

# SECTION 7 - TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

In compliance with Title IX of the Education Amendments of 1972 (“Title IX”), Elite Academic Academy (“Organization”) does not discriminate on the basis of sex in any of its educational programs and activities, including, but not limited to, recruitment, admissions, course offerings, benefits or pay, athletics, or employment.

The purpose of this Title IX Sexual Harassment Policy (“Policy”) is to outline the steps the Organization will take to respond promptly and equitably to reports and complaints of sexual harassment under the Organization’s Title IX Policy. The complaint procedures described in this Policy shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a student, while in an education program or activity in which the Organization exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30, 106.44)

1. An Organization employee conditioning the provision of an Organization aid, benefit, or service on a person's participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a complainant equal access to the Organization’s education program or activity
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

For all other complaints, please consult the relevant policies in the Organization’s Parent/Student Handbook, or Employee Handbook, as applicable.

Students, parents/guardians, and employees are also encouraged to communicate with the Human Resources Department, with any questions or concerns regarding the Organization’s nondiscrimination policies. The Organization believes that open communication about these sensitive topics is integral to preventing misconduct from occurring and is essential to fostering a culture of personal responsibility, mutual accountability, and positive leadership.

## 7.1 Definitions

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX. In order to be a complainant, the person must be participating in, or attempting to participate in, a district educational program or activity at the time they file the formal Title IX complaint.

**Decisionmaker:** The individual who makes the determination of responsibility.

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

**Formal Title IX Complaint:** A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the Organization investigate the allegation of sexual harassment. At the time of filing a formal Title IX complaint, a complainant must be participating in, or attempting to participate in, a district educational program or activity. A parent or legal guardian may file a formal Title IX complaint on behalf of their minor child.

**Grievance Procedures:** Inclusive of the formal investigation procedures and the informal resolution process set forth in this AR.

**Investigator:** The individual who investigates the allegations, through interviews and review of evidence.

**Party:** A complainant or respondent.

**Relevant:** Related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Decisionmaker in determining whether the alleged sex discrimination occurred.

**Remedies:** Measures provided, as appropriate, to a complainant or any other individual the Organization identifies as having had their equal access to the Organization's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that individual's access to the Organization's education program or activity after a determination that sex discrimination occurred. These remedies can include, but are not limited to, supportive measures, preventions and bystander intervention programs, new security procedures, campus climate surveys and policy revisions.

**Respondent:** An individual who is alleged to have engaged in conduct that could constitute sexual harassment.

**Retaliation:** Intimidation, threats, coercion, and discrimination against any individual, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the individual has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX and this regulation.

**Sexual assault:** Any sexual act directed at a complainant without their consent, or instances in which the complainant is incapable of giving consent. Sexual assault includes:

- **Rape.** The carnal knowledge of a complainant, or penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another individual, without their consent, including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **Sodomy.** The oral or anal sexual intercourse with a complainant, forcibly, and/or against their will (non-consensually), or not forcibly or against their will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **Sexual assault with an object.** The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of the complainant, forcibly, and/or against their will (non-consensually), or not forcibly or against their will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **Fondling/sexual contact.** The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- **Incest.** Non-forcible sexual intercourse, between individuals who are related to each other, within the degrees wherein marriage is prohibited by California law.
- **Statutory Rape.** Non-forcible sexual intercourse, with an individual who is under the statutory age of consent (18 years of age in California).

**Dating violence:** Violence committed (a) by an individual who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship; the type of relationship; and the frequency of interaction between the individuals involved in the relationship.

**Domestic violence:** A felony or misdemeanor crimes committed by an individual who (a) is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or an individual similarly situated to a spouse of the victim; (b) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (c) shares a child in common with the victim; or (d) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

**Stalking:** Engaging in a course of conduct directed at a specific individual that would cause a reasonable individual to (a) fear for the individual's safety or the safety of others or (b) suffer substantial emotional distress.

**Supportive Measures:** Title IX supportive measures are non-disciplinary, non-punitive individualized services offered to the complainant or respondent, that are designed to restore or preserve equal access to the district's education program or activity, including measures that are designed to protect the safety of the Parties or the district's educational environment, or to provide support during the district's investigation process or during an informal resolution process.

## 7.2 Applicability

The Organization does not condone or tolerate sexual harassment prohibited under Title IX by any student, employee, volunteer, independent contractor, vendor, or other member of the Organization community. This policy applies to conduct that occurs in an Organization program or activity in which the Organization exercises substantial control over the context and respondent.

In the event of a direct conflict with State law or the Family Educational Rights and Privacy Act ("FERPA") the Organization must comply with Title IX and the final regulations. (34 C.F.R. § 106.6)

## 7.3 Title IX Coordinator

The Title IX Coordinator is responsible for administering and ensuring the Organization's compliance with Title IX and this policy. The Title IX Coordinator shall be free of conflict-of-interest and bias.

Upon being notified of conduct that reasonably may constitute sexual harassment, the Title IX Coordinator will:

- Treat the complainant and respondent equitably.
- Offer and coordinate supportive measures, as appropriate, for the complainant and respondent.
- Take appropriate prompt and effective steps to ensure that sexual harassment does not continue or recur within the Organization's education program or activity, in addition to providing remedies to an individual complainant.

The Title IX Coordinator may meet with the Organization's students, parents/guardians, and/or employees regarding their rights and obligations under Title IX and to address any questions regarding the Organization's compliance with such obligations. Inquiries concerning the application of this policy or Title IX, and any related issues of sex discrimination or sexual harassment should be directed to the Title IX Compliance Coordinator.

The Organization's Title IX Coordinator is:

Tracy Hasper  
Chief Personnel Officer  
43414 Business Park Drive, Temecula, CA 92590  
(866) 354-8302 Ext. 706  
tracy@primeedsolutions.org

Inquiries concerning the application of Title IX may be referred to the Organization's Title IX Coordinator, to the Assistant Secretary of the Department of Education, or both.

## 7.4 Reporting Allegations of Sexual Harassment/Filing a Formal Title IX Complaint

Any person may report sex discrimination, including sexual harassment, to the Title IX Coordinator or any other employee of the Organization at any time, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. A parent or legal guardian may file a formal Title IX complainant on behalf of their minor child.

Any employee of the Organization who received a report of sexual harassment, shall forward such report to the Title IX Coordinator within one (1) workday of receiving the report.

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the right to file a formal Title IX complaint and the process for filing a formal Title IX complaint. (34 CFR 106.44)

A formal Title IX complaint shall include the complainant's physical or digital signature, or another indication that the complainant is the person filing the complaint, and be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

If the Organization has actual knowledge of sexual harassment or allegations of sexual harassment but the alleged victim does not file a formal complaint, the Title IX Coordinator may file a formal Title IX complaint and, in situations, where not filing a formal Title IX complaint would be unreasonable in light of the known circumstances, shall file a formal Title IX complaint. In such cases, the Title IX Coordinator shall provide the alleged victim Notice of Investigation and all other communication the alleged victim would receive as if the complainant filed the formal Title IX complaint.

## 7.5 Responding to A Formal Title IX Complaint

### Basic Requirements

When implementing Title IX grievance procedures, the Organization shall:

1. Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent and by following a grievance process in accordance with 34 CFR 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures, as defined in 34 CFR 106.30, against a respondent.

Remedies following a determination of responsibility for sexual harassment shall be designed to restore or preserve equal access to the district's education program or activity, and shall be provided in accordance with "Remedies," below;

2. Require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;

3. Ensure that the Title IX Coordinator or designee, investigator, decisionmaker any person that facilitates an informal resolution process, and appeals officer, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;

4. Presume that the respondent is not responsible for the alleged conduct until a responsibility determination is made at the conclusion of the grievance procedure;

5. Use the preponderance of the evidence standard when determining responsibility for formal complaints against students and employees of sexual harassment

6. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege; and

7. Not disclose the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal Title IX complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA") statute or regulations, as required by law, or to carry out the purposes of Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising under Title IX. (34 CFR 106.30, 106.71)

The below chart provides a broad overview of the Organization’s response to allegations of sex discrimination. These steps are explained in further detail in later sections of this Policy. Not every report or formal Title IX complaint will follow every listed step.

Receive Complaint	Is it Title IX?	Formal Investigation and Report	Determination	Appeal and Corrective Action
Complaint or notice to the Title IX Coordinator	<u>Following a formal Title IX complaint:</u>	Identify timeline	Exchange of written questions and answers (10 days)	Appeal decision and rationale drafted and shared
Intake	Definition of sexual harassment?	Notice to parties		
Offer supportive measures	Title IX jurisdiction?	List of witnesses		Determine if discipline is appropriate once appeal window is closed
Discuss options to file a formal Title IX complaint and explain the grievance procedure	Mandatory/discretionary dismissal	Plan interviews	Determine if relevant	
	Consider other processes	Gather evidence	Written determination	Corrective action/Remedies
	Emergency removal?	Draft investigation report		
	Administrative leave?	Exchange evidence (10 days)		
	Determine if informal resolution is an option	Investigation report finalized and shared		

### Supportive Measures

Upon receipt of a report of sexual harassment or a formal Title IX complaint, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures during the complaint process and shall consider the complainant’s wishes with respect to supportive measures.

“Supportive measures” may be offered to both complainant and respondent, and shall be available before or after the filing of a formal Title IX complaint or where no formal Title IX complaint has been filed. Supportive measures are individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for

punitive or disciplinary reasons, and without fee or charge to the complainant or respondent. Supportive measures are designed to restore or preserve equal access to the Organization's education program or activity.

Supportive measures include measures designed to protect the safety of the parties or the Organization's educational environment, or to provide support during the Organization's investigation process or during an informal resolution process. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

(34 CFR 106.30, 106.44)

The Organization shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the Organization to provide the supportive measures. (34 CFR 106.30)

The Title IX Coordinator will consider the complainant's wishes with respect to supportive measures, and inform the complainant of the availability of supportive measures with or without the filing of a formal Title IX complaint.

### **Emergency Removal of Respondent**

If a student is the respondent, the Organization may remove the student from the Organization's education program or activity on an emergency basis, provided that the Organization conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. Any challenge to an emergency removal must be submitted to the Title IX Coordinator or designee in writing within three (3) business days.

Any such removal will not constitute discipline for student record purposes. Additionally, this authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

If an Organization employee is the respondent, the employee may be placed on administrative leave during the pendency of the grievance procedure.

(34 C.F.R. 106.44)

### **Dismissal of a Formal Title IX Complaint**

The Title IX Coordinator shall dismiss a formal Title IX complaint if the conduct alleged in the formal Title IX complaint:

1. Would not constitute Title IX sexual harassment as defined in 34 CFR 106.30, even if proved;
2. Did not occur in the Organization's education program or activity;
3. Did not occur against a person in the United States.

The Title IX Coordinator may dismiss a formal Title IX complaint or any allegations therein, if at any time during the investigation:

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

(34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties. The written notice of dismissal shall inform the parties of their right to appeal the dismissal in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)

If a formal Title IX complaint is dismissed, the alleged conduct may still be addressed pursuant to another policy of the Organization.

### **Informal Resolution Process**

Upon receipt of a formal Title IX complaint, the Organization may offer an informal resolution process that does not involve a full investigation and adjudication, such as mediation, at any time prior to reaching a determination regarding responsibility. (34 CFR 106.45) The informal resolution process of a formal Title IX complaint is not available to resolve allegations that an employee sexually harassed a student. The Organization shall not offer an informal resolution process unless a formal Title IX complaint is filed.

The Organization shall not require a party to participate in the informal resolution process or to waive their right to an investigation and adjudication of a formal Title IX complaint, including that the district shall not require such waiver as a condition of enrollment or employment. (34 CFR 106.45)

As part of an informal resolution, the parties may agree upon discipline such as suspension or expulsion without the need for an investigation.

The Organization may facilitate an informal resolution process provided that the Organization:

1. Provides the parties with written notice disclosing:
  - a. The allegations;
  - b. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal Title IX complaint arising from the same allegations;
  - c. The right to withdraw from the informal resolution process and resume the formal investigation process at any time prior to agreeing to a resolution; and,
  - d. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and,
2. Obtains the parties' voluntary, written consent to the informal resolution process.

(34 C.F.R. § 106.45)

### **Notice of Allegations and Investigation**

When the Organization receives a formal Title IX complaint, the Title IX Coordinator shall provide the known parties with written notice of the following:

1. The Organization's grievance procedure, including any informal resolution process, when available and appropriate;
2. The allegations potentially constituting Title IX sexual harassment, with sufficient details known at the time, including the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.

Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview. If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties;

3. An explanation of the parties' opportunity to inspect and review evidence;
4. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance procedure;
5. The opportunity for the parties to have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
6. The prohibition against retaliation; and

7. The prohibition against knowingly making false statements or knowingly submitting false information during the grievance procedure.

(34 C.F.R. § 106.45)

The above notice may also include the name of the investigator, facilitator of an informal process, and decisionmaker and inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator.

### **Consolidation of Formal Complaints**

The Organization may consolidate formal Title IX complaints as to allegations of sexual harassment against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. (34 C.F.R. § 106.45)

### **Investigation Procedures**

The Title IX Coordinator may designate another employee of the Organization or an external investigator (the “Investigator”) to investigate a formal Title IX complaint, as necessary, in their sole discretion. The Title IX Coordinator will advise the parties of the name of the Investigator assigned to the complaint. The Investigator will maintain a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation.

During the investigation, the Investigator shall:

- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- Provide the parties with the same opportunities to have others present during any grievance procedure, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the Organization may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
- Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate;

- Send in an electronic format or a hard copy to each party and the party's advisor, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised, including the evidence upon which the Organization does not necessarily intend to rely on in reaching a determination regarding responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source. Provide the parties at least ten (10) days to submit a written response, which the Investigator will consider prior to completion of the investigative report; and,
- Create an investigative report with the results of the investigation that fairly summarizes all the relevant evidence, and at least 10 days prior to the time of determination send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

Questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, 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. (34 C.F.R. § 106.45)

### **Written Decision**

The Organization shall designate a decisionmaker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or the Investigator. (34 CFR 106.45)

After the investigative report has been sent to the parties but before reaching a determination regarding responsibility, the decisionmaker shall afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

In reaching its finding, the decisionmaker will engage in an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness. The decisionmaker shall use the preponderance of evidence standard in making their determination of responsibility. The same standard of evidence shall be used for formal complaints against students as for complaints against employees.

The decisionmaker shall issue, and simultaneously provide to both parties, a written decision as to the scope of the respondent's responsibility for the alleged conduct, if any. (34 CFR 106.45)

The written decision shall be issued simultaneously to the parties within ninety (90) days of receipt of a complaint. This timeframe may be extended for good cause with written notice to the parties of the extension and the reason(s) for same. (34 CFR 106.45)

The written determination shall include the following:

1. Identification of the allegations potentially constituting sexual harassment under Title IX;
2. A description of the procedural steps taken from the receipt of the formal Title IX complaint through the written decision, including any notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather evidence, and review of evidence;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the Organization's code of conduct to the findings of facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
6. Any disciplinary sanctions the Organization imposes on the respondent, and whether remedies designed to restore or preserve equal access to the Organization's education program or activity will be provided by the Organization to the complainant; and,
7. The Organization's procedures and permissible bases for the complainant and respondent to appeal.

If an appeal is filed, the written determination becomes final on the date that the Organization provides the parties with the written determination of the result of the appeal. If an appeal is not filed, the written determination becomes final on the date on which an appeal would no longer be considered timely.

(34 C.F.R. § 106.45)

### **Appeals.**

Either party may appeal from a determination regarding responsibility, or from the Organization's dismissal of a formal Title IX complaint or any allegations therein. The appeal shall be filed in writing within ten (10) days of the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered. A party may only appeal on the following bases:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination was made that could affect the outcome of the matter; or
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents that affected the outcome of the matter.

If an appeal is filed, the Organization shall:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- Ensure that the decisionmaker(s) for the appeal is not the same person as the decisionmaker(s) that reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator;
- Ensure that the decisionmaker(s) for the appeal does not have a conflict of interest, is not biased, and is trained in accordance with 34 C.F.R. § 106.45;
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the decision or dismissal;
- Issue a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties.

(34 C.F.R. § 106.45)

The written decision regarding the appeal shall be provided simultaneously to both parties no later than fifteen (15) days after receipt of the appeal.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged conduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal anti-discrimination laws, if applicable.

### **Remedies**

Where a determination of responsibility for sexual harassment has been made against the respondent, the Organization shall provide remedies to the complainant as appropriate. Such remedies may include the same supportive measures described above but need not be non-disciplinary or non-punitive and need not avoid unreasonably burdening the respondent.

(34 CFR 106.45)

### **Disciplinary Action**

The Organization may impose disciplinary sanctions or other actions designed to restore or preserve equal access to the Organization's education program, activity, or employment.

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion in accordance with the Organization's policy on student discipline and the Education Code. (Education Code 48900.2, 48915)

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law
2. Conference with parent/guardian
3. Educating the student regarding the impact of the student's conduct on others
4. Positive behavior support
5. Referral of the student to a student success team
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

When an employee is found to have committed sexual harassment, the Organization shall take appropriate disciplinary action, up to and including dismissal, in accordance with the Organization's policy, applicable law, policy, and employment contracts.

The Organization recognizes that false accusations, especially of sexual harassment, discrimination, and/or violence may have serious effects on innocent persons. Any individual found to have made false accusations of sexual harassment, discrimination, and/or violence may also be subject to appropriate disciplinary action.

## **7.6 Record-Keeping**

The Organization shall maintain, for a period of seven years, records of:

1. Any actions, including supportive measures, taken in response to a report or formal Title IX complaint of sexual harassment, including the Organization's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances;
2. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom; and,

3. All materials used to train Title IX Coordinator(s), investigator(s), decisionmaker(s), and any person who facilitates an informal resolution process. The Organization shall make these training materials publicly available on its website.

(34 C.F.R. § 106.45)

For complaints containing allegations of childhood sexual assault, the Organization shall also indefinitely maintain a record of the following:

1. The allegation(s);
2. The investigation procedures followed;
3. The written determination;
4. The corrective action implemented, if any;
5. Any appeals and the outcome therefrom; and,
6. All training materials addressing the prohibition and investigation of childhood sexual assault

(Code of Civil Procedure § 340.1)

The Organization shall indefinitely maintain a record of insurance which evidences the Organization's coverage for acts of sexual assault.

## **7.7 Retaliation Prohibited**

The Organization shall not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, or proceeding under the policy. (34 C.F.R. § 106.71)

Retaliation or reprisal by any student or employee against complainants, witnesses, or any other individual who reports allegations of sexual harassment, discrimination, and/or violence or provides information to assist in an investigation is strictly prohibited.

Individuals who believe they have been retaliated against in connection with such action should immediately report such conduct to the Title IX Coordinator. Anyone who is found to have retaliated against a student or employee under this section may be subject to disciplinary action, up to and including expulsion and/or dismissal.