~decision-maker~~ Decision-Maker, after any necessary consultation with the parties, investigator(s) and/or ~~Title IX~~ Coordinator, shall provide the parties and witnesses with the:

- ~~ii.~~ The relevant written questions to be answered; and ~~a~~
- iii. A deadline for the parties and witnesses to submit written responses to the questions and any appropriate follow-up questions or comments by the parties.

The exchange of ~~3085P-29~~ questions and responses by the parties and witnesses shall be concluded within a ~~[three to ten-]~~ [business OR school OR calendar] day period. ~~Deliberation;~~

- D. Hearing procedure: Where both parties are adult employees, or a mature secondary school student, the Coordinator may initiate the live Hearing Procedure. If either party, however, objects and requests the Exchange of Questions Procedure, then the Exchange of Questions procedure shall be followed by the Decision-Maker(s). The Hearing Procedure shall include the following:

At the live hearing, the decision maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the Charter School to restrict the extent to which advisors may participate in the proceedings, as long as the restrictions apply equally to all parties. At the request of either party, the Charter School must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. Only relevant cross-examination and other relevant questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, the Charter School shall provide without fee or charge to that party, an advisor of the Charter School's choice to conduct cross-examination on behalf of that party. The advisor may be, but is not required to be, an attorney.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless:

- a. Such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or
- b. If the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

In cases where both parties are 18 or older, if a party or witness does not submit to cross-examination at the live hearing, the Decision-Maker(s) is prohibited from relying on any statement of that party or witness in reaching a determination regarding responsibility. However, that tThe Decision-Maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-

examination or other questions. Live hearings pursuant to this paragraph may be conducted with all parties physically present in the same geographic location or, at the Charter School's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other. The Charter School shall create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

At the hearing, the Decision-Maker shall have the authority to hear and make determinations on all allegations of Title IX sexual harassment and may also hear and make determinations on any additional alleged violations of policy or procedure that have occurred in concert with the Title IX sexual harassment, even though those collateral allegations may not specifically fall within the definition of sexual harassment set forth in these procedures.

Any witness scheduled to testify before the Decision-Maker must have been first interviewed by the investigator(s) [OPTIONAL; or have proffered a written statement or answered written questions], unless all parties and the Decision-Maker agree to the witness's participation.

If the parties and Decision-Maker do not agree to the admission of evidence newly offered at the hearing, the Decision-Maker may delay the meeting and instruct that the investigation needs to be re-opened to consider that evidence.

If the parties raise an issue of bias or conflict of interest of an investigator or Decision-Maker at the hearing, the Decision-Maker may elect to address those issues, consult with legal counsel, and/or refer them to the Coordinator, and/or preserve them for appeal. If bias is not in issue during the hearing, the Decision-Maker shall not permit irrelevant questions regarding bias.

6. Decision Making, Process and Standard Determination Requirements

~~Following its review of Proof The decision-maker(s) will then deliberate to determine whether the evidence submitted by the investigator and the parties, the Decision-Maker, (who cannot be the Coordinator) shall issue a written determination of responsibility. To reach this determination, the Charter School's burden of proof – [preponderance of the evidence OR clear and convincing evidence] – must be described, and the burden satisfied, before the respondent is can be found responsible or not responsible for the policy sexual harassment in violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. When determining whether respondent violated Policy 3085, the Decision-maker(s) use the preponderance of the evidence standard; whether it is more likely than not that the respondent violated Policy 3085 as alleged. When there is a finding of responsibility on one or more of the allegations, the decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s). The decision-maker will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The decision-maker(s) may, at their discretion, consider the statements; but they are not binding. The decision-maker(s) shall review the statements and any pertinent conduct history provided by the appropriate administrator, such as the Title IX Coordinator and shall recommend the appropriate sanction(s) in consultation with other appropriate administrators, as required. The decision-maker will then prepare a written deliberation statement and deliver it to the of Title IX Coordinator. This statement must be submitted to the~~

The written determination of responsibility shall include the following information:

- A. Identification of the allegations potentially constituting sexual harassment in violation of Title IX Coordinator within two business days after the decision-maker held their final meeting with the parties and witnesses or concluded the paper evidence exchange and questioning process, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties. Notice of Outcome Using the deliberation statement, the decision-maker shall work in conjunction with the Title IX Coordinator as needed to prepare a notice of outcome. The Title IX Coordinator shall then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their advisors within three to seven business days of receiving the decision-maker(s)' deliberation statement. The notice of outcome shall be shared with the parties simultaneously. Notification shall be made in writing and may be delivered by one or more of the following methods: 1. In person; 2. Mailed to the local or permanent address of the parties as indicated in official Charter School records; or 3085P-30-3. Emailed to the parties' Charter School-issued email or otherwise approved account. Once mailed, emailed, or received in-person, notice will be presumptively delivered. The notice of outcome shall articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and shall contain a:
 - B. A description of the procedural steps taken by the Charter School from the receipt of the misconduct report to written formal complaint through the determination, including any and all notifications to the parties, interviews with of the parties and witnesses, site visits, methods used to obtain other evidence, and hearings held. The notice of outcome shall specify the finding on each alleged policy violation, the findings used.
 - C. Findings of fact that support supporting the determination; conclusions.
 - D. Conclusions regarding the application of the relevant policy Charter School's code of conduct to the facts at issue; a.
 - E. A statement of; and rationale for; the result of determination as to each allegation to the extent the Charter School is permitted to share such information under state or federal law; including any sanctions issued which the Charter School is permitted to share such information according to state or federal law; determination regarding responsibility, any disciplinary action to be imposed on the respondent, and any identification of remedies and measures, if any, that will be provided to restore or preserve equal access to the Charter School's educational programs and activities to be provided to the complainant designed to ensure access to the Charter School's educational or employment program or activity, to the extent the Charter School is permitted to share such information under

state or federal law. Detail regarding the final item listed is not typically shared with the respondent unless the remedy directly relates to the respondent. The notice of outcome shall also include the relevant procedures and bases for any available appeal options. Sanctions.

F. Considerations for disciplinary action. Factors considered when determining sanctions discipline may include, but are not limited to:

- a. The nature, severity of, and circumstances surrounding the violation(s);
- b. The respondent's disciplinary history;
- c. Previous allegations or allegations involving similar conduct;
- d. The need for sanctions discipline to bring an end to the Title IX sexual harassment;
- e. The need for sanctions discipline to prevent the future recurrence of Title IX Sexual harassment;
- f. The need to remedy the effects of the Title IX sexual harassment;
- g. The impact on the parties; and
- h. Any other information deemed relevant by the decision-maker(s)

G. The sanctions discipline imposed shall be implemented as soon as is feasible, either upon the outcome of any appeal or upon the expiration of the window to appeal if no appeal is requested. The sanctions described in this process are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

H. Identification of the procedures for filing an appeal and the permissible grounds for complainant or respondent to base their appeal.

The Decision-Maker shall simultaneously provide their written determination to all parties. The determination becomes final either, (where an appeal is filed,) on the date the parties are provided copies of the written determination of the result of the appeal; or, (if no appeal is filed,) the date on which an appeal would no longer be considered timely.

The Coordinator is responsible for the effective implementation of any and all remedies set forth in the written determination of responsibility. In the event a student expulsion is recommended, pursuant to and in accordance with the requirements of Idaho Code § 33-205, the Coordinator shall ensure that an expulsion hearing is scheduled and heard by the Board of Trustees.

7. Appeals

Any party may file a request for appeal in writing with the Coordinator within three to seven business OR school OR calendar days of the delivery of the notice of a final decision.

[A three-member appeal panel chosen from the pool of eligible members shall be designated by the Coordinator OR a single appeal decision-maker shall chair the appeal.] No [appeal panelists OR appeal decision-maker] will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. [OPTIONAL: A voting chair of the appeal panel shall be designated].

The request for appeal shall be forwarded to the appeal chair for consideration to determine whether the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is filed in a timely manner.

Appeals shall be limited to the following grounds:

- 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;
- C. The Coordinator, investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific complainant or respondent that affected the outcome of the matter;
- D. **[OPTIONAL: Add any additional grounds for appeal, so long as they are applied equally to both parties]**

Appeal procedure: Upon receipt of a valid appeal, the Coordinator shall:

- A. Notify the other party in writing that an appeal has been filed, and implement the appeal procedure fairly and equally for both parties.
- B. Ensure the appeal decision-maker(s) is not:
 - a. The same person(s) as the Decision-Maker(s) that issued the written determination of responsibility;
 - b. The person who issued the dismissal;
 - c. The investigator; or
 - d. The Coordinator.
- C. Ensure the appeal decision-maker has been trained in accordance with the requirements of this grievance procedure.
- D. The appealing party shall have ten **[business OR school OR calendar]** days following the delivery of the notice of the appeal to submit a written statement in support of the appeal and challenging the outcome. The responding party shall have ten **[business OR school OR calendar]** days following the delivery of the appealing party's statement in support of appeal to submit the responding party's written statement in opposition to the appeal (and supporting the outcome that is the subject of the appeal). In the event the parties and the appeal decision-maker agree to a different briefing schedule (whether allowing more or less time), the time allowed to prepare a written statement shall be the same for all parties.
- E. Issue a written decision describing the result of the appeal and identifying the bases and rationale for the decision.
- F. Provide the written decision simultaneously to all parties.

Requirements of the Title IX Grievance Procedure

The following requirements apply to the conduct of the Title IX Grievance procedure set forth above.

1. **Equitable treatment of the parties:** At all times, both complainants and respondents shall be equitably treated by providing remedies to a complainant until a determination of responsibility for sexual harassment has been made against the respondent. No sanction or discipline may be imposed against the respondent unless and until the process required by this procedure has been completed. Until a final determination of responsibility has been issued only “supportive measures” may be initiated that are non-disciplinary or non-punitive and avoid burdening the respondent. Any and all final remedies, however, must be designed to restore or preserve equal access to the Charter School’s education program or activity. Such remedies may include the same individualized services described as “supportive measures;” however, following the decision, such remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent
2. **Objective evaluation of the evidence:** The formal grievance process involves an objective evaluation of all relevant evidence obtained, including evidence that supports the conclusion the respondent engaged in a violation of policy or procedure and evidence that supports the conclusion the respondent did not. Credibility determinations may not be based solely on an individual’s status or participation as a complainant, respondent, or witness.
3. **Lack of bias:** Any individual materially involved in the administration of the formal grievance process including the Coordinator, investigator(s), decision-maker(s) and appeal decision-maker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific complainant or respondent.
4. **Title IX training of Charter School participating staff:** Any individual designated by the Charter School as a Coordinator, investigator, decision-maker, or any person designated by the Charter School to facilitate an informal resolution process, cannot have a conflict of interest or bias for or against complainants or respondents generally, or against any individual complainant or respondent. The Charter School shall ensure that Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receives training on the definition of “sexual harassment” set forth in this procedure, the scope of the Charter 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 Charter School shall ensure that Decision-Makers 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 required by this procedure. The Charter School shall also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in this procedure. All materials used to train Coordinators, investigators, decision-makers, and any persons facilitating an informal resolution process, shall not rely on stereotypes based on gender, and must promote impartial investigations and adjudications of formal complaints of sexual harassment, and provide guidance

therefor.

5. **Presumption of innocence:** The Charter School presumes that the respondent is not responsible for the reported misconduct unless and until a final determination is made, in accordance with this procedure, that Policy 3085 or procedure 3085P prohibiting sex discrimination and sexual harassment has been violated.
6. **Promptness:** Investigations are completed promptly, normally within **[30] [business OR school OR calendar]** days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations; availability of witnesses; police involvement; and other factors.

The Charter School shall make a good faith effort to complete the investigation as promptly as possible and will communicate regularly with the parties to update them on the progress and timing of the investigation.

Notwithstanding the above, The Charter School may undertake a delay in its investigation, lasting from several days to a few weeks, if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or a need for accommodations for disabilities or health conditions.

The Charter School shall communicate in writing the anticipated duration of the delay and the reason for it to the parties and provide the parties with status updates if necessary. The Charter School will promptly resume its investigation and formal grievance process as soon as feasible. During such a delay, the Charter School will implement supportive measures as deemed appropriate.

Charter School action(s) or processes may be delayed, but are not stopped by, civil or criminal charges involving the underlying incident(s). Dismissal or reduction of those criminal charges may or may not impact on the Charter School's action(s) or processes.

7. **Description of sanctions.** The following describes the range of sanctions that may be implemented following a finding of responsibility.

~~Student Sanctions~~ **Discipline:** The following are the usual sanctions that may be imposed upon students singly or in combination:~~1-~~

- ~~a.~~ A warning;~~3085P-31 2-~~
- ~~b.~~ Required counseling;~~3-~~
- ~~c.~~ A required substance abuse treatment program;~~4-~~
- ~~d.~~ Exclusion from participating in extracurricular activities or other Charter School programs/activities;~~5-~~
- ~~e.~~ Alternative placement;~~6-~~
- ~~f.~~ Suspension, which may be in-school, out-of-school, long-term, short-term, extended, or other suspensions;~~7-~~

- g. Expulsion; ~~and 8-~~ (in compliance with I.C. § 33-205); and
- h. Other actions: In addition to or in place of the above sanctions, the Charter School may assign any other sanctions deemed appropriate; ~~1~~

Employee Sanctions: Sanctions for an employee may include: ~~1-~~

- ~~A:~~ A verbal or written warning; ~~2-~~
- ~~B:~~ A performance improvement plan or management process; ~~3-~~
- ~~C:~~ Enhanced supervision, observation, or review; ~~4-~~
- ~~D:~~ Required counseling; ~~5-~~
- ~~E:~~ Required training or education; ~~6-~~
- ~~F:~~ Probation; ~~7-~~
- ~~G:~~ Denial of pay increase or pay grade; ~~8-~~
- ~~H:~~ Loss of oversight or supervisory responsibility; ~~9-~~
- ~~I:~~ Demotion; ~~10-~~
- ~~J:~~ Transfer; ~~11-~~
- ~~K:~~ Reassignment; ~~12-~~
- ~~L:~~ Assignment to a new supervisor; ~~13-~~
- ~~M:~~ Restriction of professional development resources; ~~14-~~
- ~~N:~~ Suspension with pay; ~~15-~~
- ~~O:~~ Suspension without pay; ~~16-~~
- ~~P:~~ Termination; ~~17-~~ (in compliance with I.C. § 33-513(5), in the case of certificated employees);

- ~~Q:~~ Other actions: In addition to or in place of the above sanctions, the Charter School may assign any other sanctions as deemed appropriate. ~~Withdrawal or Resignation~~
~~White Charges Pending~~ Should a student decide to not participate in the formal grievance process, the process proceeds absent their participation to a reasonable resolution. Should a student respondent permanently withdraw from the Charter School, the formal grievance process shall end, as the Charter School no longer has disciplinary jurisdiction over the withdrawn student. Should an employee respondent resign with unresolved allegations pending, the formal grievance process shall end, as the Charter School no longer has disciplinary jurisdiction over the resigned employee. 3085P-32 Even if a respondent withdraws from the Charter School or resigns, the Charter School shall continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged Title IX sexual harassment. An employee who resigns with unresolved allegations pending shall not be eligible for rehire with the Charter School or any school with the Charter School, and the records retained by the Title IX Coordinator shall reflect that status. Any state mandates for reporting of this resignation with respect to licensure or certification shall be met. All Charter School responses to future inquiries regarding employment references for that individual shall note that the former employee resigned during a pending disciplinary matter. Appeals Any party Either the complainant or the respondent may file a request for appeal in writing with the Title IX Coordinator within three to seven business days of the delivery of the notice of outcome. A single appeal

decision-maker shall chair the appeal. No appeal decision-maker will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. The request for appeal shall be forwarded to the appeal chair for consideration to determine whether the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is filed in the timeframe specified. Grounds for Appeal Appeals shall be limited to the following grounds: 1-

8. **Burden of proof.** When determining whether the respondent is responsible for violating Policy 3085 or Procedure 3085P by discriminating based on sex and/or for sexual harassment as defined herein, the decision-maker shall apply the [preponderance of the evidence standard, which means the evidence proves on a more likely than not basis that respondent violated the policy or procedure OR clear and convincing evidence standard; which requires that the evidence proves there is a high probability that the respondent violated the policy or procedure.]

9. **Appeals.** Any party may file a 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, that could affect the outcome of the matter; and 3- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific complainant or respondent that affected the outcome of the matter. If any of the grounds in the request for appeal do not meet the grounds in this procedure, that request will be denied by the appeal chair, and the parties and their advisors will be notified in writing of the denial and the rationale. 3085P-33 If any of the grounds in the request for appeal meet the grounds in this procedure, then the appeal chair will notify the other party(ies) and their advisors, the Title IX Coordinator, and, when appropriate, the investigators and/or the original decision-maker(s). The other party(ies) and their advisors, the Title IX Coordinator, and, when appropriate, the investigators and/or the original decision-maker(s) shall be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and will then have 10 business days then be in writing to the Coordinator within [three to seven] [business OR school OR calendar] days of the delivery of the notice of a final outcome.

10. **Supportive measures:** Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties. Supportive measures are designed to restore or preserve access to the Charter School's education program or activity, including measures designed to protect the safety of all parties or the Charter School's educational environment, and/or deter Title IX sexual harassment. Examples of supportive measures may include, but are not limited to:
 - a. Referral to counseling, medical, and/or other healthcare services;
 - b. [OPTIONAL: Referral to the Employee Assistance Program;]
 - c. Referral to community-based service providers;
 - d. Visa and immigration assistance;
 - e. Education of the school community or community subgroup(s);

- f. Altering work arrangements for employees;
- g. Safety planning;
- h. Providing school safety escorts;
- i. Providing transportation accommodations;
- j. Implementing contact limitations, such as no contact orders, between the parties (note: allegations of violations of a no contact order will be investigated as collateral misconduct under this process);
- k. Academic support, extensions of deadlines, or other course or program-related adjustments;
- l. Emergency warnings;
- m. Class schedule modifications, withdrawals, or leaves of absence;
- n. Increased security and monitoring of certain areas of the school; to submit a response to the portion of the appeal that was approved and involves them. All responses shall be forwarded by the appeal chair to the Title IX coordinator who will forward all materials to all parties for review and comment. The party who did not bring the appeal, if there is such a party, may also choose to raise a new ground for appeal at this time. If so, the new ground will be reviewed by the appeal chair to determine if it meets the grounds in this procedure and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal and the identified Appeal Official, by the Title IX coordinator, the investigator(s) and/or original decision-maker(s), as necessary, who will submit their responses in three to seven business days, which will be circulated by the appeal chair for review and comment by all parties. Neither party may submit any new requests for appeal after the aforementioned 10 business days. This time period. The appeal chair Title IX officer shall collect any additional information needed and the Appeal Official will render a decision in no more than three to seven business days, barring unusual circumstances. All decisions apply the preponderance of the evidence standard. A notice of appeal outcome shall be sent to all parties simultaneously including the decision on each approved ground and the rationale for each decision. The notice of appeal outcome shall specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the Charter School is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the Charter School is permitted to share these under state or federal law. Notification shall be made in writing and may be delivered by one or more of the following methods: 1. In person; 2. Mailed to the local or permanent address of the parties as indicated in official institutional records; or 3. Emailed to the parties' Charter School-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. Sanctions Status During the Appeal 3085P-34 Any sanctions imposed by the decision-maker shall take effect following the appeal process. Supportive measures may remain in effect during an appeal process, subject to the same supportive measure procedures above. Appeal Considerations 1-

Appeal decisions shall defer to the original decision, making changes to the determination only when there is clear error and to the sanction(s) only if there is a compelling justification to do so. 2. Appeals shall not provide for a full reconsideration of the allegation(s) and evidence. In most cases, appeals will be confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal. 3. An appeal is not an opportunity for appeal decision-makers to substitute their judgment for that of the original decision-maker'(s)' merely because they disagree with the determination and/or sanction(s). 4. The appeal chair or decision-maker(s) may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation shall be maintained. 5. Appeals granted based on new evidence should normally be returned to the original investigator(s) and/or decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal. 6. When appeals result in no change to the determination or sanction, that decision is final. When an appeal results in a new determination or sanction, that determination or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures. 7. In rare cases where a procedural error cannot be cured by the original decision-maker(s), as in cases of bias, the appeal may order a new hearing with a new Decision-maker(s). 8. The results of a new hearing can be appealed once on any of the three grounds permitted by the

- o. **OPTIONAL: Add additional** Charter School. ~~9. In cases in which the appeal results in reinstatement to the Charter School or resumption~~ **specific supportive measures here;** and
- p. Any other actions deemed appropriate by the Coordinator.

11. Recognition of privileges; all reasonable attempts shall be made to restore the respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term. Long-Term Remedies/Other Actions Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the school or the RISE Charter School community that 3085P-35 are intended to stop the Title IX sexual harassment, remedy the effects, and prevent reoccurrence. These remedies/actions may include, but are not limited to: 1. Referral to counseling and health services; 2. Referral to the Employee Assistance Program 3. Education of the individual and/or the community; 4. Permanent alteration of work arrangements for employees 5. Provision of school safety escorts; 6. Climate surveys; 7. Policy or procedure modification and/or training; 8. Provision of transportation accommodations; 9. Implementation of long-term contact limitations between the parties; 10. Implementation of adjustments to academic deadlines, course schedules, or other, similar factors. At the discretion of the Title IX Coordinator, certain long-term supports or measures may also be provided to the parties even if no

policy violation is found. When no policy violation is found, the Title IX Coordinator shall address any remedies owed by the Charter School to the respondent to ensure no effective denial of educational access. At no time during this grievance procedure may any evidence (whether through testimony or documents) be required, admitted, relied upon, or otherwise obtained by asking questions or admitting evidence that constitutes, or seeks disclosure of, information protected by a legally recognized privilege, unless the person holding the privilege has knowingly and freely waived the privilege.

12. Recordkeeping;

- ~~A.~~ The Charter School shall maintain the privacy of any long-term remedies, actions, and measures, provided privacy does not impair the Charter School's ability to provide these services. Failure to Comply with Sanctions and/or Interim and Long-Term Remedies and/or Responsive Actions All respondents are expected to comply with the assigned sanctions and corrective actions within the timeframe specified by the final decision-maker(s). Failure to abide by the sanction(s) or action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s) or action(s), including suspension, expulsion, and/or termination from the Charter School. Record keeping The Charter School will maintain for a period of at least for a period of seven years records of:
- i. Each ~~Title IX~~ sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation; 2. Any where a hearing is held, any disciplinary sanctions imposed on the respondent; 3085P-36-3. Any, and any remedies provided to the complainant designed to restore or preserve equal access to the Charter School's education program or activity; 4.
 - ii. Any appeal and the result therefrom; 5.
 - iii. Any informal resolution and the result therefrom; 6. and
 - iv. All materials used to train ~~Title IX~~ Coordinators, investigators, ~~decision-makers, appeal~~ decision-makers, and any person who facilitates an informal resolution process. The Charter School shall make these training materials publicly available on the Charter School's website. 7. Any its website.
- B. For each response to a report of harassment or discrimination based on sex, the Charter School shall create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX sexual harassment, including: A. The . In each instance, the Charter School shall document the basis for ~~all conclusions~~ its conclusion that the its response was not deliberately indifferent; B. Any, and document that it took measures designed to restore or preserve equal access to the Charter School's

School's education program or activity; and C. If no the Charter School does not provide a complainant with supportive measures, then the Coordinator must document the reasons why such a response was not clearly unreasonable in light of the known circumstances (i.e., was not a result of sex discrimination). The documentation of certain bases or measures does not limit the Charter School in the future from providing additional explanations or detailing additional measures taken or to be taken.

Title IX Grievance Procedure Definitions

The following definitions apply to the identified terms used in this procedure:

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to:

1. The Charter School's Coordinator; or
2. Any Charter School official possessing the authority to institute corrective measures on behalf of the Charter School; or
3. Any employee of the Charter School.

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 Charter School with actual knowledge is the respondent. 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 authority to institute corrective measures on behalf of the Charter School. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Coordinator as set forth in this procedure.

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

Under circumstances where a sexual assault is alleged by a student against an adult, non-student employee, the Charter School does not recognize the defense of "consent," however it is defined. Where the parties are both adults, however, the following definition of "consent" will apply: Consent occurs where there is a knowing, voluntary, and clear grant of permission, by word or action, to engage in sexual activity. Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged. Consent may be withdrawn. A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. ~~were~~ It is a violation of policy if a respondent engages in sexual activity with someone who is incapable of giving consent, or is otherwise incapacitated.

"Incapacitation" occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing, informed consent. For example, they cannot understand the "who, what, when, where, why, or how" of their sexual interaction.

"Formal Complaint" means a document filed by a complainant, or signed by the Coordinator, alleging sexual harassment against a respondent and requesting that the Charter School investigate the allegation of sexual harassment. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the educational programs or activities of the

Charter School. A formal complaint may be filed with the Coordinator in person, by mail, or by electronic-mail, or by using the contact information listed on the Charter School's website. As used in this paragraph, 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 Charter 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 Coordinator signs a formal complaint, the Coordinator is not a complainant or otherwise a party to this grievance procedure, and must ~~comply~~ otherwise comply with the requirements of this procedure.

"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. "Quid pro quo" harassment, which occurs when a Charter School employee conditions the provision of a Charter School benefit, service, or assistance on an individual's participation in unwelcome sexual conduct;
2. "Hostile Environment," which is defined as unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Charter School education program or activity; or
3. Physical threats and attacks, including "sexual assault," defined as forcible and non-forcible sex offenses as defined in the Clery Act, or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act.

"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 in cases where either no formal complaint has been filed, or both before and/or after the filing of a formal complaint. Such measures are designed to restore or preserve equal access to the Charter School's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Charter 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 **INCLUDE IF CHARTER SCHOOL PROVIDES HOUSING: or housing** locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The Charter School shall maintain as confidential any supportive measures provided to the complainant or respondent, the reasons why such a response was not clearly unreasonable in light of the known circumstances. The Charter School will also maintain any and all records in accordance with state and federal laws. Disabilities Accommodations in The Resolution process The Charter School is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the Charter School's resolution process. Anyone needing such accommodations or support should contact the Human Resources Department, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process. respondent, provided that maintaining such confidentiality will not impair the ability of the Charter School to provide the supportive measures. The Coordinator is

responsible for coordinating the effective implementation of all supportive measures.

“Elementary school” and “secondary school” as used in this procedure refer to a local educational agency, as defined in the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, a preschool, or a private elementary or secondary school, and include this Charter School.

Revision of These Procedures

The Charter School reserves the right to make changes to these procedures as necessary.

[OPTIONAL: Once those changes are posted online, they shall be in effect]. If laws or regulations change or court decisions alter the requirements in a way that impacts these procedures, this document shall be construed to comply with the most recent government regulations or holdings.

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Legal References

20 USC §§ 1681 - 1682

34 CFR Part 106

Description

Title IX of the Education Amendments of 1972

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

Other References

ISBA Policy Services

Description

<https://www.idsba.org/member-services/policy/>

Cross References

Code

3270

Description

Charter School-Provided Access to Electronic Information

3270

Charter School-Provided Access to Electronic Information

3270

Charter School-Provided Access to Electronic Information

3285

Relationship Abuse and Sexual Assault Prevention and Response

3290

Sexual Harassment/Intimidation of Students

<u>3290</u>	<u>Sexual Harassment/Intimidation of Students</u>
<u>3295</u>	<u>Hazing, Harassment, Intimidation, Bullying, Cyber Bullying</u>
<u>3295</u>	<u>Hazing, Harassment, Intimidation, Bullying, Cyber Bullying</u>
<u>3295</u>	<u>Hazing, Harassment, Intimidation, Bullying, Cyber Bullying</u>
<u>3297</u>	<u>Names, Pronouns, and Titles</u>
<u>3330</u>	<u>Student Discipline</u>
<u>4110</u>	<u>Public Complaints and Suggestions</u>
<u>4120</u>	<u>Uniform Grievance Policy</u>
<u>4120</u>	<u>Uniform Grievance Policy</u>
<u>4130</u>	<u>Public Access to Charter School Website</u>
<u>4600</u>	<u>Volunteer Assistance</u>
<u>5240</u>	<u>Sexual Harassment/Sexual Intimidation in the Workplace</u>
<u>5240</u>	<u>Sexual Harassment/Sexual Intimidation in the Workplace</u>
<u>5250</u>	<u>Certificated Staff Grievances</u>
<u>5275</u>	<u>Adult Sexual Misconduct</u>
<u>5500</u>	<u>Personnel Files</u>
<u>5500</u>	<u>Personnel Files</u>
<u>5800</u>	<u>Classified Employment, Assignment, and Grievance</u>
<u>5800</u>	<u>Classified Employment, Assignment, and Grievance</u>

Policy History:

Promulgated on: September 17, 2020

Revised on: April 15, 2021

Reviewed on: