

TITLE IX- Grievance Procedures

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination based on sex in education programs and activities in federally funded schools at all levels. This means all academic, educational, extracurricular, athletic, and other programs of the Academy, that take place on Academy premises, in an Academy vehicle or at any other Academy-sponsored activities or events, including events that take place off of Academy's premises, and conduct subject to the Academy's disciplinary authority, including even when some conduct alleged to be contributing to the hostile environment occurred outside the Academy's education program or activity or outside the United States. If any part of the Academy receives any Federal funds for any purpose, all of the operations of the Academy are covered by Title IX.

Title IX protects students, staff members, applicants for admission and employment, and other persons from all forms of sex discrimination based on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation and gender identity.

The Academy has adopted the following grievance procedures providing for the prompt and equitable resolution of complaints under Title IX. The Academy will treat complainants and respondents equitably. This includes providing supportive measures to the complainant and the respondent and following the grievance procedures before imposing disciplinary consequences against the respondent. The Academy presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The Title IX Coordinator is the Academy staff member that has been designated by the Academy Board to coordinate the Academy's compliance with Title IX, including the grievance process and informal resolution process. The Title IX Coordinator, along with any investigator, decision maker or any person designated to facilitate the informal resolution process shall not have a conflict of interest or bias for or against the complainant or respondent. A decision maker may be the same person as the Title IX Coordinator or investigator.

The Academy will establish reasonably prompt timeframes for major stages of the grievance procedures which include evaluation, investigation, determination, and appeal. These timeframes may be subject to reasonable extensions on a case by case basis for good cause. The complainant and the respondent will receive written notice, including the reason for the delay or extension.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the parties' pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, local law enforcement agencies or the filing of a court case.

The Academy retains discretion to respond to unanticipated or extraordinary circumstances not expressly addressed in these procedures in a way that is not clearly unreasonable.

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

If a complainant or respondent is a student with a disability, the Title IX Coordinator will consult with the IEP team, as appropriate, throughout the implementation of the grievance procedures or the informal resolution process.

Initiating a Complaint and Reporting Obligations

The following persons have a right to make a written or oral complaint requesting that the Academy investigate and make a determination about alleged discrimination under Title IX:

For sex discrimination

1. A student or staff of the Academy who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations: or
2. A person other than a student or staff of the Academy who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the Academy's education program or activity at the time of the alleged sex discrimination.
3. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
4. The Academy's Title IX Coordinator.

For sex based harassment, a person is entitled to make a complaint only if they themselves are alleged to have been subjected to the sex based harassment, if they have a legal right to act on behalf of such a person, or if the Title IX Coordinator initiates a complaint consistent with Title IX regulations.

In the absence of a complaint, withdrawal of the allegations, and in the absence of an informal resolution process, the Title IX Coordinator may initiate a complaint. This is a fact specific determination taking into consideration, at a minimum, the following factors:

- a. The complainant's request not to proceed with the initiation of the complaint.
- b. The complainant's reasonable safety concerns regarding initiation of the complaint.
- c. The risk that additional acts of sex discrimination would occur if a complaint is not initiated.
- d. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent or the imposition of another disciplinary sanction to end the discrimination and prevent its recurrence.
- e. The age and relationship of the parties, including whether the respondent is a staff at the Academy.
- f. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals.
- g. The availability of evidence to assist a decision maker in determining whether sex discrimination occurred.
- h. Whether the Academy could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

After considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the Academy from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

If the Title IX Coordinator initiates the complaint, the Title IX Coordinator must notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the

safety of others., including by providing supportive measures. Regardless of whether a complaint is initiated, take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to complainant, if any, to ensure that sex discrimination does not continue or recur within the Academy's education program or activity.

A Title IX Coordinator is not required to comply with the section above if Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX.

All Academy staff are required to notify the Title IX Coordinator when the staff has information about conduct that reasonably may constitute sex discrimination under Title IX.

When a student, or person who has a legal right to act on behalf of the student, informs any staff member of the student's pregnancy or related conditions, the staff member must promptly provide that student or person with the Title IX Coordinator's contact information, and inform that student or person that the Title IX Coordinator can coordinate actions to prevent sex discrimination and ensure the student's equal access to the Academy's education programs or activities.

The Academy may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. However, Title IX regulations do not permit the consolidation of complaints if consolidation would violate FERPA.

Supportive Measures

The Title IX Coordinator is to offer and coordinate supportive measures, as appropriate for the complainant. If the Academy has initiated grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures as appropriate, for the respondent. Supportive measures may vary depending on what the Title IX Coordinator deems reasonably available. Supportive measures must not reasonably burden either party and must be designed to protect the safety of the parties or the Academy's educational environment, or provide support during the grievance procedures or informal resolution process. Supportive measures are meant to be non-punitive and offered without charge. The Title IX Coordinator may modify or terminate supportive measures as the conclusion of the grievance procedures or the informal resolution process.

These measures may include but are not limited to:

- Counseling
- Deadline extensions
- Course related adjustments
- Escort services
- Increased security and monitoring of hallways
- Contact restrictions
- Class and schedule changes
- Leaves of absence
- Training and education programs related to sex based harassment

The Title IX Coordinator may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or at the informal resolution process, or the Title IX Coordinator may continue them beyond.

A complainant or respondent may challenge the decision to provide, modify, or terminate supportive measures. The challenge must be brought to an impartial staff member (other than the staff member who put the measure in place) with the authority to modify or reverse the decision.

The Title IX Coordinator must not disclose information about any supportive measures to person other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless disclosure is necessary to provide the supportive measure or restore or preserve the party's access to the education program or activity or the disclosure is permitted under Title IX regulations.

If the complainant or respondent is a student with a disability, the Title IX Coordinator must consult with one or more members of the student's IEP team or those responsible for the student's placement decision to determine how to comply with IDEA in the implementation of the supportive measures.

The Title IX Coordinator may remove the respondent from the Academy on an emergency basis after conducting an individualized safety and risk assessment in order to determine that an imminent and serious threat to the health or safety of a complainant or any students, staff, or other persons arising from the sex discrimination allegations. The Title IX Coordinator must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

Evaluation

Within five (5) business days of the complaint receipt, the Title IX Coordinator makes a determination to whether dismiss the complaint, offer informal resolution, or investigate the allegations.

Dismissal of a Complaint

The Title IX Coordinator may dismiss a complaint of sex discrimination if:

1. The Title IX Coordinator is unable to identify the respondent after taking reasonable steps to do so;
2. The respondent is not participating in the Academy education program or activity and is not a staff at the Academy;
3. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the complainants' withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
4. The Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the Academy will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the Title IX Coordinator will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

The Title IX Coordinator will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following basis:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
3. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the Title IX Coordinator will:

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
2. Implement appeal procedures equally for both parties;
3. Ensure that the decision maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
4. Ensure that the decision maker for the appeal has been trained consistent with the Title IX regulations;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result.

A party wishing to appeal the dismissal of a complaint must submit a written appeal to the Title IX Coordinator within five (5) business days after receipt of the dismissal notification. The written appeal must state the reasons for the appeal. The Title IX Coordinator will appoint an appeals officer and send written notification to the non-appealing party of the appeal within two (2) business days of its receipt. The appeals officer cannot be a person not involved in the decision to dismiss the complaint. The non-appealing party's written statements must be submitted five (5) business days after the Title IX Coordinator provides that party a copy of the appeal. The decision maker for the appeal must issue a written decision describing the result of the appeal and the rationale for the result within five (5) business days of the date when the parties submitted their written statements. The written decision on appeal and rationale for the result will be provided to the parties by the Title IX Coordinator.

The original determination of dismissal will stand if the appeal is not filed in a timely manner, or if the appealing party failed to show an error or a compelling reason to overturn the original determination. No further review will be permitted beyond the appeal.

When a complaint is dismissed, the Title IX Coordinator will, at a minimum:

1. Offer supportive measures to the complainant as appropriate;
2. If the respondent has been notified of the allegations, offer supportive measure to the respondent as appropriate; and
3. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the Academy's education program or activity.

Informal Resolution Process

At any time prior to determining whether sex discrimination has occurred, the Title IX Coordinator may offer to a complainant and respondent an informal resolution process, unless the complaint includes allegations that a staff member engaged in sex based harassment of a student or if such process would conflict with Federal, State, or local law. The Title IX Coordinator has discretion to determine where it is appropriate to offer an informal resolution process and may decline to offer the informal resolution

process despite one or more of the parties' wishes. This includes, but is not limited to, when the Academy determines that the alleged conduct would present a future risk of harm to others.

The Title IX Coordinator must not require or pressure the parties to participate in an informal resolution process. The Academy must obtain the parties' voluntary consent to the informal resolution process and must not require a waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

Before initiating the informal resolution process, the Title IX Coordinator or designee will provide the complainant or respondent with notice that explains:

1. The allegations;
2. The requirements of the informal resolution process;
3. Prior to agreeing to the informal resolution process, any party has the right to withdraw from the informal resolution process and to initiate or resume the Academy's grievance procedures;
4. That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
5. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
6. What information the Academy will maintain and whether and how the Academy could disclose such information for use in grievance procedures.

The facilitator for the informal resolution process must not be the same person as the investigator or the decision maker in the Academy's grievance procedures.

Potential terms that may be included in an informal resolution agreement include but are not limited to:

1. Restrictions on contacts; and
2. Restrictions on the respondent's participation in one or more of the Academy's programs or activities or attendance at specific events, including restrictions the Academy could have imposed as remedies or disciplinary sanctions had the Academy determined at the conclusion of the Academy's grievance procedures that sex discrimination occurred.

Investigation

The Title IX Coordinator will provide notice of the allegations to the parties. The notice must include:

1. The Academy's Title IX grievance procedures and any informal resolution process;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and locations(s) of the alleged incident(s);
3. A statement that retaliation is prohibited; and
4. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence.

If, in the course of the investigation, the Academy decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the Academy will notify the parties of the additional allegations.

The Academy will provide for adequate, reliable, and impartial investigation of complaints. The burden is on the Academy, not on the parties, to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Within two (2) business days of receiving the complaint, the Title IX Coordinator may assign an investigator or will initiate an investigation themselves to determine whether the complainant has been subjected to sex discrimination.

The investigation will include:

1. Interviews with the complainant;
2. Interviews with the respondent;
3. Interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
4. Consideration of any documentation or other information presented by the complainant, respondent, or any other witness that relevant to the allegations

Items to consider during an investigation are:

- Remember that there may be mandatory reporting requirements under Michigan law that are triggered given the allegations
- Practice good communication with all parties, including attorneys/advisors
- If there is evidence, such as video, secure the evidence
- Do not promise confidentiality. For example, parties and witnesses' names will be made available interview summaries.
- Interview the complainant first and the respondent last
- Re-interview parties and witnesses, if necessary
- Give parties same opportunities to respond to allegations and review evidence or summary of the evidence

The investigator will objectively review all evidence gathered through the investigation and determine what evidence (both inculpatory and exculpatory) is relevant and what evidence is impermissible regardless of relevance. Credibility determinations must not be based on a person's status as a complainant, respondent, or witness. The following types of evidence, and questions seeking that evidence are impermissible (i.e., must not be accessed or considered; must not be disclosed; and must not otherwise be used) regardless of whether they are relevant:

1. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential staff member, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
2. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the Academy obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
3. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex based harassment. The fact of prior consensual sexual conduct between the complainant and the respondent does not by itself demonstrate or imply the complainant's

consent to the alleged sex based harassment or preclude determination that sex based harassment occurred.

The investigator may use impermissible evidence, and questions seeking that evidence, to determine whether the exceptions above apply.

Credibility Determination

The Academy will provide a process that enables the decision maker to question parties and witnesses to adequately assess a party's or witness' credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. The decision maker will assess the party's or witness's credibility by assessing the trustworthiness of the party's or witness' testimony based on the accuracy of the evidence that the party or witness provide. In making such assessment, the decision maker following may consider:

1. The ability of the party or witness to observe or hear the events;
2. The ability of the party or witness to recollect the events accurately;
3. Whether the party's or witness' testimony is consistent with independent evidence that has been collected;
4. Whether the party's or witness' testimony seems unreasonable, impossible, or unlikely
5. Corroboration of evidence from other witnesses or from physical evidence
6. Whether the party or witness has a motive to lie

The investigator will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The investigator will provide each party with an equal opportunity to access the evidence that is relevant to the allegation of sex discrimination and not otherwise impermissible in the following manner:

1. The investigator will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the investigator provides a description of the evidence, the investigator will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.;
2. The investigator will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
3. The investigator will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

The investigation must be completed in 60 business days. This timeline may be subject to temporary delays or limited extensions for good cause. The complainant and the respondent will receive written notice, including the reason for, the delay or extension. Good cause may include, but is not limited to,

- complexity of the investigation,
- concurrent law enforcement activity,
- the absence of a party or witness, or
- the need for an accommodation for a party or witness with a disability.

In instances where law enforcement is involved, the Academy cannot wait for the conclusion of law enforcement investigation to initiate or continue its Title IX investigation. ***The fact that law enforcement is involved does not relieve the Academy of its obligation to investigate.*** Brief delays in the Academy's Title IX investigation for a concurrent law enforcement investigation are considered good cause.

At the conclusion of the investigation, the investigator will prepare a written investigative report.

Determination Whether Sex Discrimination Occurred

The Title IX Coordinator may assign a decision maker or will determine themselves whether the complainant has been subjected to sex discrimination.

Following an investigation and evaluation of all the relevant and not otherwise impermissible evidence, the decision maker will:

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decision maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision maker is not persuaded under the applicable standard of evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decision maker will not determine that sex discrimination occurred.
2. Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and the respondent to appeal;
3. The notification will be provided within ten (10) business days after the investigation is complete;
4. Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
5. If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 - a. Coordinate the provision and implementation of remedies to a complainant and other people the Academy identifies as having had equal access to the Academy's education program or activity limited or denied by sex discrimination;
 - b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - c. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the Academy's education program or activity.
6. Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
7. Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Appeal of Determination

A complainant or respondent who is dissatisfied with the determination may appeal for:

- procedural irregularities that affected the outcome of the complaint
- new evidence that was not reasonably available at the time of the determination that could affect the outcome of the complaint

- conflict of interest or bias by the Title IX Coordinator, investigator or decision maker against the complainant or respondent that affected the outcome of the complaint

If the determination is appealed, the Title IX Coordinator will:

1. Notify the parties of any appeal;
2. Implement appeal procedures equally for both parties;
3. Ensure that the decision maker for the appeal did not take part in an investigation of the allegations or determination of the complaint;
4. Ensure that the decision maker for the appeal has been trained consistent with the Title IX regulations;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result.

A party wishing to appeal the determination of the complaint must submit a written appeal to the Title IX Coordinator within five (5) business days after receipt of the determination of responsibility. The written appeal must state the reasons for the appeal. The Academy is not precluded from imposing remedies, including supportive measures or discipline consequences, while the appeal is pending. The Title IX Coordinator will appoint an appeal officer and send written notification to the non-appealing party of the appeal within two (2) business days of its receipt. The appeals officer cannot be the investigator or decision maker. The non-appealing party's written statements must be submitted five (5) business days after the Title IX Coordinator provides that party a copy of the appeal. The decision maker for the appeal must issue a written decision describing the result of the appeal and the rationale for the result within five (5) business days of the date when the parties submitted their written statements. The written decision on appeal will be provided to the parties by the Title IX Coordinator.

The original determination will stand if the appeal is not filed in a timely manner, or if the appealing party failed to show an error or a compelling reason to overturn the original determination. No further review will be permitted beyond the appeal.