

Howard Gardner Multiple Intelligence Charter School

TITLE IX GRIEVANCE PROCEDURES

Adoption:

The Howard Gardner Multiple Intelligence Charter School (“the School”) hereby adopts these grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in the School’s education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Sexual Harassment:

Title IX prohibits the following conduct on the basis of sex that satisfies one or more of the following:

- Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (i.e., creates a hostile environment).”
- A School employee conditioning educational benefits on participation in unwelcome sexual conduct, otherwise known as “Quid pro Quo” harassment.
- “Sexual assault,” as defined in 20 U.S.C. 1092(f)(6)(A)(v) “dating violence,” as defined in 34 U.S.C. 12291(a)(10) “domestic violence,” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Complaints:

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the School investigate and make a determination about alleged discrimination under Title IX:

1. A “complainant,” which includes: a student or employee of the School who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of the School who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that

- individual was participating in or attempting to participate in the School's education program or activity;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
 3. The School's Title IX Coordinator.

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

The School's Title IX Coordinator is:
Joseph Ross, Chief Executive Officer
1615 East Elm Street
Scranton, PA 18505
joseph.ross@myhgsd.com
(570) 941-4100

Basic Parameters:

The School will treat complainants and respondents equitably.

The School shall ensure that the Title IX Coordinator, Investigator, and/or Decisionmaker does not have any conflict of interest or bias.

The Decisionmaker may be the same person as the Title IX Coordinator or Investigator.

The School presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of these grievance procedures.

The School 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 resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

Timeframes:

The School has established the following timeframes for the major stages of the grievance procedures:

Within fifteen (15) calendar days from the date of receipt of a complaint, the Title IX

Coordinator shall evaluate the complaint and determine whether the complaint will be dismissed or investigated. The Title IX Coordinator shall provide the required written notice to the parties to the complaint and whether the complaint will be investigated or dismissed.

- If the complaint is dismissed, the complainant will have fifteen (15) calendar days to appeal the dismissal to the School's Board of Trustees.
- No more than thirty (30) calendar days from the time the Title IX Coordinator determines whether to initiate the investigation, the Title IX Coordinator or assigned Investigator shall conclude the investigation.
- No more than fifteen (15) calendar days from the conclusion of the investigation, the Title IX Coordinator or assigned Investigator shall provide the parties with an investigatory report.
- The Title IX Coordinator or Investigator shall allow ten (10) calendar days for the parties to respond to the investigatory report.
- Within thirty (30) calendar days of the conclusion of the above ten (10) day response period, the Title IX Coordinator, Investigator or Decisionmaker shall issue a final determination.
- The parties shall have thirty (30) days to appeal the determination.
- The Board of Trustees shall issue a decision on the appeal within thirty (30) days of receipt of the appeal.

Supportive Measures:

Supportive measures are free, individualized services designed to restore, preserve and/or protect equal access to education, protect safety, or deter sexual harassment. A complainant does not need to file a formal complaint to receive supportive measures. Supportive measures are intended to support a student and are not punitive or disciplinary with respect to another student. These measures do not unreasonably burden any other person. Each student, the complainant and respondent, must have equal access to education prior to any determination of responsibility.

Examples of supportive measures include:

- Counseling
- Extension of deadlines
- Modification of work or class schedules
- Escort services

- Mutual restrictions on contact between individuals

The Title IX Coordinator is responsible for implementing these supportive measures and must consider the alleged victim's wishes when it comes to requests for supportive measures. Generally, these measures must remain confidential.

Informal Resolution

In lieu of resolving a complaint through the School's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process.

The School does not offer informal resolution to resolve a complaint that includes allegations that an employee of the School engaged in sex-based harassment of a student, or when such a process would conflict with Federal, State, or local law.

Notice:

Upon initiation of the School's Title IX grievance procedures, and subject to the above detailed timeframes, the Title IX Coordinator will notify the parties of the following:

- The School's Title IX grievance procedures and any informal resolution process;
- 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 location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, the Title IX Coordinator 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 Title IX Coordinator will notify the parties of the additional allegations.

Dismissal:

The School may dismiss a complaint of sex discrimination if:

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

In the event that a complaint is dismissed, the School 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 School 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 School will notify the parties that the dismissal may be appealed on the following bases and in accordance with the above detailed timeframes:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, Investigator, or Decisionmaker 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.

In the event that a complaint is dismissed, the School will still offer supportive measures to the parties as appropriate and 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 School's education program or activity.

Evidence:

The School will objectively evaluate all evidence that is relevant and not otherwise impermissible – including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking evidence, are impermissible regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- 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 School obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- 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 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.

Investigation:

The School will provide for adequate, reliable, and impartial investigation of complaints.

The School will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

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

- The School will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence.
- The School will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The School 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.

Credibility Determination:

The School will provide the opportunity for the Decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. The School shall arrange individual interviews with the parties and/or witnesses.

Final Determination:

The School shall 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.

Disciplinary sanctions shall be in accordance with the School's Code of Conduct and may include recommendation to the Board of Trustees for expulsion.

The School shall 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.

Following an investigation, and subject to the above detailed timeframes, the School will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred.
- 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 respondent to appeal, if applicable;

If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:

- Coordinate the provision and implementation of remedies to a complainant and other people the School identifies as having had equal access to the School's education program or activity limited or denied by sex discrimination;

- Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
- Take other appropriate, prompt, and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.

Appeals:

Following the issuance of a Final Determination, the parties shall have equal right of appeal to the Charter School Board of Trustees, subject to the above detailed timeframes.

The Determination may **ONLY** be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, Investigator, or Decisionmaker 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.